



1111 19th Street NW Suite 402 Washington, DC 20036  
t 202.872.5955 f 202.872.9354 www.aham.org

Joseph M. McGuire  
President

September 16, 2014

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

The Honorable Michael J. Boots  
Acting Chair, Council on Environmental Quality  
722 Jackson Place, NW  
Washington, DC 20503

Dear Administrator McCarthy and Acting Chair Boots:

I am writing to you today to express the concerns that the Association of Home Appliance Manufacturers (AHAM) has with EPA's August 6 proposal to delist certain hydrofluorocarbon (HFC)-based foam-blowing agents used in insulating foam for refrigerators and freezers, among other products. This proposed rule, which as part of the President's Climate Action Plan will (directly or indirectly) be celebrated at today's White House event on measures the Administration is taking to reduce HFC use in the United States. While we do not oppose the Climate Action Plan and are taking aggressive steps as an industry to reduce our own use of HFC in foam, we believe that the proposal as it relates to HFC foam-blowing agents is unreasonable, and well beyond the authority delegated to EPA under the Clean Air Act. Further, it exposes a lack of regulatory coordination among federal agencies and creates significant burdens to U.S. businesses.

AHAM represents manufacturers of major, portable and floor care home appliances, and suppliers to the industry. AHAM's more than 150 members employ tens of thousands of people in the U.S. and produce more than 95% of the household appliances shipped for sale within the U.S. The factory shipment value of these products is more than \$30 billion annually. The home appliance industry, through its products and innovation, is essential to U.S. consumer lifestyle, health, safety and convenience. Through its technology, employees and productivity, the industry contributes significantly to U.S. jobs and economic security. Home appliances also are a success story in terms of energy efficiency and environmental protection. New appliances often represent the most effective choice a consumer can make to reduce home energy use and costs.

The U.S. appliance manufacturing industry is a leader in providing consumers increasingly sustainable and environmentally preferable products. Over time, we have transitioned our products to highly efficient, non-ozone depleting substances, achieved by an investment of hundreds of millions of dollars by manufacturers.

All of these transitions (from CFCs to HCFCs to HFCs) have been encouraged – actually urged and applauded – by EPA, including the extremely beneficial move to HFCs. With new generations of products, we have eliminated almost all use of ozone depleting substances. As a consequence, we offer products that have dramatically increased energy efficiency without sacrificing features or high quality. Indeed, it is well understood that the energy efficiency benefits that we provide with fluorocarbons far outstrip the impact of the modest amount of resulting HFC emissions.

We recognize that HFCs are ultimately transitional chemicals. Although it not sufficiently reflected in EPA's analysis, in fact a significant portion of products sold in the U.S. market no longer use HFCs as foam blowing agents, opting instead for hydrocarbons or HFOs. Despite this, the EPA proposal goes well beyond the actions that were suggested in pre-proposal workshops, indeed going so far as to propose unnecessarily accelerated delisting of widely used chemicals that still have significant beneficial uses in the United States. This action only serves to insert the federal government into the marketplace by forcing investments that are economically unsound.

Furthermore, these actions exceed EPA's legal authority and are unnecessary, and thus we oppose them. What EPA has proposed is not authorized under Section 612 of the Clean Air Act. The statute requires the "replacing" of ozone-depleting substances with substitutes as a trigger for regulatory action, but the HFC-based foam blowing agents used in domestic refrigerators today are not alternatives for ozone depleting substances. Virtually none of our current refrigerator models existed when ODSs were used, and these models never contained CFCs or HCFCs. At present, we are on the second, third or fourth generation of refrigerator products since ODSs were used in US production. It is misguided for EPA to interpret its SNAP authority as allowing it to regulate the use of chemicals in product categories generations beyond their use of ozone depleting substances and without any end date. There is simply no ODS substitution taking place, and thus EPA does not have authority to regulate further in this area. If at some point, EPA is authorized to phase out HFCs consistent with future international obligations, then that may constitute a more appropriate avenue for phasedown measures.

Even if the SNAP authority somehow applies here, there have been no changes in the human health or environmental impact of refrigerator HFC use since they were approved by EPA that would justify this proposal. No facts about the toxicity or climate impact of these chemicals have changed. Nor have their emissions profile and climate impact changed, other than that their use in the US market is significantly less than EPA estimates. Obviously, alternatives exist, but the Clean Air Act and numerous presidential executive orders require the careful consideration of costs and benefits and the necessity of regulation before US business of all sizes are further burdened.

AHAM is working on a current valid estimate of the reduced level of HFC usage in refrigerator foam and what is forecasted for future demand, and we will provide that data in our written comments to the proposed de-listing rule. Initial analysis indicates, however, that by 2015 many refrigerators sold in the US will not use high GWP foam blowing agents, and the trend of



dramatic reductions in the use of high GWP HFCs by this responsible industry will accelerate in the future. Regardless of these trends, manufacturers of all sizes will be impacted by this rule. For those that have not fully transitioned from HFC foam-blowing agents and do not have the time or the capital to invest in a 100% transition by an arbitrary January 1, 2017 date, the impact of this proposal could be devastating.

These same firms have invested millions of dollars in new DOE efficiency requirements that become effective in less than a month. The DOE requirements were based on the assumption of the availability of HFCs and have diverted the scarce capital that is available for regulation-driven investment. This is a classic example of the cumulative regulatory burden that falls on manufacturers when EPA and DOE fail to coordinate their rulemaking activity.

EPA also significantly underestimates the costs of this proposal. One particularly disappointing example is the suggestion that refrigerator manufacturers seeking to replace HFCs in foam-blowing agents have "drop-in" substitutes. In fact, there are no available drop-ins. That false but convenient misnomer overlooks the years and millions of dollars of work necessary to ensure continued manufacturing efficiency; product quality, performance and longevity; an evaluation of potential impacts on energy efficiency; and the compatibility of plastics used. On top of that, it is well known that the use of hydrocarbon foam in US factories requires an investment in bomb-proofing such production to protect employees, sometimes new VOC controls, and careful reformulation analyses to ensure continued energy efficiency.

These steps are neither cheap nor easy, and the significant burdens they impose were inadequately addressed in the proposal. By forcing 100% across the board transition in such a short period of time, this proposal would put companies and their products at risk, given the limited alternatives that are currently available.

We also note that without any legal rationale, EPA has proposed to reverse its long-standing interpretation of the Clean Air Act with respect to the import of products containing HCFC 141-b as a foam-blowing agent. EPA is required by the Administrative Procedures Act to explain why its previous legal evaluation was incorrect and it has not done so. We ask that EPA release to the public all previous legal analyses on this issue, including an explanation of why the earlier interpretation was incorrect. The proposal does not offer an adequate rationale for reversing such a long-standing interpretation.

AHAM urges EPA to drop this effort after more carefully and accurately taking into account the realities of the marketplace and the true costs and benefits of this effort. There is not much point in promoting an international regulatory regime if the agency is going to apply this blunt and inappropriate regulatory instrument domestically, regardless of the shape of a future international scheme. The appliance industry's transition away from HFCs is well underway. EPA's proposal should reflect and support this progress, rather than impede it.

Thank you for consideration of our comments.

Sincerely,



Date: Tue Sep 16 12:31:31 EDT 2014  
From: Moritz.Brigette@epamail.epa.gov  
To: CMS.OEX@epamail.epa.gov  
Subject: FW: AHAM - Letter to CEQ-EPA re SNAP Delisting Proposal

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-----Original Message-----

From: Lowery, Celeste [mailto:CLowery@AHAM.org]  
Sent: Tuesday, September 16, 2014 12:23 PM  
To: Mccarthy, Gina; 'chair@ceq.eop.gov'  
Cc: McGuire, Joseph; McArver, Rob; Samuels, Chuck; Messner, Kevin - Politicallogic  
Subject: AHAM - Letter to CEQ-EPA re SNAP Delisting Proposal

Please find enclosed a letter from Joseph M. McGuire, President, Association of Home Appliance Manufacturers regarding the SNAP Delisting Proposal.

Thank you.

Celeste Lowery  
Executive Assistant/Office Manager  
1111 19th Street NW, Suite 402, Washington, DC 20036 t 202.872.5955 x307 f 202.872.9354 e clowery@aham.org

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