

## HFC Rulemaking, Chapter 173-443 WAC

### March 31, 2022 Stakeholder Meeting Summary

#### Draft language review – stakeholder comments

##### Definitions (Section 030)

**“Chillers”** draft definition keeps centrifugal and positive displacement chillers definitions from current HFC rule and adds a definition for “chiller” from California’s 2021 HFC rule.

- Align with EPA SNAP definitions.
- Treat comfort cooling as separate from other refrigeration uses.
- Differentiate between GWP limits based on temperature of the cooled fluid. There are challenges with very cold temperatures.
- Chillers can be used for comfort cooling and other refrigeration uses. AHRI will provide definitions to Ecology that we tried to provide to EPA.

##### **“Industrial process refrigeration”**

- This is a complicated and broad category, from food manufacturing to chemical manufacturing. We recommend you think about this separately.
- Agree with removing the deleted sentence.

**“GWP”** draft language refers to WA greenhouse gas reporting rule, WAC 173-441-040, for GWP values (which adopts values from 40 CFR 98, Table A-1 to Subpart A).

- Consider requiring only EPA SNAP-approved alternative refrigerants to avoid undesirable high GWP emissions.
- Using IPCC AR4 values makes sense and aligning with SNAP definitions.

**“New”** draft definition is unchanged from current HFC rule

- Using a cumulative replacement of 50 percent strikes a good balance for existing refrigeration systems going through a significant replacement. Allows room for a minor retrofit without triggering “new.”
- This section got glitchy in California, especially for big systems in commercial buildings. A new permit is applied for years in advance. We need to make sure there is an exclusion for when permit is applied for because the equipment is probably already in process of being manufactured.
- AHRI will send more information for Ecology to consider.

##### **“Residential dehumidifier”**

- Add definition for this term. It needs to distinguish between “small portable unit” and “whole home dehumidifier.” Also distinguish for purposes of commercial agriculture dehumidifiers.

##### **“Cumulative replacement”**

- Add definition for this term.

## List of prohibited substances: GWP thresholds for refrigeration and air conditioning (Section 040, Tables 1 and 2)

- Commercial ice makers: Question about whether commercial ice makers are subject to a GWP threshold. EPA's SNAP program exempts them.
- Residential dehumidifiers: Concern that A2L refrigerants for residential dehumidifiers won't be approved by SNAP before the effective date, but this is especially true for commercial agriculture because of compressor compatibility. Include size criteria.
  - Stakeholder will send to Ecology an expanded version of what California did.
- Question about whether refrigeration and air conditioning low GWP alternatives are adopted into the state building code.
  - Stakeholder confirmed that UL60335-2-89 is completed as of October. Still need ASHRAE 15. It's close, but we need both codes. Edition 3 is adopted in Washington.

## Exemptions (Section 050, Tables 1, 2, and 3)

- SNAP-prohibited products (Table 1): Additional exemptions for centrifugal chillers and positive displacement chillers work as written. No additional comments.
- Refrigeration equipment (Table 2): Additional exemptions work, but need to define "cumulative replacement."
- Air conditioning equipment (Table 3): New exemption for approved building permits works. No additional comments.

## Draft language review – stakeholder comments and Ecology responses

### List of prohibited substances: MVAC recharge "small cans" and nonessential consumer products (Section 040, Table 4)

- Question about why there is no sell through provision.

**Response:** The law, as passed by the legislature, does not allow sell through provisions for these products. Ecology does not have the authority to create one without it being in the law.

- Question about how vehicles can be deemed nonessential.

**Response:** Ecology is not calling vehicles nonessential. Nonessential consumer products refers to party streamers, noisemakers, etc. The MVAC small can restriction is separate. We will ensure that the rule does not define vehicles themselves as nonessential.

- Concern that retail outlets and distributors been not been notified of this law in Washington.
- Question about Ecology's authority to issue a warning before a fine or a product is removed.

**Response:** Ecology sent notifications to the larger retailers and distributors; however, we do not have information for all distributors in this state. Our goal is to get the word out. We would only pursue enforcement in instances where parties are notified multiple times. Would your organization be willing to share a copy of our notification letter with your membership?

- Stakeholder agreed to send the Ecology notice out to their Washington members.
- Concern that this part of the HFC law is vague. Many stakeholders want to see technicians be able to purchase small cans of refrigerant, particularly as HFC costs are rising substantially and purchasing large quantities will be much more expensive. This has negative economic impacts

on small and large retailers. Concern was also expressed for the economic impact to consumers who will have to spend \$400 for a mechanic instead of \$39 on a small can to fix it themselves. When temperatures rise, air conditioning is essential.

- Concern that small retailers are not able to sell or return products they have in stock now. This stakeholder provided sales data to Ecology to provide documentation for the economic analysis.
- Comment that defining consumer is main point and not restricting sales to technicians. Restricting sales for independents or big chain stores is taking business away from them. Shops use these products correctly. Ecology should consider who the consumer is and allow purchases on the installer side of business.
- Several stakeholders committed to providing data around small can sales to support the argument that technicians need access to these products.

**Response:** Ecology appreciates this input and understands the difficulty with this part of the legislation. We are working with our attorneys on the term from the law, “regulated refrigerant in a container designed for consumer recharge.” If these containers are designed and sold largely to do-it-yourself individuals, then these are containers designed for consumer recharge that mechanics happen to use. Getting specific numbers and clarification on that need will be helpful.

- Question about how Ecology is going to advise online retailers so they do not sell directly to consumers. And whether Ecology is aware of EPA rules up for consideration for professional servicing of air conditioning in the mobile sector – for use of EPA-approved recovery and recycling equipment. Buying a small can, dumping it into a system, and charging for it would not be consistent with federal law. Would Ecology look into it?

**Response:** We have checked Amazon. They block the sale of these cans in Washington. Amazon, eBay, and Walmart all received letters from us last year. Technicians must follow the federal law. We would look into violations of the state law on a case-by-case basis.

- Request to confirm that the current definition of small containers means that products with less than two ounces of R134a refrigerant, such as leak sealers, can be sold. Stakeholders will follow up with information on products with less than 2 ounces of refrigerant.

**Response:** Although the law does not create a size limit, we want to align our definitions with others, such as EPA and California. If the product is not designed to recharge the air conditioning system, it may fall outside of the law.

- Concern that with current SNAP approvals, the industry has no choice but to inject R134a into things like PAG oil additive. This stakeholder wanted to clarify that that the EPA rule for recovery does not say technicians should not buy the small cans or call out the size of the can. It requires the self-sealing valve, which is already being implemented. It requires that auto shops have recovery equipment.
- Concern that enough information did not go into this law. Small cans with self-sealing valves are restricted, but other products with R134a without sealing mechanisms are allowed.

**Response:** We appreciate the comments and the position you are in. Part of the rule process is to understand your comments. Your example of \$15,000 of product will come into our economic analysis. It is a fair comment to make sure that everyone is playing on a level playing field.

- Concern that some retailers are still selling the product. Not automotive retailers, but you can buy it now. The word did not get out.

**Response:** We need to spend more time on outreach for this issue. We will be following up with a letter to Lowe's and others. We are in the education phase to make sure we have consistent compliance across the board. It is fair for you to say that you need Ecology to do a better job.

- Question about whether door products that contain foam insulation have been exempted from the rule.

**Response:** Foams were addressed in our previous rulemaking. For different types of foams, the blowing agents are restricted.

- Question about whether having a manufacture date on the product would allow for a sell-through option. This would be consistent with other parts of the law.

**Response:** For small recharge cans, there is no sell-through. A date would be irrelevant.

- Ecology asked what retailers would have to see to verify that a purchaser is a qualified technician.

**Stakeholder response:** It could be different ways. If it is a licensed shop or business owner, we note it. R12 required a license to purchase. It could be business license, Tax ID, or other ways to identify a professional installer or shop. Requiring EPA certification would put undue burden on the technician to get recertified.

- Stakeholders requested getting a small group together to talk about defining the product instead of the end users.

**Response:** Ecology will consider this request.

### Future stakeholder meetings

- May 10, 2022
- July 6, 2022
- August 16, 2022
- September 29, 2022

All meeting times are 9:30 a.m. to noon PDT.