



2311 Wilson Boulevard Suite 400 Arlington VA 22201 USA
Phone 703 524 8800 | Fax 703 562 1942
www.ahrinet.org

VIA EMAIL: kopits.elizabeth@epa.gov

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Ms. Elizabeth Kopits
National Center for Environmental Economics
Office of Policy
Environmental Protection Agency (EPA)
1200 Pennsylvania Avenue NW
Mail Code 1809T
Washington, D.C. 20460

RE: Increasing Consistency and Transparency in Considering Costs and Benefits in the Rulemaking Process, Docket ID No. EPA-HQ-OA-2018-0107

Dear Ms. Kopits:

On behalf of the Air-Conditioning, Heating, and Refrigeration Institute (AHRI), these comments are submitted in response to the Advanced Notice of Proposed Rulemaking (ANPRM)—Increasing Consistency and Transparency in Considering Costs and Benefits in the Rulemaking Process, Docket No. EPA-HQ-OA-2018-0107. The ANPRM was issued by the Environmental Protection Agency (EPA or Agency) on June 13, 2018 in the *Federal Register* (83 FR 27524). The Agency requested public comments from interested stakeholders on “whether and how EPA should promulgate regulations that provide a consistent and transparent interpretation relating to considerations of weighing costs and benefits in making regulation decisions in a manner consistent with applicable authorizing statutes.”

AHRI is the trade association representing manufacturers of heating, cooling, water heating, and commercial refrigeration equipment. More than 300 members strong, AHRI is an advocate for the industry and develops standards for and certifies the performance of many of the products manufactured by our members. In North America, the annual output of the heating, venting, air-conditioning, and refrigeration (HVACR) and water-heating industry is worth more than \$44 billion. In the United States alone, the HVACR and water heating industry support 1.3 million jobs and \$256 billion in economic activity.

The following are AHRI’s recommendations in increasing consistency and transparency in costs and benefits in the rulemaking process. In addition, these recommendations highlight issues that the EPA should consider when developing its regulatory agenda.

Issue 1 – Social Cost of Carbon (SCC)

AHRI supports EPA’s mission of protecting the environment. Our members value energy efficiency and sustainability and are continually innovating and developing more efficient and high-performing equipment. We acknowledge that regulations must be based upon accurate and transparent data. AHRI, along with industry stakeholders have raised concerns about the 2010 and 2013 SCC values and methodology. The Information Quality Act or Data Quality Act requires the Office of Management and Budget to promulgate guidance to agencies ensuring the “quality, objectivity, utility, and integrity” of

information disseminated by Federal agencies. As part of this guidance, OMB encourages agencies to make their methods transparent and provide all documentation used and ensure the quality of the method by consulting with experts. The 2010 and 2013 SCC values failed to follow that process and were not transparent.

The modeling systems used to develop the SCC estimates and the subsequent analyses were not subject to peer review, and the modeling systems did not offer an acceptable range of accuracies. The federal Interagency Working Group (IWG) did not disclose or quantify key uncertainties to inform decision makers and the public about the effects of alternative regulatory actions as required by OMB. The IWG only presented the global SCC estimates, which are inappropriate for use in analytical models representative of emissions within the U.S. And it failed to equally address the domestic SCC estimates in 2013. As a result, the IWG severely limited the utility of the SCC for use in cost and benefit analyses.

A cost-benefit analysis assesses the strengths and weaknesses of a decision or policy. A cost-benefit analyses is useful in comparing various approaches to solve a policy issue by determining the maximum benefit for little costs. Today, various regulatory agencies approach a given issue differently. For example, the U.S. Department of Energy (DOE) calculates the present value of the costs to consumers and manufacturers over a 30-year period whereas the SCC values reflect the present value of future climate related impacts well beyond 2100. These significant variations in timelines can yield improper and inconsistent results when referenced by differing regulatory agencies.

In addition, when differing regulatory agencies simultaneously pursue their regulatory agendas and address similar sources of CO₂ emissions, the likelihood of double-counting the same presumed SCC benefits are high. The outcome may be an excessive and economically unjustified regulation due to overestimation of actual benefits through duplicative emissions reduction claims.

Issue 2 – Standard Operating Procedures for Revising or Establishing an ENERGY STAR Product Specification

AHRI would like to commend the EPA on how well the ENERGY STAR program is running and how responsive the EPA staff are in following up with commenters to ensure full understanding of written feedback. This has been helpful for AHRI and our members, and we encourage the EPA to continue this practice.

Data Transparency

AHRI members are active participants in the ENERGY STAR program and have been supportive of its mission since its inception. While the program is operating well, additional efforts could be made to increase transparency. Consistent early stakeholder input before a formal proposal to create or update a specification is integral to a specification's success. EPA should ensure the specification process is data driven, using only scientific, technical, economic, or other relevant information that is publicly available; or other information provided by manufacturing partners under confidentiality agreements. EPA should follow all respective policies under the Data Quality Act to ensure a fair and consistent criteria process. For DOE covered products, EPA should use DOE's analysis to the extent that it is up-to-date, and its assumptions and models were made fully transparent to prevent a duplicative analysis that will waste government resources. All data not subject to confidentiality agreements should be shared with stakeholders throughout the specification process.

EPA's decision criteria should be defined at the front end of the process for the public. For some products, a change in specification may not be warranted as more and more products are nearing maximum efficiency under available technology. ENERGY STAR could increase success through establishing market penetration targets in an effort to increase the share of ENERGY STAR labeled products in the market. As these targets could vary by product, the agency should make an effort to work with each product segment to identify targets for when success has been achieved. While at times when this market penetration has been successful a change in specification may be warranted, given technological realities of some equipment reaching maximum technology limits. Success could further be achieved through the agency working with stakeholders to expand penetration in the market under the current criteria.

Align with Department of Energy Standards

AHRI members are already voluntarily participating in a third-party verification program, and most equipment is also subject to the regulatory burdens under DOE for minimum efficiency levels. Decreasing duplicative regulatory burdens and reducing compliance costs associated with the program would help increase manufacturer participation. Therefore, EPA should align with DOE to minimize additional regulatory burdens for manufacturers and reduce the compliance burdens listed below:

1. **ENERGY STAR Qualification** – Manufacturers are required to complete the ENERGY STAR certified product data submission form and submit test reports of the representative basic model. This process requires an extensive amount of time and data from manufacturers, who are already required to provide significant information to DOE as well. DOE and EPA should align their data submission processes to prevent duplicative data submission processes are not required of ENERGY STAR participants and encourage greater participation.
2. **Verification** – Under the multiple tests approach, EPA requires that four samples be wrapped for every ENERGY STAR model that undergoes a verification test. This is different from DOE's requirements and requires additional storage planning until results of the first test are available. The release of the three units depends on how soon the EPA-recognized laboratory finishes the first sample test and can provide the result. Manufacturers have no control over the timing of the first sample test and have to address the logistical issues and costs associated with the remaining three units until the completion of the first sample test. To reduce manufacturer costs, the EPA and DOE should work together to align verification testing to ensure the compliance burdens to manufacturers' product subject to minimum efficiency standards and also participates in ENERGY STAR need only submit to one verification process.

Issue 3 – National Ambient Air Quality Standards

AHRI supports EPA's review and consideration of ambient air quality standards for Nitrogen Oxide. EPA should consider the cost-benefit implications when requiring State Implementation Plans in conjunction with the Clean Air Act. Frequently, products that are regulated for performance under DOE are regulated to comply with state and local NOx requirements driven by NAAQS and SIPS. The EPA should consider the downstream impact on these products and avoid the potential for double regulation.

Issue 4 – Significant New Alternatives Policy (SNAP)

When evaluating refrigerant substitutes to reduce overall risk to human health and the environment, and justifying an acceptable refrigerant substitute, EPA should also ensure that the consumer impact is sufficiently addressed in any cost-benefit analysis. AHRI believes that placing an emphasis on consumer benefits as a result of the use of an alternative refrigerant will help yield SNAP's intended effect of promoting a smooth transition to alternative refrigerants.

Moreover, in listing acceptable refrigerants, EPA should focus on limited use restrictions for the applications/ease of transition and not select acceptance based on the existing acceptable refrigerants (and high-global warming potential (GWP) levels). For example, a lower GWP refrigerant that has a different performance map and refrigerant characteristics from that which it is replacing causes considerable rework, research and redesign. The drop in equivalent replacement should be considered as it would allow the same equipment to be more efficient without considerable cost or performance decline while still decreasing GWP level. Drop-in replacements provide a path to even lower GWP options, reduce leakage and charge size while improving unit performance and lower energy consumption and emissions.

Finally, EPA should look at the cost to convert to these already acceptable refrigerants because 1) there is no end use restriction or safety concerns, 2) it lowers costs for manufacturer and 3) EPA is not prohibited from listing these drop-in refrigerants as an acceptable listing.

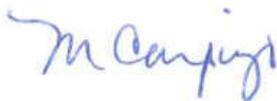
Conclusion

EPA should consider as part of conducting a cost-benefit analysis, the impacts of EPA's proposed regulations will have on a product's practical performance, i.e., when EPA prohibits various refrigerants believed to have a GWP. EPA should consider that the lower GWP substitute available for some products may actually cause the equipment to run less efficiently.

In addition, EPA should maintain consistency in EPA's rulemaking procedures. Regulations that are designed to apply to identical or similar products it should use identical or similar metrics should help regulatory bodies reach their conclusions. If there is a need to depart from the previously established procedure, this should be limited and only based on a change in the product itself or change in product's market conditions or technological infeasibility. This helps to make the process predictable and promoting stronger stakeholder relationships and streamlining the government's efforts to achieve greater efficiency from regulation products.

AHRI appreciates the opportunity to provide these comments. If you have any questions regarding this submission, please do not hesitate to contact me.

Sincerely,



Marie Carpizo
Associate General Counsel