The Alliance
for Responsible Atmospheric Policy

June 16, 2016

Via Federal eRulemaking Portal

Attn: Docket ID No. EPA-HQ-OAR-2015-0663

Re: Protection of Stratospheric Ozone: Proposed New Listings of Substitutes; Changes of Listing Status; and ReInterpretation of Unacceptability for Closed Cell Foam Products Under the Significant New Alternatives Policy Program; and Revisions of the Clean Air Act Section 608 Venting Prohibition for Propane

Dear Sir or Madam:

I am writing on behalf of the Alliance for Responsible Atmospheric Policy ("Alliance") to provide comments regarding EPA's **Proposed Rule: Protection of Stratospheric Ozone: Proposed New Listings of Substitutes; Changes of Listing Status; and ReInterpretation of Unacceptability for Closed Cell Foam Products Under the Significant New Alternatives Policy Program; and Revisions of the Clean Air Act Section 608 Venting Prohibition for Propane (81 Fed. Reg. 22810; April 18, 2016)**.

The Alliance for Responsible Atmospheric Policy (Alliance) is an industry coalition organized in 1980 to address the issue of stratospheric ozone depletion. It is the leading voice of manufacturers, businesses and trade associations who make or use fluorinated gases for the global market. Today, Alliance member companies are leading the development of safe, efficient, next-generation, climate- and ozone-friendly technologies and applications. According to a recent study, the US fluorocarbon using and producing industries contribute more than $158 billion annually in goods and services to the US economy, and provide employment to more than 700,000 individuals with an industry-wide payroll of more than $32 billion. Today, the Alliance coordinates industry participation in the development of economically and environmentally beneficial international and domestic policies at the nexus of ozone protection and climate change. A list of members is attached.

The Alliance is proud of its extensive history of working in a constructive manner with public bodies at the state, Federal and international level on the protection of stratospheric ozone and the mitigation of climate change. The Alliance commends EPA on its commitment to an

2111 WILSON BOULEVARD, 8TH FLOOR, ARLINGTON, VIRGINIA 22201
Phone: 703-243-0344 • Fax: 703-243-2874 • Web: www.alliancepolicy.org

effective process of stakeholder consultation. Alliance member companies participated in the broad Significant New Alternatives Policy (SNAP) stakeholder meeting in September 2015, the sector-specific stakeholder meetings since and numerous individual conversations with EPA staff to discuss further change of status actions. The Alliance also appreciates EPA's willingness to extend the comment deadline for the present rule so that companies can gather and provide critical technical information. This flexibility demonstrates a good faith effort to understand the state of industry's capacity to provide consumers with lower global warming potential (GWP) technologies and applications.

While Alliance members will comment individually on the specific status changes proposed for this rule, there are a number of broader perspectives which are shared across the membership, which we will address.

The Alliance strongly supports EPA's goal to achieve a gradual phasedown of HFC on a GWP-weighted basis through the mechanisms of the Montreal Protocol. The Alliance believes that the gradual phasedown approach is important in order to allow for effective technology development and introduction, to allow for the building codes and safety standards process to align with the newly available low-GWP technologies and applications and to ensure energy efficiency performance is not diminished. The Alliance looks forward to continuing its active support for the negotiation of an HFC amendment to the Montreal Protocol as the best means of achieving ozone and climate environmental objectives while ensuring performance, safety, energy efficiency, and technology availability.

At the September 2015 stakeholder meeting, the Alliance proposed various strategies EPA could employ to build further understanding with industry as the agency evaluates additional SNAP change of status rules to reduce the use of high-GWP HFCs domestically:

- *Explain how EPA is coordinating its rulemaking schedule with DOE*

  The Alliance strongly believes the SNAP schedule must be carefully coordinated with the ongoing Department of Energy (DOE) energy conservation rulemaking schedules. SNAP listing status changes will have significant energy efficiency implications. Dates proposed by EPA for changes to SNAP listing status must consider DOE energy conservation standard transition dates to avoid unnecessary increases in costs to manufacturers and consumers.

  The Alliance appreciates EPA's public statements recognizing the importance of this coordination and the agency's consideration of "technical needs for energy efficiency (e.g., to meet Department of Energy (DOE) conservation standards) in determining whether alternatives are 'available.'" The Alliance urges EPA to adhere to these commitments and align its SNAP transition dates with those used by DOE.

- *Clarify the details of EPA's SNAP overall risk assessment matrix*

  In response to the change of status rule proposed in July 2014, the Alliance suggested that for any future change of SNAP listing status rulemakings, EPA publish a clear and predictable evaluation process by which risk factors are compared in the comparative risk framework to make SNAP change of status decisions. While the current proposal does include discussion of what elements are considered in the assessment of overall risk and emphasizes that understanding of those risks can change with time, there is no indication of how those risks are weighted. Transparency regarding that weighting is needed by industry as it strives to meet customer and consumer demands with products that are compliant with relevant regulations.

- *Address the net climate benefit expected (to include energy efficiency impacts) in future change of status proposals*

  As EPA evaluates the timing of transitions in various end use segments, it is important that life cycle greenhouse gas emissions, including those associated with energy use, are given proper consideration as part of ensuring the alternative presents "no greater risk to human health and the environment." The current proposal and its accompanying climate benefits document assess only the direct (refrigerant-related) emissions benefit of the proposed changes of status, missing the much larger issue of overall emissions, including indirect emissions, from a given equipment application. EPA should work with the US Department of Energy and White House Council on Environmental Quality to produce this information and include it in future change of status proposals.

- *Establish a technology review process that includes industry input to preface future rulemakings*

  Periodic technology reviews remain a priority for the Alliance to ensure that industry can provide sufficient information about commercial availability of new technologies. The Alliance joined EPA in co-hosting the November 2015 conference in Montreal, "*Advancing Ozone and Climate Protection Technologies and Policies: The Food Cold Chain*." This was the latest installment in what is now a long tradition of industry and EPA collaborating to assess the state of technology development in the fluorocarbon-using sectors. The Alliance looks forward to working on additional installments in the coming years. Furthermore, the Alliance appreciates that the US, Canadian and Mexican governments included a technology review provision in the North American proposal to amend the Montreal Protocol. Those reviews should inform any additional changes to SNAP listing status pursued by EPA at the domestic level. Additionally, EPA should hold stakeholder meetings to review the status of technology development and commercialization for each sector to be included in any future change of status proposals.

- *Explain how EPA is coordinating its rulemaking schedule with the code- and standard-development process*

  There has been notable progress this year on the challenge of incorporating the use of mildly flammable and flammable low-GWP alternatives into the relevant codes and standards. The Alliance supports the collaborative research effort in development by DOE, the Air-conditioning, Heating, and Refrigeration Institute (AHRI) and the American Society of Heating, Refrigerating, and Air-conditioning Engineers (ASHRAE) and was instrumental in assisting in its launch. Although the codes and standards development process is progressing, state adoption of these updates is necessary for broad commercialization. Therefore, the Federal government should pursue ways to incentivize states to incorporate the updated codes and standards in an accelerated time frame.

- *Clarify how SNAP rulemaking is consistent with EPA's support for a global phase-down approach to HFCs*

  EPA suggests in the current proposal that the rule would be consistent with the call in the 2013 Climate Action Plan for US leadership in reducing HFC emissions "through both international diplomacy as well as domestic actions." The Alliance recognizes that the concurrent development of sub-global HFC policies can impact amendment discussions in the Montreal Protocol and encourages sub-global jurisdictions to consider policies which can advance the Montreal Protocol amendment process. Nevertheless, the Alliance prefers to address HFCs with a predictable global phase-down rather than through reliance on a patchwork of regulatory approaches by federal and other sub-global authorities.

  EPA should ensure that the emissions reductions achieved through the SNAP program are consistent with the desired gradual phase-down enunciated by the Agency in the North American Amendment proposal. Further to that point, the Alliance encourages EPA to articulate how the SNAP program would be utilized in the context of implementing an HFC amendment to the Montreal Protocol.

Refrigerant Management

On the topic of waiving venting prohibitions for propane, regulations or restrictions on refrigerants should be adopted as appropriate to each type of refrigerant. Refrigerants should be properly managed, and the Alliance is concerned whether the proposed exemption may have the unintended consequence of creating confusion regarding proper service procedure and causing inadvertent venting of HFCs. The appropriateness of waiving this prohibition requires ongoing consideration and examination, particularly as applications for flammable refrigerants are expanded and charge sizes increase. Although the Agency rationale in the proposed rule as to why propane should be granted an exemption from the venting prohibition is noted, there are still concerns regarding implementation and enforcement as well as why this material should be

treated differently than all other fluids. EPA should consider including an explanation on the purpose of granting an exemption from the venting prohibition for propane.

The Alliance supports the use of separate servicing fittings for flammable refrigerants as a "fool proof" system beyond labeling and color coded hosing and piping. These fittings would require the technician to actually recognize that the system uses flammable refrigerants, thereby requiring additional caution and care during servicing. Such fittings would also be appropriate for mildly flammable refrigerants.

Additionally, the Alliance supports required standardized training for technicians in the safe handling of flammable refrigerants and mildly flammable substitutes in the same way technicians must be certified in the proper handling of ozone depleting refrigerants before working with them. The Alliance recommended in its January 25, 2016 comments in response to the proposed rule, *Protection of Stratospheric Ozone: Update to the Refrigerant Management Requirements Under the Clean Air Act* (80 Fed. Reg. 69458; November 9, 2015), that EPA establish through a future rulemaking a technician certification requirement for flammable or hazardous refrigerants. This requirement would ensure that technicians are adequately trained to safely service products with flammable or hazardous refrigerants and reduce confusion that could result in accidental release of non-HC refrigerants. The Alliance also stated its support for the required testing of technicians for initial certification and periodic recertification. Certification should place greater focus on venting prohibitions, the use of flammable alternatives, the danger of mixing refrigerants and recovery best practices. Recertification could be achieved through an abbreviated online test, to include only questions relevant to the servicing of ODS alternative refrigerants. EPA could work with private sector partners to offer recertification assistance.

Permitting the continued use of refrigerants that are already in systems on the market avoids the creation of stranded equipment. The Alliance appreciates that EPA is not proposing to change the status of refrigerants used for servicing. EPA should encourage the use of recovery, reclaim and reuse as a significant source of aftermarket supply for those systems.

As indicated in the May 9 letter from the Alliance to Ms. Drusilla Hufford at EPA, the Alliance is highly concerned that the agency has not yet finalized the proposed rule, *Protection of Stratospheric Ozone: Update to the Refrigerant Management Requirements Under the Clean Air Act (80 Fed. Reg. 69458; November 9, 2015)*. Promoting effective refrigerant management practices, including recovery, reclamation and reuse, is an important immediate element of reducing the greenhouse gas footprint associated with the use of HFCs and will allow production to be focused primarily for use in new equipment. This is a policy tool which would advance the agency's climate goals, would require minimal additional regulatory resources and enjoyed broad support among both industry and the environmental community. Yet, more than six months have passed since December 9, 2015 when the public comment period closed on this rule and over two years have passed since January 31, 2014 when the Alliance submitted its petition to EPA requesting such a rule.

The Alliance recognizes that the agency has publicly indicated that this proposed rule is on a path toward finalization; however, there is significant stakeholder concern regarding the lack of information on the timeline of this finalization process. The Alliance requests that the agency disclose the timeline for finalization of this critical refrigerant management policy and commit to finalizing the rule by the end of this year at the latest. Both refrigerant management and SNAP are important in the context of the international HFC amendment negotiations under the Montreal Protocol.

Additional Comments

A number of Alliance members have highlighted that EPA did not propose a change of status to unacceptable as of January 1, 2023 for the use of all R-407 series refrigerants in cold storage. EPA is encouraged to clarify whether it intentionally excluded the 407 series refrigerants not named in the proposed rule and, if so, why they were excluded.

On the proposed change of status for HFC-134a, R-407C and R-410A in centrifugal and positive displacement chillers, the Alliance encourages EPA to clarify what "detailed technical analysis or timelines" are needed to justify a later effective date than proposed by the Agency. This clarification would allow stakeholders to ensure that any future submissions contain all information necessary for EPA to assess their merit.

EPA proposes to prohibit retrofitting refrigerants classified as A3 (or meeting A3 criteria) under ASHRAE Standard 34 into unitary split air conditioning systems and heat pumps, but not into mini-splits, multi-splits and other residential equipment categories. By not also prohibiting such retrofits into other residential air conditioners and heat pumps, the proposal may cause some stakeholders to conclude mistakenly that such retrofits are currently acceptable. To prevent such misunderstandings and promote the implementation of SNAP regulations as intended, the Alliance urges EPA to extend this prohibition to all residential air conditioners and heat pumps.

Conclusion

While the Alliance supports concerted global action to avoid significant future growth in the greenhouse emissions associated with the use of HFCs in their various applications, it is important that those emissions are avoided in a manner that ensures industry is able to continue to deliver the critical societal benefits that HFCs provide today. Therefore, action to change SNAP listing statuses should be used cautiously and take into account the important considerations we have cited above.

Momentum behind an amendment to phase-down HFCs under the Montreal Protocol is likely at its historical peak. The initial draft language resulting from the April meeting of the Open-ended Working Group provides a strong signal that the Dubai Pathway will lead to an HFC agreement in 2016 that is environmentally effective, technologically feasible, and economically viable for

all countries involved. We look forward to continuing our work together to achieve an effective global regime to phase down HFCs.

The Alliance appreciates the opportunity to comment on the proposed rule and looks forward to working with EPA in a constructive manner to achieve and implement an environmentally beneficial, safety enhancing, economically viable rule. If you have any questions, please feel free to reach me at fay@alliancepolicy.org or 703-243-0344.

Sincerely,

Kevin Fay
Executive Director
Alliance for Responsible Atmospheric Policy

The Alliance
for Responsible Atmospheric Policy

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2111 WILSON BOULEVARD, 8TH FLOOR, ARLINGTON, VIRGINIA 22201
Phone: 703-243-0344 • Fax: 703-243-2874 • Web: www.alliancepolicy.org