



NATURAL RESOURCES DEFENSE COUNCIL

October 30, 2013

Ms. Drusilla Hufford  
Director, Stratospheric Protection Division  
Office of Atmospheric Programs  
U.S. Environmental Protection Agency  
Mail Code 6201J  
1200 Pennsylvania Ave., NW  
Washington, DC 20460

Via email

Dear Ms. Hufford:

The Natural Resources Defense Council appreciates the Environmental Protection Agency's continued leadership in implementing the Montreal Protocol on Substances that Deplete the Ozone Layer. However, we write to express our concern that EPA has not sufficiently reduced hydrochlorofluorocarbon (HCFC) allowances and urge it to eliminate the current oversupply in its next rule. EPA missed an opportunity to significantly reduce HCFC allowances in the final rule issued in April 3, 2013.<sup>1</sup> The continuing drop in the market price for HCFCs demonstrates that EPA has been authorizing too many HCFCs. In its next allowance rule, EPA must act decisively to eliminate the oversupply. We recommend that in the proposed rule EPA seek comment on authorization of no new allowances in light of the excess supply currently in the market.

In response to EPA's January 4, 2012 proposed rule, NRDC submitted comments recommending that EPA reduce the existing allowance schedule by at least the maximum percentages proposed by EPA and indicated our support for reducing allocations even more rapidly. Our comments were based on two key premises. First, acceleration of the reduction schedule is necessary to protect human health and the environment. Second, accelerating the phase-out of HCFC-22 is necessary to transition the market to new alternatives and substitutes, to encourage compliance with laws and regulations already in place to prevent refrigerant venting,

---

<sup>1</sup> *Protection of Stratospheric Ozone: Adjustment to the Allowance System for Controlling HCFC Production, Import, and Export* (Final Rule). 78 Fed. Reg. 20004 (April 3, 2013).

and to promote the reclamation and reuse of used HCFC-22. EPA's decision not to accelerate the reduction allocations to the maximum percentages has contributed to an over-supply of virgin HCFC-22. The continued decline in HCFC prices means that there is less incentive to recycle HCFCs, which means that more HCFCs are being vented to the atmosphere, and has also slowed the transition to safer alternatives.

HCFCs are both ozone-depleting substances and greenhouse gases. The 1990 amendment to the Montreal Protocol identified them as "transitional" substitutes for chlorofluorocarbons (CFCs) and other ozone-depleting substances. The history of both domestic and international efforts to reduce ozone-depleting substances has repeatedly demonstrated that phase-out schedules can and should be accelerated based on new scientific, technical, and economic information. The HCFC phase-out schedule has been accelerated several times, most recently in the 2007 amendments to the Montreal Protocol in response to the unanticipated rapid increase of HCFC emissions and their harmful effects on ozone and the climate.

Market data demonstrate that there is currently a very large oversupply of HCFC-22 relative to demand, resulting in very low prices. This oversupply was identified in numerous comments submitted to EPA on the most recent proposed rule (Letter from DuPont Chemicals dated February 3, 2012 ("[W]e believe the market demand for HCFC-22 is significantly lower than estimated...[leading] us to conclude that the maximum proposed reductions in allocations can be achieved without causing a significant disruption in the market place.") p. 2; letter from Certified Refrigerant Services, Inc., "If the EPA wants a strong organization (the refrigerant reclaiming industry) to recover and reuse R-22 during their 'phase-out', they must radically reduce allocation to import and produce.") p. 2; letter from John Haynes, owner, Express Recovery Inc., ("If the EPA desires an increase in amount of refrigerant reclaimed it must decrease the amount of virgin material available in the market place,") p.1).

Since EPA's rule was released, the price of HCFC-22 has steadily decreased, reflecting that fact that EPA's rule authorized an excess of allowances.<sup>2</sup> We understand that wholesale HCFC-22 prices at the start of 2013 were approximately \$10-11, rose to \$14-15 in March, and, following the release of EPA's last rule, fell to today's price of \$7.

This demonstrates that allocations have not been stringent enough to exert pressure on the market. The oversupply and low price is having several negative effects:

---

<sup>2</sup> See <http://www.achrnews.com/articles/print/124347-hvacr-industry-wary-of-r-22-surplus>.

- (1) It is hurting the development of industrial capacity to reclaim and reuse HCFCs.
- (2) It is encouraging higher HCFC leakage by discouraging the adoption of leak prevention practices.
- (3) It is hurting the development and adoption of alternatives and substitutes to HCFCs.

The excess emissions that result underscore that accelerating the pace of reductions is “necessary” to protect health and the environment.

In addition to urging EPA to propose no new allocations when it next proposes allocations, we are also submitting an information request. We respectfully request all EPA’s data on the quantity of HCFC-22 stockpiles in the United States. If necessary, we are willing to submit a request under the Freedom of Information Act, although we hope that this letter will suffice.

Thank you for considering our comments. Should you have any questions for require further explanation on any matter contained within this letter, please contact Benjamin Longstreth at [blongstreth@nrdc.org](mailto:blongstreth@nrdc.org) or 202-513-6256.

Sincerely,



Benjamin Longstreth  
Natural Resources Defense Council

