

July 28, 2020

via electronic transmission

Linda Kildahl
Air Quality Planner
Department of Ecology, Air Quality Program
PO Box 47600
Olympia WA 98504-7600

Subject: HCPA Comments on New Proposed Rule, Chapter 173-443 WAC –
Hydrofluorocarbons (HFCs)

Dear Ms. Kildahl,

The Household & Commercial Products Association¹ (HCPA) appreciates the opportunity to offer comments on Washington Department of Ecology (Ecology) proposed new permanent rule Chapter 173-443 WAC – Hydrofluorocarbons (HFCs).² The objective of this new proposed permanent rule is to replace the emergency rule addressing HFCs by establishing requirements to reduce greenhouse gases in Washington by moving to the phased use of other acceptable substitute materials. HCPA supports the proposal; however, HCPA would like to offer a couple of recommendations to provide additional clarity.

HCPA represents a wide range of products, from household cleaners and air fresheners to commercial disinfectant and pest control whose use of aerosol technology makes the aerosol industry an integral part of the household and commercial products industry. HCPA has represented the U.S. aerosol products industry since 1950 through its Aerosol Products Division, representing the interest of companies that manufacture, formulate, supply and market a wide variety of products packaged in an aerosol form.

I. HCPA Supports Washington’s Actions to Phase Down the Use of High Global Warming Potential HFCs in a Manner that Is Consistent with Other States

HCPA is in support of Ecology’s goal to restrict the use of high global warming potential (GWP) HFCs through limiting their use in a manner that is consistent with similar action taken by other

¹The Household & Commercial Products Association (HCPA) is the premier trade association representing companies that manufacture and sell \$180 billion annually of products used for cleaning, protecting, maintaining, and disinfecting homes and commercial environments. HCPA member companies employ 200,000 people in the U.S. whose work helps consumers and workers to create cleaner, healthier and more productive lives.

² The proposed regulation can be found at <https://ecology.wa.gov/DOE/files/64/6468f5bd-0f6e-4929-b6bc-97f30337f2da.pdf>

states to restrict the use of HFCs. California, Colorado, New Jersey, and Vermont have all passed legislation or regulations to achieve the same goal of limiting the use of certain high GWP HFCs by utilizing Appendix U and Appendix V of Subpart G of 40 CFR Part 82 (Jan. 3, 2017). Further, other states³ are also in process of drafting and approving their own regulatory actions to restrict the use of HFCs in a similar manner.

Ecology's approach is consistent with other state actions, which is critical so that industry has regulatory certainty for compliance and future planning, investment, sales and research and development decisions. Aerosol manufacturers utilize a variety of propellants which pressurize the aerosol system and influence how the product is expelled from the container.

Traditionally, the use of high-GWP HFCs by the aerosol industry was limited to a small number of products categories where their usage was necessary. Because of the original timeline with EPA's SNAP Rules, the U.S. aerosol industry has already moved away from using high-GWP HFCs in aerosol products except for the critical uses that were exempted. Thus, Washington and other states are ensuring through this consistent action that aerosol products in which the usage of high-GWP is not critical do not reenter the market.

II. HCPA Recommends Clarifying the Applicability of the Labeling Requirements for Aerosol Products

The aerosol delivery form is used across a vast array of products used by consumers and workers. Because of this variety, aerosol products can be regulated by a number of federal agencies, each with different labeling requirements. HCPA appreciates Ecology's availability to collaborate with the aerosol industry to create labeling requirements for different types of products so that the aerosol industry can comply with the disclosure requirements and not conflict with federal requirements.

HCPA does seek additional clarity on the applicability of the labeling requirements as there is confusion between how section WAC 173-443-020 is written compared to WAC 173-443-070 for aerosol products. The applicability section states the following:

The labeling requirements in WAC 173-443-070 apply to manufacturers of products or equipment that contains, uses, or will use HFCs as of July 28, 2019, or to manufacturers that introduce such products or equipment into Washington commerce after that date.

HCPA interprets this with respect to aerosol products to mean that aerosol products which previously contained HFCs, but have since been reformulated to utilize other propellants, or aerosol products that never used HFCs are not subject to the requirements within WAC 173-443-070. HCPA requests clarity on this section because of the use of the term "substitute" in

³ Connecticut, Delaware, Maryland, Massachusetts, New York, Pennsylvania, Rhode Island, and Virginia

section WAC 173-443-070 because that would apply to any aerosol propellant used in aerosol products as all propellants are substitutes for class I or class II substances.

III. HCPA Recommends Rewording WAC 173-443-070(3)(a)

HCPA recommends rewording the first labeling requirement method for aerosol products by listing products regulated by the U.S. Consumer Product Safety Commission ahead of products regulated by the U.S. Food and Drug Administration (excluding prescription drugs). This modification would have this section read as follows:

“For aerosol products regulated by the U.S. Consumer Product Safety Commission, the U.S. Food and Drug Administration excluding prescription drug products, or products that are not covered by (b) of this....”

HCPA requests this modification so that it cannot be misinterpreted that products regulated by the U.S. Consumer Product Safety Commission are excluded from this section.

IV. HCPA Respectfully Requests Clarification on Nomenclature Requirements for Labeling Disclosure

As written, the new proposed permanent rule does not specify a specific nomenclature for how aerosol propellants need to be disclosed in the labeling requirements. As previously noted, there are a number of federal government agencies that regulate aerosol products depending on their application, some of which have very specific nomenclature requirements while others do not. By not including a specific nomenclature requirement within this rule, aerosol product manufacturers would be able to comply with federal nomenclature requirements for various products.

HCPA respectfully requests a response from Ecology on the lack of a nomenclature requirement within the proposed rule to mean that aerosol product manufacturers can utilize existing federal nomenclature requirements to comply with the new proposed permanent rule's disclosure requirements.

V. Conclusion

HCPA appreciates the opportunity to offer these comments on Ecology's new proposed permanent regulation and would like to thank Ecology staff for the transparent and collaborative process under which this proposed regulation was developed. By developing consistent regulations, states can achieve a reduction in HFC emissions without imposing impediments to interstate commerce.

July 28, 2020

Page 4 of 4

If you have any questions about our support or suggestions presented in these comments, please do not hesitate to contact me directly at (202) 833-7304 or ngeorges@thehcpa.org.

Sincerely,

A handwritten signature in cursive script that reads "Nicholas Georges".

Nicholas Georges
Vice President, Scientific and International Affairs
Household & Commercial Products Association