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October 7, 2019

Delaware Natural Resources and Environmental Control
Division of Air Quality
Attn: Ajo Rabemiarisoa
State Street Commons
100 W. State Street, Suite 6A
Dover, DE 19904
Ajo.Rabemiarisoa@delaware.gov

Re: Public Comments on Proposed Regulation: “1151 Requirements for the Phase-out of Hydrofluorocarbons”
Model Regulation (September 2019)

Dear Mr. Rabemiarisoa:

The Polyisocyanurate Insulation Manufacturers Association (“PIMA”) appreciates the opportunity to comment on the Delaware Natural Resources and Environmental Control’s (“DNREC”) model regulation, Requirements for the Phase-out of Hydrofluorocarbons (dated September 2019).

PIMA represents North American manufacturers of laminated polyisocyanurate insulation board products (“polyiso insulation”). Our members include Atlas Roofing Corporation, Carlisle Construction Materials, Firestone Building Products, GAF, Johns Manville, IKO Industries, Rmax, and Soprema. These manufacturers account for the majority of polyiso insulation produced and sold in North America, including Delaware.

PIMA supports Delaware’s efforts to reduce harmful emissions of greenhouse gases. PIMA has been recognized for environmental leadership and our membership aggressively advocates for policies that improve building energy efficiency and reduce emissions associated with the energy used to power our building stock.

As it relates to DNREC’s proposed HFC prohibitions, PIMA does not oppose January 1, 2021 as the effective date for the “Rigid Polyurethane and Polyisocyanurate Laminated Boardstock” end-use category. This position is based on the fact that the North American polyiso
industry does not use the prohibited HFC substances as blowing agents in its product formulations.

However, we have concerns with DNREC’s proposed disclosure statement (Section 3.2) and recordkeeping (Section 4.0) requirements as applicable to manufacturers of polyiso insulation. Our concerns are outlined below.

I. History of Polyiso Insulation

The polyiso industry is a recognized leader in the manufacture of energy efficient building products and environmental stewardship. The industry has been recognized by the U.S. Environmental Protection Agency (“U.S. EPA”) with the Stratospheric Ozone Protection Award for leadership in the phase-out of chlorofluorocarbons and exceptional contributions to global environmental protection. Additionally, the industry was recognized with the U.S. EPA’s Climate Protection Award for leadership in promoting energy efficiency and climate protection.

Over the past three decades, the polyiso insulation industry has undertaken research and development of new technology to eliminate the use of ozone depleting pollutants and reduce the global warming impact of its products. **Today, polyiso insulation is manufactured using pentane (or pentane blends) as the blowing agent in the foaming process. Pentane is a non-ozone depleting, low global warming potential substance. The industry completed this transition nearly twenty years ago.** In fact, some polyiso insulation manufacturers have never used hydrofluorocarbon (“HFC”) technology.

Pentane offers an economical solution for polyiso insulation products and delivers exceptional thermal resistance that contributes to polyiso insulation’s high R-value – the primary physical property for thermal insulation products. Polyiso insulation manufacturers have made significant capital investments in modifying existing facilities and constructing new plants that allow for the safe use of pentane technology in the manufacturing process. It is important to note that polyiso insulation formulations – and the process used to manufacture the product – are optimized for the use of pentane, which may not be a suitable blowing agent substitute for other foam end-uses.

Additionally, as referenced above, polyiso insulation manufacturers have made significant investments in the research and development of product formulations that utilize pentane technology to deliver industry-leading thermal and fire performance in the foam insulation market. From a manufacturing perspective, the prohibited HFC substances are not suitable (or attractive) replacements for polyiso insulation when compared to the performance and economic advantages of pentane-based formulations.
II. PIMA believes that the disclosure statement and recordkeeping requirements are unnecessary as applied to the polyiso insulation end-use and, therefore, requests polyiso insulation manufacturers be exempted from compliance with any requirements.

The proposed disclosure statement and recordkeeping requirements appear to be enforcement tools that would allow DNREC to achieve its stated goal of reducing HFC emissions. However, applying the requirements to specific end-uses that do not use or contain HFC substances will not further the State’s goal as there are no emissions reductions available for these end-uses. **Therefore, we propose that DNREC exempt any end-use that categorically does not use or contain any of the prohibited HFC substances by a date certain** (e.g., June 30, 2020, which is six (6) months prior to the earliest date of prohibition listed in the model regulations for the foam end-use sectors).

As described above, the polyiso insulation industry transitioned to pentane technology several decades ago for environmental, economic, and performance reasons. Legacy HFC substances do not present viable or attractive options for polyiso insulation manufacturers now or into the future.

We understand that Delaware may look to other states for model HFC prohibitions and **we believe that Washington State provides a good example for enforcing well-scoped labeling and recordkeeping requirements**. The Washington State Department of Ecology’s recent regulatory action exempts from labeling and recordkeeping requirements all end-uses that do not contain, use, or transition away from the prohibited HFC substances prior to December 31, 2019.\(^1\) Importantly, this approach reduces the burden on the state by eliminating end-uses that do not present an opportunity for HFC emissions reductions and allows regulators to focus on managing end-uses that currently manufacture with the prohibited substances.

With respect to the California Air Resources Board’s (“CARB”) HFC regulations, PIMA opposed the CARB recordkeeping requirement as applied to polyiso insulation manufacturers.\(^2\) Unfortunately, CARB incorrectly grouped the polyiso insulation industry with other manufacturing sectors where HFC substances are either currently used within a particular end-use category or represent a viable (performance or economic) blowing agent solution for the foam end-use category. The polyiso insulation industry does not fit either of these scenarios.

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It should be noted that the CARB recordkeeping requirement applies only to a limited subset of end-sectors that are covered by the 2018 regulatory action. The California legislature passed a broader HFC emission reduction law that does not include a recordkeeping requirement for many of the SNAP end-use categories listed in the DNREC model regulation. This action speaks to the limited utility of a recordkeeping requirement and, in particular, as applied to end-uses that categorically do not use the restricted HFC substances. Finally, eliminating the recordkeeping requirement will promote consistency throughout regulations authored by members of the U.S. Climate Alliance.

On the issue of product disclosure statements, CARB agreed with PIMA’s argument to exclude polyiso manufacturers when it eliminated a proposed labeling requirement for end-uses that categorically do not use HFC substances. CARB concluded that labeling was unnecessary for end-uses that “have already transitioned out of using HFCs . . . [where] the risk that these end-uses revert to prohibited HFCs is low.” However, again, we believe that CARB erred in its decision to maintain a burdensome recordkeeping requirement as applied to polyiso insulation and respectfully request that Delaware consider a more narrow approach to regulating foam insulation end-uses.

Finally, PIMA is unaware of polyiso insulation products sold into Delaware that are manufactured outside of the North American market. This means there is little to no risk of non-compliant imports being sold into the market. Therefore, the polyiso insulation end-use can be exempt from compliance without interfering with State’s enforcement objectives.

As an alternative to a full exemption, we request that any future regulation include an opportunity for polyiso insulation manufacturers to submit a one-time certification to Delaware that their respective products do not contain the prohibited HFC substances. The certification also could be made at the request of, or at a time specified by, the State. This alternative compliance option would provide regulators with direct and immediate assurances that the polyiso insulation end-use market is in full compliance with any future HFC prohibitions.

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III. Conclusion

We appreciate the opportunity to comment on DNREC’s model HFC regulation. Please contact me at jkoscher@pima.org or (703) 224-2289 should additional information be helpful to your deliberative regulatory process.

Respectfully submitted,

Justin Koscher
President