

August 18, 2021



California Environmental Protection Agency  
California Air Resources Board (CARB)  
1001 I Street  
P.O. Box 2815  
Sacramento, California 95814

Electronic submittal: <https://www.arb.ca.gov/lispub/comm/bclist.php>

**Subject:** California Air Resources Board Second 15 – Day Proposed Regulation: *Prohibitions on Use of Certain Hydrofluorocarbons in Stationary Refrigeration, Stationary Air-conditioning, and Other End Uses* (HFC Rule).

**Johnson Controls (JCI) appreciates the opportunity to provide comments regarding CARB’s second 15-day proposal of the HFC Rule. With JCI’s experience in the industry, and our involvement with trade associations, licensing boards, distributors and contractors, we have extensive knowledge of industry practices. As a globally recognized sustainability leader, JCI strongly supports CARB’s efforts to ensure a transition to refrigerants with lower Global Warming Potential (GWP). JCI would like to accelerate compliance with the HFC Rule and seeks CARB support for early action. We also request CARB remove barriers in the attestation and recordkeeping requirements to increase the implementation success of the HFC Rule.**

JCI is the global leader for smart, healthy, and sustainable buildings, providing heating, ventilating and air conditioning equipment, and other building solutions. Our products include brands such as York®, Metasys®, SimplexGrinnell®, and Zettler. This knowledge and experience makes JCI uniquely qualified to address major industry transitions such as the one CARB is proposing. The company has ~104,000 employees and ~2,000 locations across six continents. Since JCI first set sustainability goals in 2002, the company has reduced greenhouse gas emissions from our global operations by 51%. JCI is one of the most highly rated sustainability companies in the world (MSCI AAA; Ethisphere Institute’s Most Ethical Companies, FTSE4Good Index). JCI is publicly committed to net zero carbon emissions by 2040 and our approved science based targets are driving significant absolute emission reductions across our operations, products, and services. We are proudly a leading member of “We are Still In”; we fully support the Paris Climate accord and publicly advocate for and urge action. We have met and exceeded our interim emission reduction targets and offset 100% of our US plant emissions in the U.S. with renewable energy. JCI also recently publicly announced our Low GWP choice of R454B for its stationary AC (unitary products) and air-cooled chiller products which is the lowest EPA SNAP approved alternative for such systems and further demonstrates JCI’s environmental and sustainability commitments.

JCI appreciates the efforts of the CARB staff to develop the HFC Rule and to incorporate OEM comments throughout the process. The comments outlined below reflect some remaining concerns with the Refrigerant Recovery, Reclaim, and Reuse Requirements (R4 Program), which CARB’s second modification proposes to revise.

#### **R4 Program incentivizes reclaim of R-410A and allows for early action credit**

The R4 program is designed to incentivize reclaim of R-410A in the period before 2025, when the HFC prohibitions take effect for the air conditioning products sector. JCI supports the 10% commitment to use certified reclaimed refrigerant during this interim period and requests clarification to ensure that OEMs can receive credit for any certified reclaimed R-410A used – either in new equipment or in service – during the 2022-2025 period.

Interpreting the HFC Rule in this manner is consistent with the currently proposed language of the Rule, which sets the 10% commitment based on reclaimed refrigerant *use*. It also allows OEMs to use certified reclaimed refrigerant irrespective of when that refrigerant was obtained and to begin to use certified reclaimed R-410A as soon as the HFC Rule is enacted. Although the HFC Rule does not require credit until 2023, incorporating reclaim use prior to 2023 as part of the OEM 10% commitment will encourage early reclaim use and jump start the R4 Program in advance of 2023.

Key language in the HFC Rule demonstrates that this interpretation is consistent with the rule as written:

- The HFC Rule allows credit for certified reclaimed refrigerant as soon as the rule is finalized and enacted. Although the 10% commitment to use certified reclaimed refrigerant would not begin to be required until 2023, Section 95376 allows OEMs

to use reclaimed refrigerant as early as January 2022 (if enacted by that time) and incorporate that use as part of the OEM's annual reclaim requirement in 2023.

- Section 95376 sets forth annual reclaim requirements that apply to the *use* of reclaimed refrigerant rather than the purchase or taking ownership of such refrigerant. Consistent with the text of the Proposed Rule, an OEM that purchases certified reclaimed R410-A prior to enactment of the rule can count it toward the 10% commitment if the OEM *uses* the reclaimed refrigerant after the enactment of the rule.
- The calculation in Section 95376 establishing the 10% commitment for 2023 and 2024 accounts for any reclaim OEMs use between the date of enactment and the end of 2023. This provides an incentive to use reclaimed R410-A as early as possible and further ensures the full 10% use of reclaim is met by the end of 2024.

### **Early action credit jump-starts the R4 Program**

JCI supports the reclamation goals of the HFC Rule and would prefer to take early action to use reclaimed R410-A rather than delay the use of reclaimed refrigerant until January 1, 2023. Allowing early action also ensures JCI will have access to at least some volume of reclaim refrigerant that might not otherwise be available. If OEMs are not provided the incentive to reclaim refrigerant prior to 2023, there may not be enough reclaim available at the start of the compliance period. Early action can minimize or prevent price spikes and market disruption due to the insufficient supply of reclaim refrigerant.

While early action benefits the R4 Program by promoting the program soon after enactment, it does not reduce the incentive to use reclaim refrigerant in 2023 and 2024. To be clear, even after fully utilizing the reclaim already available to us, JCI will still need to source fully 70% of our 10% reclaim obligation from newly reclaimed sources (JCI's current inventory of reclaimed R410-A is less than 30% of our full reclaim obligation). In alignment with our corporate ESG objectives and to further demonstrate our commitment to this important reclaim effort, JCI intends to continue the recovery and use of reclaimed material even after we achieve our 10% commitments.

As we move forward in using the certified reclaim already available to us, we believe JCI's actions bolster the rule and deliver additional environmental benefits including the following:

- JCI can clearly demonstrate that there is no warranty or operational issue with the use of certified reclaim; we can clearly counter any negative stigma associated with the use of reclaim.
- After using JCI's existing certified reclaimed material, we still have 70% of our reclaim obligation ahead of us and will continue to stimulate demand for recovery of used refrigerant and the actual use of certified reclaim.
- Moreover, as a recognized "Top 100" climate leading company in the world, JCI will be able to demonstrate how the refrigerant transition can cut greenhouse gas emissions and promote California's leadership in catalyzing the reclaim program. As we accelerate our compliance with the rule, we will be able to accelerate progress towards our Science-Based absolute greenhouse gas targets for 2030 and our commitment to achieving Net Zero before 2040.

### **The R4 Program attestation is unnecessarily restrictive**

JCI shares AHRI's strong request to remove the mandate requiring OEMs to attest that no reclaimed refrigerant is purchased, used or counted to comply with any other government requirements. This restriction is very broadly worded to include not only government requirements, but also private programs, voluntary programs, or any other credit or incentive program. As written, JCI could be precluded from including reclaim use in its ESG or other voluntary reporting. This discourages industry from promoting and supporting the reclaim program and is an overly prescriptive requirement.

### **Recordkeeping requirements should be modified**

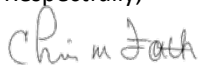
As currently drafted, the recordkeeping requirements present compliance difficulties. JCI requests removing recordkeeping requirements related to the number and type of equipment as this is unwieldy and burdensome. JCI will pump reclaimed refrigerant into a tank and fill equipment across various production lines. It will be difficult if not impossible to identify which specific equipment and types contain reclaim refrigerant or how long reclaim refrigerant volumes will be mixed in a bulk refrigerant tank.

### **Conclusion**

JCI urges CARB to affirm that the HFC Rule allows OEMs credit for reclaim used prior to 2023 regardless of when the reclaim refrigerant was obtained. Early action credit will jump start the R4 Program and promote the use of reclaim refrigerant immediately upon enactment of the program. This approach complies with both the letter and the spirit of the HFC Rule and promotes a market for reclaim in California that can serve as a model for the rest of the country. JCI fully supports the Air-conditioning, Heating, and Refrigeration Institute (AHRI) comments submitted on August 18, 2021 and requests that CARB remove the R4 Program attestation and recordkeeping requirements to make the program more implementable for OEMs.

JCI appreciates the opportunity to submit these written comments and is open to further discussion should CARB have any additional questions.

Respectfully,

A handwritten signature in black ink, appearing to read "Chris M. Forth". The signature is written in a cursive, slightly stylized font.

Chris M Forth

Vice President

Regulatory, Codes & Environmental Affairs

Johnson Controls

chris.m.forth@jci.com

(405) 826-5802