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July 16, 2020

Linda Kildahl  
Department of Ecology  
Air Quality Program  
P.O. Box 47600  
Olympia, WA 98504-7600

Re: Comments on Rulemaking – Chapter 173-443 WAC

Dear Ms. Kildahl:

Beveridge & Diamond, P.C. submits these comments on the proposed final rulemaking for Chapter 173-443 WAC. Beveridge & Diamond is a law firm that represents, among others, manufacturers of products that may contain HFCs who have an interest in regulatory clarity.

We propose one targeted change in WAC 173-443-080(1) to clarify that the manufacturer notification obligation in WAC 173-443-080 applies only with respect to products that fall within one of the listed end-use categories in WAC 173-443-040. Our suggestion would clarify what we understand to be the intended scope of the rule, as set out in WAC 173-443-020 and ESSHB 1112, and eliminate a potential point of confusion. We propose the following amendment to WAC 173-443-080(1):

(1) A manufacturer of a product or equipment that contains, uses, or will use HFCs or other substitutes prohibited **for an end-use listed** in WAC 173-443-040 or a representative on behalf of the manufacturer, must report to ecology consistent with WAC 173-443-090 and 173-443-100.

Our understanding is that this proposal would not change the scope of the rule as proposed, but rather would clarify a potential ambiguity. The applicability section, WAC 173-443-020, clearly states that the notification requirements of Chapter 173-443 apply *only* if the product or equipment is for an end-use listed in WAC 173-443-040. This is consistent with the language of ESSHB 1112. Products or equipment for end-uses that are *not* listed in WAC 173-443-040 are *not* subject to the notification requirements of Chapter 173-443, *regardless* of the HFCs or other substitutes that they contain, use, or will use. The proposed rule language of WAC 173-443-020(1) states:

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The requirements of this chapter apply to any person who offers for sale, leases, rents, installs, or otherwise causes to enter into Washington commerce any product or equipment that contains, uses, or will use HFCs or other substitutes for an end-use listed in WAC 173-443-040.

Adding the phrase “for an end-use listed” to WAC 173-443-080(1) eliminates the possibility of any ambiguity as to whether the notification requirement applies to manufacturers of equipment that contain, use, or will use HFCs or other substitutes listed in WAC 173-443-040 but for end uses that are **not** listed in WAC 173-443-040. Instead, all of Chapter 173-443 will clearly reflect the applicability section’s limit to only products or equipment for the specified end-uses in WAC 173-443-040.

In submitting these comments, Beveridge & Diamond reserves the right to supplement, amend or otherwise submit additional comments to Ecology on any issues related to this rulemaking.

Thank you for your consideration of these comments. If you or your colleagues have questions about this comment or require additional information, feel free to contact me at (206) 315-4811 or [dweber@bdlaw.com](mailto:dweber@bdlaw.com).

Sincerely yours,



David C. Weber

cc: Russ LaMotte, Beveridge & Diamond