



August 30, 2023

VIA ELECTRONIC MAIL

State of Washington  
Department of Ecology  
Attn: Linda Kildahl  
Linda/kildahl@ecy.wa.gov  
PO Box 47600, Olympia, WA 98504

RE: Comments on Proposed Rule WAC 173—443, 455, Preliminary Regulatory Analysis - Hydrofluorocarbons

Dear Ms. Kildahl:

Thank you for the opportunity to comment on the Department of Ecology's (Ecology) proposed rule for Hydrofluorocarbons (HFCs) rule, WAC 173-443 and -455, as well as the Preliminary Regulatory Analysis. We provide these comments on behalf of the Northwest Grocery Association (NWGA) membership. NWGA represents several grocery private labels, general retailers, and manufacturers, and employs more than 80,000 workers at more than 860 locations throughout Washington state.

We appreciate the ongoing dialogue and work with Ecology around the issues of air quality and decarbonization. These actions are part of the framework to reduce emissions and bring greater stewardship around HFCs. Nevertheless, NWGA's membership has a few questions and a couple of concerns Ecology should answer and consider before adopting a final rule.

First, it is our understanding the U.S. Environmental Protection Agency (EPA) is developing rules under the American Innovation in Manufacturing Act (AIM) for HFC regulation due out later this fall. Given this understanding, has Ecology considered the approach being discussed under the federal AIM regulation? What is the cost difference of compliance for the proposed Ecology rule and that of the federal AIM rule? What is the difference in environmental benefit?

Many of NWGA's members operate across jurisdiction lines and having a statewide patchwork of rules will have impacts on compliance and costs to meet regulations with different standards. NWGA encourages Ecology to wait for the final federal rule from the EPA to be published later this fall and ensure the state's rules are aligned with federal regulation.

Second, while the issues of the rule are technical in nature, NWGA believes the rules must consider impacts to existing systems using HFCs, given the rule may create costs or extend use

of older systems. The mid-range global warming potential (GWP) retrofit may economically and technically force companies to continue using their current, higher GWP systems since there is no retrofit option that would meet the 150 GWP proposed requirement. Ecology should, like was done in California, work with retailers and other impacted industries to come up with a feasible retrofit and subsequent replacement process and timeline. This will have a more immediate positive impact on reducing HFCs.

Unfortunately, if Ecology fails to work with retailers on retrofit language, then the Department may otherwise discourage retrofits, causing longer or even end of life use of existing systems. The retrofit language needs to be implementable given current technology. Did Ecology consider these lost opportunity costs in the Preliminary Regulatory Analysis?

Finally, regarding leak rates, NWGA members believe it will be challenging to meet a sixteen percent (16%) leak rate. Ecology's proposed rule is more stringent than what is believed to be in the EPA's forthcoming rule of twenty percent (20%). In addition, Ecology is proposing strict replacement timelines if a system cannot comply with the proposed leak rate which are too short to be feasible for industry compliance. Industry believes it could cost millions of dollars for a single facility and take up to two years to complete this type of project.

Industry needs consistency in regulation. Why is Ecology proposing to move ahead of the anticipated EPA standard? How were the associated costs and missed opportunities accounted for in the state's Preliminary Regulatory Analysis?

NWGA, and our member companies, stand ready to work with Ecology to better understand how retail grocery stores in Washington can help to achieve the outcomes anticipated when the HFC legislation was adopted. However, the proposed rule needs to be economically feasible as well as reflect a willingness from the state to work with industry on the incremental progress supported by technology.

Please don't hesitate to follow up if you have any questions or concerns. We look forward to our continued work on these important issues.

Sincerely,



Amanda Dalton  
President

Northwest Grocery Association

Cc: Brandon Houskeeper, Washington Legislative Counsel