§ 38-0107. Regulation of the use of chlorofluorocarbon compounds.

1. The commissioner shall by regulation provide that:

(a) On and after January first, nineteen hundred ninety-one, no person repairing or servicing motor vehicle air conditioners shall knowingly vent into the atmosphere the chlorofluorocarbon compounds contained in such air conditioners and shall capture for recycling or capture and recycle, to the greatest extent possible, the chlorofluorocarbon compounds during servicing and repair of such air conditioners by properly using approved refrigerant recycling equipment provided, however, that the provisions of this paragraph shall not apply to any automobile repair shop with less than four covered bays, until January first, nineteen hundred ninety-two;

(b) On and after January first, nineteen hundred ninety-two, no motor vehicle air conditioners shall be disposed of by any means without first having had the chlorofluorocarbon refrigerants contained within mechanical cooling systems captured for recycling. Such recapture shall be performed by the person accepting the motor vehicle air conditioners for recycling or dismantling. In making captured chlorofluorocarbon compound refrigerants, which are captured from disposed of motor vehicle mobile air conditioning systems, suitable for reentry into the market place, the captured chlorofluorocarbon compound refrigerants must be recycled to a uniform level of quality such as that specified by the Air-Conditioning and Refrigeration Institution (ARI) Standard 700 "Specifications for Fluorocarbon Refrigerants";

(c) On and after January first, nineteen hundred ninety-two, no chlorofluorocarbon compounds shall knowingly be vented into the atmosphere or otherwise be improperly disposed of during the repair, servicing or disposal of refrigeration systems but instead shall to the greatest extent possible be captured for recycling. In making captured chlorofluorocarbon compound refrigerants, which are captured from a refrigeration system, suitable for reentry into the market place, the captured chlorofluorocarbon compound refrigerants must be recycled to a uniform level of quality such as that specified by the Air-Conditioning and Refrigeration Institute (ARI) Standard 700 "Specification for Fluorocarbon Refrigerants".

(d) On and after January first, nineteen hundred ninety-two, no

containers containing less than fifteen pounds of chlorofluorocarbon compounds, commonly used for recharging automotive air conditioners, shall be sold or offered for sale within the state except for sales to persons meeting the requirements of section three hundred ninety-eight-c of the vehicle and traffic law and who have obtained for use in their business approved motor vehicle refrigerant recycling equipment or approved motor vehicle refrigerant recapturing equipment or to persons for purposes of resale only. Persons wishing to purchase chlorofluorocarbon compounds in containers with a capacity less than fifteen pounds must show proof of compliance with the requirements of this section.

2. The commissioner is hereby directed upon application by an interested party to determine, after a hearing, whether any uses, including but not limited to medical uses, of chlorofluorocarbon compounds and halon compounds are so necessary to human health, safety and welfare that they should be exempted from the application of this section and section three hundred ninety-nine-t of the general business law or, upon a finding that appropriate refrigerant recycling equipment does not exist in sufficient quantities, to phase in compliance with the provisions of subdivision one of this section by postponing the compliance dates therein. Upon receiving an application to phase in compliance with the provisions of paragraph (a), (b), or (c) of subdivision one of this section, the commissioner shall approve or deny the application within ninety days. If the commissioner fails to act within ninety days, the application shall automatically be granted for one hundred eighty days or until such time as the commissioner renders a decision, whichever is longer.

Any action of the commissioner under this article shall be subject to judicial review in a proceeding under article seventy-eight of the civil practice law and rules instituted within thirty days of its effective date.

3. Any local law, ordinance, rule or regulation relating to sale, use, reuse, reclamation, or disposal of chlorofluorocarbon compounds must be identical to or the same as the provisions of this article and the rules

and regulations adopted hereunder.