



THE VOICE OF FOOD RETAIL

Feeding Families  Enriching Lives

April 25, 2014

The Honorable Gina McCarthy
Administrator
Environmental Protection Agency
1200 Pennsylvania Avenue N.W.
Washington, D.C. 20460

Re: Protection of Stratospheric Ozone: Adjustments to the Allowance System for Controlling HCFC Production, Import, and Export; 78 Fed. Reg. 78,072 (Dec. 24, 2013)

Docket No. EPA-HQ-OAR-2013-0263

Dear Administrator McCarthy:

On December 24, 2013, the Environmental Protection Agency (EPA) published a proposed rule in the Federal Register which would adjust the allowance system controlling U.S. consumption and production of hydrochlorofluorocarbons (HCFCs) titled "Protection of Stratospheric Ozone: Adjustments to the Allowance System for Controlling HCFC Production, Import and Export; Final Rule." The Food Marketing Institute (FMI) appreciates the opportunity to comment on this important matter. These comments are filed after the close of the public comment period on March 10, 2014, in response to a request from EPA staff.

FMI conducts programs in public affairs, food safety, research, education and industry relations on behalf of its nearly 1,250 food retail and wholesale member companies in the United States and around the world. FMI's U.S. members operate more than 25,000 retail food stores and almost 22,000 pharmacies with a combined annual sales volume of nearly \$650 billion. FMI's retail membership is composed of large multi-store chains, regional firms and independent operators. Its international membership includes 126 companies from more than 65 countries. FMI's nearly 330 associate members include the supplier partners of its retail and wholesale members.

FMI and its members understand that the U.S. has committed to reduce the use of, and ultimately phase out, HCFC-22 (R-22). We urge EPA to maximize HCFC's current availability and to avoid abrupt changes in R-22 availability, which would adversely affect food wholesalers, food retailers, and, ultimately, consumers.

FMI Supports EPA's Proposal to Use a 5-Year Linear Drawdown Allocation Approach, But Recommends More Gradual Reductions.

Purchasing, operating, and maintaining commercial refrigeration equipment is one of the most expensive aspects of wholesale and retail food sales. Reducing the availability of R-22 will require companies to make changes in their refrigeration operations, which in turn will make refrigeration even more expensive. Further, the short time period available for companies to adapt to changes in the availability of R-22 will force companies to compete for limited R-22 supplies and for limited quantities of alternative refrigerants.

It appears that there will be some additional lower global warming potential (GWP) refrigerant alternatives to the current approved HFCs, but they are not commercially available at this time. Providing commercial refrigeration equipment users the opportunity to transition to more efficient and lower GWP refrigerants would give regulatory relief to food retailers and wholesalers and limit issues with high GWP HFCs.

FMI urges EPA to modify the proposed five-year linear drawdown allocation method to allow companies more time to plan and to adjust to the changed requirements. FMI understands that the phaseout will happen in 2020 and appreciates EPA's efforts to implement reductions gradually. Allowing companies to make gradual reductions in 2015 and 2016 would help the food sales industry to adopt new refrigeration tools while continuing to serve our customers.

FMI Recommends a Revised Phaseout Schedule for R-22 for 2015 and 2016.

FMI believes that a more gradual approach to requiring reductions would allow EPA to achieve its regulatory objectives and meet Montreal Protocol commitments, while reducing the economic burdens of compliance.

The Montreal Protocol requires the United States to reduce production and consumption of HCFCs by 90 percent of the United States' baseline allocation. Montreal Protocol, Eleventh Meeting of the Parties; Montreal Protocol, Copenhagen Amendment. The Copenhagen Amendment established the U.S. consumption baseline at 15,240 ODP-weighted metric tons (MT). The Eleventh Meeting of the Parties established the U.S. production baseline at 15,537 ODP-weighted MT. This corresponds to approximately 277,091 and 282,491 MT of R-22, respectively.¹

Certain milestone reductions are required. Countries are required to limit HCFC production and consumption to no more than 10 percent of baseline by January 1, 2015. 78 Fed. Reg. at 78,083. Accordingly, the United States' consumption will be limited to 1,524 ODP-weighted MT, and production will be limited to 1,553.7 ODP-

¹ Based on the ODP of 0.055 for R-22.

weighted MT. *Id.* By January 1, 2020, the United States must reduce HCFC consumption to 0.05 percent of its baseline, or approximately 13,855 MT (762 ODP-weighted MT). By January 1, 2020, the United States must reduce HCFC production to 0.05 percent of its baseline, or approximately 14,125 MT (777 ODP-weighted MT).

FMI proposes the following *production* allocation schedule to minimize the burdens of the phaseout:

		2015		2016		2017		2018		2019	
		MT	ODP MT	MT	ODP MT	MT	ODP MT	MT	ODP MT	MT	ODP MT
R-22	Production	69,272	3810	65,116	3581	62,345	3495.8	61,300	3371	61,300	3371
	% of Baseline Allocated	25%		23.5%		22.5%		21.7%		21.7%	

FMI proposes the following *consumption* allocation schedule to minimize the burdens of the phaseout:

		2015		2016		2017		2018		2019	
		MT	ODP MT	MT	ODP MT	MT	ODP MT	MT	ODP MT	MT	ODP MT
R-22	Consumption	27,709	1524	24,105	1325.8	18,841	1036.3	14,130	777	5263	289.5
	% of Baseline Allocated	10%		8.7%		6.8%		5.1%		1.9%	

FMI thus recommends the following changes to § 82.16 of the Proposed Rule:

Calendar-Year HCFC Production Allowances	
Control Period	Percent of HCFC-22
2015	25%
2016	23.5%
2017	22.5%
2018	21.7%
2019	21.7%

Calendar-Year HCFC Consumption Allowances	
Control Period	Percent of HCFC-22
2015	10%
2016	8.7%
2017	6.8%
2018	5.1%
2019	1.9%

EPA Proposed Allowance Allocations

Calendar-Year HCFC Production Allowances	
Control Period	Percent of HCFC-22
2015	21.7
2016	21.7
2017	21.7
2018	21.7
2019	21.7

Calendar-Year HCFC Consumption Allowances	
Control Period	Percent of HCFC-22
2015	9.6
2016	7.7
2017	5.8
2018	3.9
2019	1.9

FMI's suggested allocation percentages ultimately reach the same levels as in the EPA proposal. Providing for more allowances to be available in 2015 and 2016, however, would allow more time for companies to evaluate options and to plan for necessary changes.

HCFC Availability

In the Preamble to the Proposed Rule, EPA states that the R-22 allocation for 2013 and 2014 may have been higher than was necessary and that "there appears to be a significant amount of HCFC-22 in inventory." See, e.g., 78 Fed. Reg. at 78,086-87. The experience of FMI members contravenes these statements.

FMI members have been adversely affected by increases in the price of R-22 and by R-22 shortages. Previous regulatory uncertainty has led doubling and even tripling of prices for R-22. Further, uncertainty about R-22's availability will increase operating costs for retailers and wholesalers.

Refrigeration Retrofits

To adapt to the phaseout of R-22, retailers and wholesalers will need to retrofit many of their refrigeration systems. FMI urges EPA to revise the production and consumption allowance allocations to allow more R-22 to be available in 2015 and 2016 and to provide for greater reductions in 2017, 2018, and 2019. Waiting until later to require greater percentages of reductions will allow companies to plan for refrigeration system retrofits. Allowing for planning and flexibility will reduce the likelihood of unnecessary costs due to competition for retrofitting parts and engineers. Reducing such costs will, in turn, benefit consumers.

Further, allowing companies to plan for retrofits could reduce the likelihood of HCFC leaks. Leak rates generally increase when refrigeration systems are altered or repaired under emergency conditions. Also, emergency retrofits would require additional capital, thus making less capital available for retro-commissioning and planned system maintenance.

Refrigerant selection is not a one-size-fits-all proposition. Each end user must decide which HCFC retrofit refrigerant best fits its operational, climatic and GWP requirements. Accelerated retrofits will likely result in unnecessarily high energy usage, as retailers are forced to retrofit without the opportunity to completely evaluate potential HCFC-alternative refrigerants. Further, implementing new refrigerant technologies without sufficient testing could result in emissions due to using unproven technology – for example, insufficient testing could result in micro channel condenser leaks.

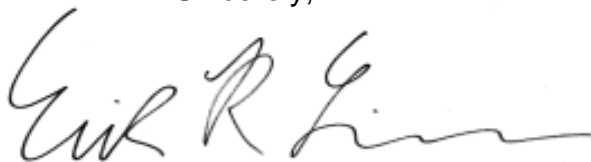
Food Banks

FMI reminds EPA that our nation's food banks utilize used refrigeration equipment donated by retailers and thus may face significant impacts from the R-22 phaseout schedule as a high proportion of their refrigeration equipment may operate on R-22. The agency should seek to minimize the impact of the phaseout on food banks in the application of this rule.

Hon. Gina McCarthy
April 25, 2014
EPA-HQ-OAR-2013-0263
Page 6 of 6

We appreciate your consideration of these comments.

Sincerely,

A handwritten signature in black ink, appearing to read "Erik R. Lieberman". The signature is fluid and cursive, with the first name "Erik" being the most prominent.

Erik R. Lieberman
Vice President and Chief Regulatory Counsel