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Ms. Pamela Gupta
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Re: AHRI Comments – California Air Resources Board Proposed Regulation for Prohibitions on Use of Certain Hydrofluorocarbons in Stationary Refrigeration and Foam End-Uses 15-day language

These comments are submitted by the Air-Conditioning, Heating and Refrigeration Institute (AHRI) in response to the California Air Resources Board (ARB) Notice of Public Availability of Modified text to the Regulation for Prohibitions on Use of Certain Hydrofluorocarbons in Stationary Refrigeration and Foam End-Uses issued on June 15, 2018.

AHRI is the trade association representing manufacturers of heating, cooling, water heating, and commercial refrigeration equipment. More than 300 members strong, AHRI is an advocate for the industry and develops standards for and certifies the performance of many of the products manufactured by our members. In North America, the annual output of the HVACR and water heating industry is worth more than \$44 billion. In the United States alone, the HVACR and water heating industry supports 1.3 million jobs and \$256 billion in economic activity annually.

AHRI and its members have carefully reviewed ARB's proposed modifications. AHRI is supportive of the modifications made to clarify the intent of the Regulation for Prohibitions on Use of Certain Hydrofluorocarbons in Stationary Refrigeration and Foam End-Uses. These clarifications will assist with manufacturers' preparation for and compliance with the regulation. AHRI and its members are strong proponents of measures that reduce emissions of high global warming potential refrigerant, and these comments are intended to address the functionality of the regulatory regime from the perspective of the regulated stakeholder. AHRI asks that several provisions be further clarified to ensure manufacturers are able to comply with the regulatory requirements while continuing to perform maintenance, initiate sales, and replace outdated and inefficient equipment in a timely manner. AHRI proposes the following items be further

modified: 1) New Refrigeration Equipment Definition; 2) Disclosure Statement Requirements; 3) Record Retention Requirements.

Section 95373 (a) “New Refrigeration Equipment” Definition

AHRI agrees with the modified definition of “New Refrigeration Equipment” and appreciates the modifications made by ARB. AHRI was one of the original commenters who recommended that ARB align with the EPA’s definition such that “new” equipment should be based on capacity, rather than charge. However, additional modifications are necessary to capture the intent of the regulation. While the regulatory notice addresses the intent that equipment be classified as “new” only when the capacity of the equipment is increased, the regulation’s language leaves room for ambiguity.

The current proposed language is unclear with respect to allowable changes to the system. AHRI asks that the parameters for “capacity” in the definition of “New Refrigeration Equipment” are more accurately defined as “rack or compressor capacity,” for the avoidance of doubt. The important increase for the purpose of this regulation is an increase in capacity, which occurs when the compressor cooling power is adjusted due to compressors being added to the original system. Therefore, in addition to the clarification that “capacity” refers to “rack and compressor capacity,” AHRI further recommends the following clarifying language: “Capacity Increase – An increase in the compressor cooling power through the addition of compressors or changing out existing compressors for larger units.” AHRI notes that the relative importance of the cooling power increase was explained in ARB’s notice, but is currently not apparent in the regulatory text.

The above recommended language will prevent the incorrect interpretation that a system could be classified as “new” merely by replacing refrigerant lines or evaporators on an existing system. For example, supermarkets should not be restricted from replacing inefficient individual cases or repairing a small part of a large system to achieve better efficiency as a result of regulatory ambiguity. In many instances, a single evaporator may be replaced with two smaller evaporators to maintain performance without modifying the existing system. While AHRI does not believe that it is the intent of the current proposed language for refrigerant line changes to constitute “new equipment,” the regulatory text could be interpreted in such a way. AHRI seeks clarification and certainty that a minor adjustment to a system will not be captured in the definition of “New Refrigeration Equipment,” requiring a costly new system or refrigerant change.

As stated above, adding a definition for “Capacity Increase” and adding “rack or compressor” language to the current definition of “New Refrigeration Equipment” will ensure that systems are adequately serviced and repaired while meeting the intent of ARB’s regulation for installation of new equipment. We propose the definition be modified to state:

“New Refrigeration Equipment” means:

(1) Any refrigeration equipment that is first installed using new or used components; or

(2) Any refrigeration equipment that is modified such that it is:

(i) Expanded after the date at which this subarticle becomes effective, to handle and expanded cooling load by the addition of components in which the compressor or rack capacity of the system is increased, including refrigerant lines, evaporators, compressors, condensers, and other components; or

(ii) Replaced or cumulatively replaced after the date at which this subarticle becomes effective, such that the capital cost of replacing or cumulatively replacing components exceeds 50 percent of the capital cost of replacing the entire refrigeration system.

“Capacity Increase” means an increase in the compressor cooling power through the addition of compressors or changing out existing compressors for larger units.

Section 95375 (c)(1) Disclosure Statement

AHRI appreciates the clarifying language limiting the scope of equipment and components that require the attachment of disclosure statements, i.e., motor-bearing equipment. AHRI notes that the proposed requirement now states that the disclosure statement “must remain with the refrigeration equipment while the equipment is in use in California.”¹ AHRI seeks clarification on whether this disclosure statement is in fact a requirement for a label on the motor-bearing equipment, or whether it is a record-keeping requirement on the part of the consumer of the equipment.

If the requirement is the former—a label—then manufacturers will be required to produce California-specific labels, which will not only increase the cost of manufacturing, but also lead to additional challenges in managing inventory. Similar to AHRI’s prior comments about the inability of manufacturers to track the downstream use and consumption of their products throughout the country, it is not practicable to ascertain which and whether the product will eventually end up in the California market. Refrigeration equipment is sold across North America through distributors, and distribution of impacted products is generally not split by region. A requirement to provide specific information on the products for a single state would be overly burdensome for manufacturers. Additionally, the process would be rendered inefficient and cause customer confusion if other states adopt a similar approach but specify labeling requirements that are different from those specified by the ARB.

¹ Section 95375 (c)(1)

AHRI appreciates ARB responding to concerns regarding a California-specific disclosure for all units and recording for requirements when the information is available to the manufacturer. However, as stated above, the downstream tracking of products creates inefficiencies and compliance challenges for manufacturers, distributors, and ARB. As an alternate means of compliance, AHRI suggests that listing equipment refrigerant information on the manufacturer's website, or in an online database may be more efficient. This approach will allow for manufacturers, distributors, end-users, and code officials to locate information pertaining to any unit with a model number or serial number, based on date of manufacture, which is located directly on the equipment nameplate.

If ARB decides that additional labeling is required, AHRI still believes the modified disclosure statement is unnecessarily long. Particularly, as alluded to above, if manufacturers must use this state-specific label on every unit in commerce. A simplified version meets the intent of the statement and reduces the burden on manufacturers.

AHRI proposes the following modification:

~~"This equipment is prohibited from use in California with any refrigerants on the "List of Prohibited Substances" for that specific end-use, in accordance with California Code of Regulations, title 17, section 95374. This disclosure statement has been reviewed and approved by [THE COMPANY] and [THE COMPANY] attests, under penalty of perjury, that these statements are true and accurate."~~

The revisions we propose to the statement above make it more accurate, in particular, because it is needless to have an entire class of stakeholders—manufacturers—attesting under penalty of perjury to a statement that essentially states that "the law is the law." The attestation was originally designed to assist with enforcement, but ARB gains nothing in its enforcement execution by requiring manufacturers to attest to an axiomatic statement. Attestations are only valuable to ARB enforcement to the extent that individualized product-specific information is required, which is not the case here. The attestation may have been applicable to the "designed for use" declaration in the 45-day language; however, the revised language is "prohibited from use" that does not necessitate a verification of accuracy.

Section 95375 (c)(2) Recordkeeping

Finally, ARB should strongly consider opportunities to reduce administrative burden as required by the regulations authorizing statute. California Health and Safety Code s 38562(b)(7) states that "[i]n adopting regulations pursuant to this section ... to the extent feasible and in furtherance of achieving the statewide greenhouse gas emissions limit, the state board shall do all of the following...**minimize administrative burden of implementing and complying with these regulations.**" ARB has requested that manufacturers of motor-bearing new refrigeration equipment for sale or entry into commerce in the State of California maintain records for five years. AHRI appreciates

ARB's edits based on prior AHRI comments submitted to indicate that information must be recorded "when available" to the manufacturer. As previously illustrated, sales of refrigeration equipment are often conducted by distributors. The record retention requirements would create undue administrative burden for manufacturers as the location of sale is unknown, imposing a universal requirement on many units that will never be sold in California. The model number, serial number, and date of manufacturer information requested is already available on the equipment's nameplate. With the serial number from the unit's nameplate, a manufacturer is able to identify the build date, product information requested by ARB's record retention policy. AHRI encourages ARB to refrain from adding administrative burden by imposing onerous record retention requirements. Requiring documentation for all of these fields will only duplicate work for information that is already available based on the unit nameplate.

AHRI appreciates the opportunity to provide these comments. If you have any questions regarding this submission, please do not hesitate to contact me.

Sincerely,

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