



HEATING AIR-CONDITIONING REFRIGERATION DISTRIBUTORS INTERNATIONAL

January 3, 2025

Maine Department of Environmental Protection

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RE: Maine Department of Environmental Protection, Ch. 90 Title 38, Section 1614 Amendments

Dear Maine Department of Environmental Protection,

Maine has been a leader in the country on the issue of banning harmful per- and polyfluoroalkyl substances (PFAS). Heating, Air-conditioning & Refrigeration Distributors International (HARDI) supports adopting Chapter 90 Title 38 Section 1614 Amendments as proposed with the exemptions for heating, ventilation, air conditioning, and refrigeration (HVACR) equipment until 2040. HARDI supports the unavoidable use exemption process outlined in the proposal; however, HARDI suggests that the Maine Department of Environmental Protection also adds an unavoidable use exemption when a separate state or federal regulation or code prohibits PFAS alternatives.

HARDI is a trade association comprised of over 800 member companies, more than 450 of which are U.S.-based wholesale distribution companies serving HVACR contractors and technicians in the state. Over 80 percent of HARDI's distributor members are classified as small businesses that collectively employ more than 60,000 U.S. workers, representing an estimated 75 percent of the U.S. wholesale distribution market of HVACR equipment, supplies, and controls.

Maine is justified in seeking to reduce the use of harmful PFAS. HARDI recognizes that not all PFAS should be considered dangerous to human health. According to a systematic review by the National Institutes of Health (NIH), the three factors that create a danger to long-term human health are "[p]ersistent, bioaccumulative, and toxic substances ... that can subsist for decades in human tissues and the environment."ⁱ According to REACH, the European Union regulation for protecting human health, hydrofluorocarbons (HFCs) refrigerants do not meet the *persistent*, *bioaccumulative*, or *toxicity* factors necessary to make them dangerous PFAS.ⁱⁱ HARDI appreciates the exemption granted in the legislation for the HVACR industry until 2040 and supports this language as drafted.

Moreover, HARDI suggests that the language used in the "unavoidable use" section should consider the potential overlap between future refrigerant regulations and the use of refrigerants containing PFAS. In the HVACR industry, multiple overlapping systems are in place to ensure that refrigerants are safe for the environment and human health.

The Environmental Protection Agency's (EPA) Significant New Alternatives Policy (SNAP) program mandates the approval of refrigerants as alternatives to existing ones, including those containing PFAS. Refrigerants without SNAP approval cannot be used. Furthermore, the EPA can impose use restrictions on these refrigerants based on safety considerations. For instance, the limit on the amount of propane used as a refrigerant in refrigeration products was recently increased.

However, equipment utilizing propane as a refrigerant must meet safety standards. These safety standards can prevent the utilization of non-PFAS refrigerants if there is no safe method for their use. As a result, propane, which is often suggested as an alternative to planned PFAS refrigerants, cannot be used in home air conditioning due to the lack of SNAP approval or safety standards. This indicates that PFAS has an unavoidable use due to separate state or federal regulations and codes.

HARDI recommends that the Department of Environmental Protection include state and federal regulations or codes as a valid unavoidable use category. This will ensure that if separate Maine or Federal regulations restrict alternative refrigerant options, the initially planned PFAS-containing refrigerant will qualify for the unavoidable use exemption. As mentioned, the PFAS within the HVACR system refrigerant poses fewer health risks than other PFAS sources. The legislation and the now-drafted regulation were designed to protect the public from the health hazards associated with severe PFAS exposure, a health risk not shared by fluorine-containing HVACR refrigerants. HARDI supports adding language for an unavoidable use exemption for the PFAS to be permitted when a separate regulation prohibits the alternative substance.

HARDI supports Chapter 90 Title 38 Section 1614 Amendments as presented and asks the Maine Department of Environmental Protection to update the draft language with this change when the regulation is proposed.

Sincerely,



Todd Titus

Director of State and Public Affairs

Heating, Air-conditioning, & Refrigeration Distributors International

ⁱ Fernández-Martínez, N. F., Ching-López, A., Olry de Labry Lima, A., Salamanca-Fernández, E., Pérez-Gómez, B., Jiménez-Moleón, J. J., Sánchez, M. J., & Rodríguez-Barranco, M. (2020). Relationship between exposure to mixtures of persistent, bioaccumulative, and toxic chemicals and cancer risk: A systematic review. *Environmental research*, 188, 109787. <https://doi.org/10.1016/j.envres.2020.109787>

ⁱⁱ REACH Online, Annex XIII: Criteria for The Identification of Persistent, Bioaccumulative and Toxic Substances, and Very Persistent and Very Bioaccumulative Substances, <https://reachonline.eu/reach/en/annex-xiii.html>