



October 20, 2014

The Honorable Gina McCarthy
Administrator
Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

RE: Protection of Stratospheric Ozone: Change of Listing Status for Certain Substitutes Under the Significant New Alternatives Policy Program; Proposed Rule

Docket No. EPA-HQ-OAR- 2014-0198

Dear Administrator McCarthy:

On August 6, 2014, the Environmental Protection Agency (“EPA or the agency”) published a proposed rule titled “Protection of Stratospheric Ozone: Change of Listing Status for Certain Substitutes Under the Significant New Alternatives Policy Program¹” (“proposed rule”) in the Federal Register. The proposed rule would change the status of a number of substitutes that were previously listed as acceptable and modify the listings for certain hydrofluorocarbons (“HFCs”) in various end-uses in aerosols, refrigeration and air conditioning, and foam blowing sectors.

Food Marketing Institute proudly advocates on behalf of the food retail industry. FMI’s U.S. members operate nearly 40,000 retail food stores and 25,000 pharmacies, representing a combined annual sales volume of almost \$770 billion. Through programs in public affairs, food safety, research, education and industry relations, FMI offers resources and provides valuable benefits to more than 1,225 food retail and wholesale member companies in the United States and around the world. FMI membership covers the spectrum of diverse venues where food is sold, including single owner grocery stores, large multi-store supermarket chains and mixed retail stores.

FMI appreciates the opportunity to comment on this important matter.

1. FMI believes that EPA should clarify the term “new”

¹ 79 Fed. Reg. 46143 (August 6, 2014).

- 2. FMI believes that EPA should clarify the term “retrofit” retail food refrigeration equipment**
- 3. FMI believes that the end-use classifications in appendix U, Table 3 in the proposed rule are vague and not fully defined**
- 4. EPA should allow a longer implementation time for stand-alone self-contained cases**
- 5. EPA should allow a longer implementation time for foam panels**

In the proposed rule, EPA proposes to change the listing for nine HFC blends for new and retrofit retail food refrigeration systems. Of particular interest to FMI and the food retail industry is the proposal to change the listing of R-404A, R-507 and R-422D from acceptable to unacceptable for new and retrofit retail food refrigeration systems. EPA indicates that this “would not apply to servicing existing equipment designed for those refrigerants or to equipment retrofitted to use those refrigerants before January 1, 2016. For instance, equipment retrofitted to R-404A or R-507A prior to January 1, 2016, would be allowed to continue to operate using those refrigerants.”² FMI supports the proposed change for R-404A, R-507 and R-422D from acceptable to unacceptable for use in new condensing units and new supermarket systems; however, FMI seeks clarity on the definition of “new” and “retrofit” under the proposed rule.

Background

Purchasing, operating, and maintaining commercial refrigeration equipment is one of the most expensive aspects of wholesale and retail food sales. Supermarket remodels/expansions are done regularly--every five to 10 years-- and almost always involve changes to refrigeration equipment on the sales floor. Retailers often add, remove, or replace cases, or install glass doors on open-front cases. This can be done either as part of a remodel or simply as a maintenance activity. FMI is concerned that without clear guidance on the terms “retrofit” and “new,” food retailers and wholesalers will be required to make incredibly expensive and burdensome changes under the proposed rule. Purchasing, repairing and retrofitting refrigeration equipment is a significant undertaking that includes disruption to store operations and time-consuming, costly equipment changes.

EPA acknowledges the value of currently installed appliances and states that:

“EPA is not proposing to alter the ability to service existing retail food refrigeration equipment with the refrigerant they contain as of January 1, 2016.”³ EPA recognizes the value of currently installed appliances and indicates that they are not seeking to shorten the useful shelf life of existing equipment. EPA seeks comments on allowing for the continued servicing of the existing retail food refrigeration equipment with the refrigerant they contain on January 1, 2016.”

² 79 Fed. Reg. 46144.

³ 79 Fed. Reg. 46147.

FMI agrees with EPA that a proposed rule should not shorten the useful shelf life of existing equipment. We agree with EPA's goal to reduce the use of high GWP HFCs, and note that a majority of our members have already voluntarily and proactively discontinued the use of R-404A, R-507 and R-422D for new systems and as a retrofit refrigerant in existing HCFC systems. FMI believes that if EPA follows the recommendations in these comments, a final rule will achieve EPA's goal without placing wasteful—and very costly—burdens on food retailers and wholesalers.

FMI believes that EPA should clarify the term “new”

As indicated above, retailers often add, remove, or replace cases, or install glass doors on open-front cases. Display case changes impact the BTU load (increase or decrease it) on the refrigeration system – and may therefore require one or more compressor changes but will not result in a complete change-out of the system. Furthermore, remodels often include the replacement of existing cases with those that are able to operate at higher temperatures. This creates the opportunity to operate the compressor system at a higher evaporator temperature and with greater energy efficiency. This inherently increases the system capacity, even absent the replacement of any compressor. The store remodel, generally, does not result in an increase in the system's refrigerant charge, or the system's leak rate, and therefore would not affect the global warming impact of the system following the remodel. FMI believes that our members should have the flexibility to remodel and make expansions to existing equipment, and to alter the capacity of an existing compressor system with no corresponding requirement to retrofit with a new SNAP-approved refrigerant gas. Having to replace the refrigerant in existing systems following an expansion would result in enormous waste and unnecessary costs to our members. For example, for one store, the cost to retrofit a large compressor rack to a new refrigerant ranges anywhere from \$80,000 to \$150,000. This requirement would also provide a disincentive to make modifications to a system that would enhance its energy efficiency. **FMI strongly requests that only in cases where the retailer chooses to install an all-new refrigeration system should they be required to use the new SNAP approved refrigerants.**

FMI suggests the following language for “new” under the proposed rule:

“Fully new in which no appliance within the integrated direct or indirect supermarket system has been in prior service within that system.”

FMI believes the proposed definition will clarify the line between new and existing equipment and will allow our members presently operating existing systems with a newly classified “unacceptable” refrigerant to expand or alter existing systems without having to replace the refrigerant.

FMI believes that EPA should clarify the term “retrofit” retail food refrigeration equipment

In the proposed rule, EPA is proposing to change the listing of a number of refrigerants from acceptable to unacceptable in retrofit retail food refrigeration equipment. The term “retrofit” is used vaguely in the preamble and is not defined in the proposed rule. EPA has provided very little guidance on the term and FMI seeks additional clarity on how EPA would define “retrofit” in the proposed rule.

FMI also believes that EPA should provide the public an opportunity to comment on the definition of new and retrofit in order to fully understand the impact of the proposed rule.

FMI believes that the end-use classifications in appendix U, Table 3 in the proposed rule are vague and not fully defined

For R-404A and R-507, the end-use is identified simply as a “retail food refrigeration (new and retrofit). FMI believes the agency intended to identify the end-use as “retail food refrigeration (condensing units and supermarket systems – new and retrofit) and (stand-alone units – new and retrofit)” and seeks clarification on this point.

EPA should allow a longer phase out for stand-alone self-contained cases

Food retailers use many stand-alone self-contained cases, which have a very small system charge, have lower leak rates and pose lower environmental risks. Stand-alone self-contained cases are used for soup and salad bars, spot freezers, end cap refrigerated displays, check-lane beverage coolers, and bakery cases, among others. Manufacturers of this equipment offer hundreds of different types that come in a variety of applications and sizes and every model must be tested by the manufacturer and approved by a number of agencies prior to sale. FMI believes that it is nearly impossible for self-contained applications to convert from R404A/507A and R134a in the time allotted by EPA. FMI is concerned that if EPA forces equipment manufacturers to re-test and re-certify all of their models with new refrigerants by January 1, 2016, it will create an enormous burden on the industry and will result in a bottleneck within agencies for approval. Further, implementation timing must allow for the breadth of components, units and systems to be redesigned, tested, approved and qualified. Manufacturers do not currently have the technology available to convert to EPA proposed alternatives and need adequate time to engineer new equipment, develop approved substitutes and maintain existing business. FMI believes without adequate implementation time that many of the models available to retailers today will not be available immediately after January 2016. The unavailability of new equipment will lead to increased costs for food retailers and wholesalers with no available alternatives or substitutes for self-contained stand-alone equipment. FMI therefore urges EPA to allow companies more time to plan and to adjust to the changed requirements in a final rule.

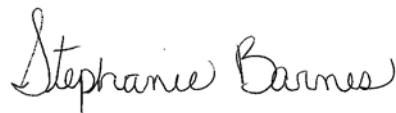
FMI believes that gradual reductions up to 2020 would help the food industry adopt new refrigeration tools while continuing to serve our customers.

EPA should allow a longer phase out period for foam panels

Foam panels are used to insulate the cold interior of refrigerated cases, coolers and walk-ins from the warmer ambient air in a supermarket. They are also an integral part of the structure of refrigerated cases and walk-in boxes. In fact, they are the most basic part of the structural framework of display cases, and case designs are built around the panels and their thicknesses. HFC gases are used in the poly/iso chemical mixtures that are 'blown' into foam fixtures, where the foam then expands and gives the panel its thermal insulation properties. The type of blowing agent that is used affects the thermal R-value (insulation value) of the foam. FMI believes that if new SNAP-approved chemicals result in a poorer R-value than the de-listed previously used HFC chemicals, it will require manufacturers to use a thicker foam panel to provide the same insulation value. Without doing so, exterior surfaces of the foam panel will form condensation on the surfaces, the result will be water dripping on the floor, slip and fall risks, sanitation issues, and rusting panels, to name a few. Manufacturers invest huge capital dollars in the molds/tooling they use to produce foam panels of different lengths, widths, thicknesses and shapes, and forcing them to make design and manufacturing changes to accommodate new SNAP-approved gases for blowing agents by January 1, 2016 would be incredibly burdensome and cost prohibitive. **We therefore request that EPA extend the implementation date for foam panels until 2020.**

We appreciate your consideration of these comments. Please do not hesitate to contact me at sbarnes@fmi.org or (202) 220-0614.

Sincerely,

A handwritten signature in cursive script that reads "Stephanie Barnes".

Stephanie K. Barnes

Regulatory Counsel