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Thanks *for* the couple of **days** of grace on submitting our comments. Please contact me if you need additional background or other information.
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OFFICE OF MANAGEMENT AND BUDGET
Comments on Draft Report to Congress
On the costs and Benefits of Federal Regulations
67-FR 15014

Submitted by the Air Conditioning Contractors of America

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Regulatory Reform for Handling Refrigerants

Since the signing of the Clean Air Act (CAA) in 1990, Air Conditioning Contractors of America (ACCA) has worked with EPA and the entire heating, ventilating, air conditioning and refrigeration (HVACR) industry for regulations in section 608 and 609 that would lead to a safer environment. The regulations that have been enacted have allowed contractors to bring to society environmentally safer refrigerants for their refrigeration and air conditioning needs without serious economic impact. But, the job is not done.

In 2010, the CAA will phase out new equipment using ozone-depleting HCFCs (R-22) with non-ozone depleting refrigerants. R-410A, an HFC, has become the leading candidate as the replacement for residential and light commercial air conditioning. With totally redesigned systems that will withstand 60% higher pressures and scroll compressor technology, six manufactures have over 350,000 systems in operation today with outstanding success. The industry is transitioning rapidly to not only beat the HCFC phase-out schedule but to comply with the energy requirement of a higher SEER (12) by 2006. It is estimated that by 2006, 80% of systems being installed will be utilizing R-410A. With change, and in this case rapid change, comes challenges and opportunities.

The issues with HFC R-410A lie in the fact that these systems operate at 60% higher pressures than their replacement R-22. Where a R-22 system operated at 260 psig, the new equipment is operating at about 417 psig. The oil used with R-410A will be an ester based, of a much higher grade, be hygroscopic and does not mix well with the mineral oil used in the older systems. Different tools and equipment are also required.

The industry, and ACCA, has embarked upon numerous voluntary educational and training programs to prepare technicians for this transition, and this will help. But, if we do not keep these new refrigerants, R-410A and other alternates, out of the hands of the non-skilled, non-trained, non-certified (608 and 609 EPA Technician Certifications) consumers, people will be injured, systems will be ruined, and non-compatible

refrigerants will be mixed requiring incineration or even illegally vented into the atmosphere.

People handling HFCs should be certified, just as are those who work with CFCs and HCFCs. Since 1995, ACCA with the support of other organizations has urged the EPA to extend the sales prohibition of alternate refrigerants to certified technicians. They have not acted on this request. The "handy" homeowner who can and is buying 134a over the counter now to charge into his after-market automobile A/C and refhgerator, will soon be able to purchase R-410A to charge into his home air conditioner. And, the dangers of injury are real, because the "handy" homeowner is not aware of the higher pressures, redesigned systems and heavier gauge materials and tools needed for R-41OA. The result will be mixing refrigerants in systems so that the refrigerant will become useless, non-reclaimable, and must be destroyed. This not only costs money and wastes resources, but increases the likelihood that refrigerant will be illegally vented to the atmosphere. And even HFCs contribute to global warming. All of this can be prevented.

The answer lies in removing the April **27,** 1995 "stay" (Hamilton Case) which allows non-certified individuals to purchase pre-charged split air conditioners. The "stay" not only runs counter to the goal of 608 regulations, it allows non-qualified, non-trained, non-certified individuals to make the mistakes as outlined above as we transition to the higher pressure HFC-based refrigerants.

Technological advancement in the industry have also brought instrumentation and equipment that will analyze refrigerant mixtures and purity levels, field recycle these refrigerants, and document their purity levels. ACCA feel that the time has come for the EPA to allow field recycling that includes purity testing and documentation to ARI 700 Standards without the need to be certified as a "reclaimer" by EPA.

ACCA would enthusiastically support and assist in regulatory reform that would simplify and improve the services and installations our contractors can bring to society more economically. Thus, the Clean Air Act can be strengthened by:

- Extending the sales prohibition of "Alternate Refrigerants" to qualified and certified technicians of the 608 (40CFR Part 82, subpart F) and the 609 Certification programs.
- Removing the "stay" that allows homeowners to purchase split systems that contain HCFC and alternate refrigerants (HFC).
- Allowing the contractor to manage refhgerant in the field through "field recycling" to the same standards as reclaimers are now held to, with the added requirement of field documentation of purity levels.

Cooling Off Period for Sales Made At Home or Other Locations

Our second area of concern is the Federal Trade Commission Regulation regarding door-to-door sales transactions. It is found in 16 CFR 429.0-429.3 – *Cooling Off Period For Sales Made At Homes or Other Locations.*

Our concern is the three-day right of recision requirement. We understand the purpose of the law to protect unsuspecting people from door-to-door scam salesmen but unfortunately, the law puts our members in an untenable position. As you know, it covers any transaction that exceeds $25.00. However, even though we are not door-to-door sales operations – people have to call our members – they fall under the same regulation. Quite often, our members are called when an air conditioning or heating unit or a portion thereof breaks down. For many, especially in the heat of a Texas summer or a Chicago winter this constitutes an emergency. The contractor is asked to fix the problem immediately, not quote the job and wait three days, as the letter of the regulation requires. The regulation states that the contractor cannot even use a standard waiver form, that the waiver must be a handwritten letter, and that people must be informed of the three-day right of recision. Another concern is in the notice of cancellation provisions ((429.1). They are impractical in many cases. Quite often, the technician is let into the house by a teenage son or daughter or a maid and they cannot legally sign the required documents yet the homeowner is expecting the work to be done…which can be as minor as unplugging a stopped-up toilet. Granted, disobedience of the law is no answer but ignoring a law because it is impractical can be just as troubling.

Although anecdotal, our member who brought this up in Texas called the local office of the Texas Attorney General to see if there were any situations where a recision case was brought to their attention. The person he spoke to said he was unaware of any such cases in the area.

Another way to avoid the three-day recision requirement is also impractical. The homeowner can go to the contractor's office or a bank to sign the paperwork. This is too great an inconvenience for it happen.

Several states follow the federal statutes, including Texas. But Texas has taken the issue one step further and has disallowed people to waive their three-day right of recision.

We recommend that the regulation be changed to provide the waiver if the customer initiates the contact.

Thank you for the opportunity to address regulations needing updating and suggest additions that we feel could be implemented easily and have significant economic impact, as well as providing greater safety and cost savings to consumers and small businesses.

Plaudits to the IRS

As a final note, we would like to compliment the Internal Revenue Service (IRS) for issuing a regulation that allows small businesses with annual revenues of up to $10 million a year to use the cash method of accounting. **ACCA** has long urged that the $1 million cap was too low, and that the cost of using the accrual method of accounting added unnecessarily to the costs of doing business for small contracting companies. The IRS saw the reasoning behind our argument and responded favorably, reacting to the reality of the market place. This is a model for other federal agencies to emulate.

***ACCA** is the nation's largest and oldest trade association of those who design, install and maintain heating, ventilating, air conditioning and refrigeration systems. Through a network of over 55 chapters, we represent approximately 7,000 Contracting companies in local, state and national memberships. For over 50 years **ACCA** has been setting the standard for HVACR system design procedures for residential and commercial applications through a series of technical manuals that are considered the final word on the proper installation and sizing of equipment. The manuals are referenced by the code organizations and are used by educators, utilities and electric co-ops as well as contractors as a key training tool.*