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**Sent:** Wednesday, September 25, 2019 7:17 AM  
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**Subject:** Washington State Energy TAG and HB 1112

Krista,

The Washington State Energy TAG is meeting on October 4, 2019, to discuss HB 1112 - Reducing greenhouse gas emissions from hydrofluorocarbons. CPI has been working with Richard Brown and the Plumbing, Building, and Fire TAG on this issue. CPI attended the Plumbing, Building, and Fire TAG meeting on September 18, 2019. Prior to the meeting, I provided the Plumbing, Building, and Fire TAG with the following email:

Richard,

Thank you for allowing me to review the Code Council's proposed implementation of HB 1112. Action by the Code Council is not necessary, because HB 1112 and the Department of Ecology's regulations already implement restrictions on HFCs and require labeling of products that contain new blowing agents and the building code does not prohibit the use of new formulations using approved blowing agents.

HB 1112 prohibits the *use* of products manufactured with unacceptable blowing agents (or unacceptable substitutes) not the products or the application – as long as they are formulated with an acceptable replacement chemistry (or substitute). Referencing the applications or products in the code language, not the restrictions on blowing agents, could be interpreted to ban the actual products or applications. Specifically, HB 1112 directs the code council to:

“...adopt rules that permit the use of substitutes approved under section 3 of this act and that do not require the use of substitutes that are restricted under section 3 of this act.”

Currently the code permits the use of substitutes (or approved blowing agents) and does not require the use of restricted substitutes (restricted blowing agents), therefore no further action is required by the Code Council.

Any action by the Code Council will be superfluous to restrictions in HB 1112 and the Department of Ecology's regulations. 40 CFR Part 82 Subpart G Appendix U (SNAP Rule 20) and Appendix V (SNAP Rule 21) essentially ban the use of foam products manufactured with (or containing) specific HFC blowing agents on certain dates and HB 1112 includes an additional exception for two types of building foams. These appendices do not ban the use of specific products or applications, so long as they do not use specifically listed HFC blowing agents. There are no requirements in the IBC (or IRC) that require the use of HFCs or restrict the use of alternative blowing agents. Because the IBC (or IRC) does not have requirements on specific chemistries, no changes are needed to implement HB 1112 in the construction sector.

However, if the Code Council decides to include reference language in the code, the proposed language would need to be amended to ensure the code aligns with HB 1112. Currently, the Code Council is proposing to include the following language in the code:

“Prohibited materials. Materials for the applications or end uses restricted by the Code of Federal Regulations Title 40 Part 82 Subpart G Appendix U and Appendix V, shall be prohibited or labeled in accordance with as requirement by Washington State Department of Ecology.”

There are two important factors that make reference to the Code of Federal Regulations Title 40 Part 82 Subpart G Appendix U and Appendix V impractical. First, 40 CFR Part 82 Subpart G Appendix U (SNAP Rule 20) and Appendix V (SNAP Rule 21) have been partially vacated by the U.S. Court of Appeals – D.C. Circuit. Therefore, a date prior to the court decision would need to be referenced. HB 1112 references January 3, 2017. Second, HB 1112 includes exemptions for the foam sector in section 3, which states:

“If the United States environmental protection agency approves a previously prohibited hydrofluorocarbon blend with a global warming potential of seven hundred fifty or less for foam blowing of polystyrene extruded boardstock and billet and rigid polyurethane low-pressure two-component spray foam pursuant to the significant new alternatives policy program under section 7671(k) of the federal clean air act (42 U.S.C. Sec. 7401 et seq.), the department must expeditiously propose a rule consistent with RCW 34.05.320 to conform the requirements established under this section with that federal action.”

The simplest way to mirror the requirements of HB 1112 would be to reference restrictions in HB 1112 and the labeling requirements in the Department of Ecology’s regulations in any language inserted into the code. Therefore, we suggest the following changes the Code Council’s proposal to keep the code concise and clear: **[Note the marked up language was developed by members of the Plumbing, Building, and Fire TAG]**

1702.1.1 Prohibited materials. Materials manufactured with substitutes for the applications or end uses restricted by the Code of Federal Regulations Title 40 Part 82 Subpart G Appendix U and Appendix V by HB 1112, shall be prohibited or labeled in accordance with the as requirement by Washington State Department of Ecology regulations. Products using approved substitutes must be labeled in accordance with HB 1112 and the Washington State Department of Ecology regulations.

Additionally, the Code Council should consider including a discussion of HB 1112 in the code commentary language, rather than inserting new language into the code.

I would like to reiterate that CPI does not believe any action is required by the Code Council to implement HB 1112. This is a complex issue that I would be happy to discuss in more detail on the phone or in person. I would also like to ask whether the TAG meeting is a virtual meeting or if there is an option to attend in person

Thank you very much for your consideration of our request to ensure alignment with current regulation in your state.

Best,  
Stephen

At the Plumbing, Building, and Fire TAG meeting, I outlined CPI's position that the Washington State Building Code is already in compliance with HB 1112 because the code does not restrict or require blowing agents in the foam sector. HB 1112 does not instruct the Code Council to enforce HB 1112, it just instructs the Code Council to ensure that the code does not conflict with HB 1112.

If the Code Council moves to adopt language in the code, the TAG agreed that the language in the code should not reference the federal code of regulations and should focus solely on labeling requirements. The TAG informed me that they cannot reference HB 1112 because bill numbers are reused and that the Washington State Building Code does not have code commentary language. The TAG did not have a quorum to approve any language. The TAG appointed a representative to work with CPI to refine language for the Code Council to consider. Ultimately, two options will be presented to the Code Council for consideration: 1) do nothing, or 2) insert language on labeling. Although CPI objects to inserting language into the code, CPI is working with the Plumbing, Building, and Fire TAG to develop code language.

Please let me know if you would like to discuss this issue prior to the October 4, 2019 TAG meeting.

Best,  
Stephen

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