

**Congress of the United States**  
Washington, DC 20510

February 21, 2014

The Honorable Gina McCarthy  
Administrator  
U.S. Environmental Protection Agency  
William Jefferson Clinton Federal Building  
1200 Pennsylvania Ave, NW  
Washington, DC 20460

Dear Administrator McCarthy:

We are writing to urge the EPA to accelerate the phase-down of U.S. consumption of virgin HCFC-22. We believe this is one of the most significant and immediate actions the Administration can take in the short-term to address global climate change.

As you know, under the Montreal Protocol the United States must fully phase out domestic consumption of virgin HCFC-22 by 2020. On December 24, 2013, EPA issued a proposed HCFC-22 allocation rule for the years 2015 through 2019.<sup>1</sup> In reviewing the EPA's proposed rule outlining several options for allocating allowances for 2015-2019, we are concerned that EPA's preferred approach does not go far enough and would allow an additional 90 million pounds of virgin HCFC-22 to be manufactured or imported over the five-year period – an amount far greater than what is needed to service aftermarket demand. There is broad agreement among industry and public interest stakeholders that EPA's preferred approach would allocate too many HCFC-22 allowances.

EPA's preferred approach could dramatically expand the already substantial existing stockpile of HCFC-22. In 2011, EPA estimated there was a 50-100 million pound stockpile of HCFC-22. In the proposed rule, the Agency estimates that, as of December 31, 2012, the stockpile has grown beyond 100 million pounds. With the increase in allowances granted for the years 2013 and 2014, it is likely the stockpile will continue to grow. The Agency's consumption allocation going forward should adequately account for the size of that stockpile. And, while we do not support re-proposal of the rule, we were disappointed that the Agency did not solicit comment on a zero allocation of virgin HCFC-22.

In public meetings, EPA has indicated they have no plans to request stockpile data for calendar year 2013. Consequently, the proposed rule will be issued without the most current industry information regarding the impacts of further stockpiling and atmospheric releases. This, coupled with the fact that 2012 stockpile submissions remain publically unavailable, makes it all the more difficult for stakeholders to assess the appropriateness of Agency actions. Additionally, the proposed rule fails to consider the widespread and growing availability of low-GWP alternative refrigerants that can be used as a substitute for HCFC-22. Between the large stockpile, decreased demand, better leak control, use of reclaimed HCFC-22, and availability of

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<sup>1</sup> U.S. Environmental Protection Agency, *Protection of Stratospheric Ozone: Adjustments to the Allowance System for Controlling HCFC Production, Import and Export*, Fed. Reg. 78072 (Dec. 24, 2013).

alternative refrigerants, consumers can be assured of sufficient capacity to serve their existing systems without the granting of significant new HCFC-22 allowances.

We are also troubled that the proposed rule does not consider the adverse impact of the preferred alternative on greenhouse gas emissions. Every pound of new gas produced is replacing a pound that was lost to the atmosphere. The difference in greenhouse gas pollution between EPA's preferred approach and the most aggressive proposed phase-down schedule is equal to the annual emissions of more than eight coal-fired power plants. Moreover, without an aggressive plan to encourage reclamation and proper management practices, any additional gas produced will eventually be lost to the atmosphere.

One of EPA's stated goals is to increase the industry's use and reliance upon recycled and reclaimed HCFC-22 by limiting allowances to a fraction of the aftermarket demand, which in turn would foster the development of the reclamation industry to support supply needs. Unfortunately, EPA's allocation levels have not moved the market in that direction, instead leading to even greater stockpiles of HCFC-22. Over-supplying the market makes it difficult to incent the conservation of HCFC-22 and prevent refrigerant leakage, which in turn drives demand for new production.

We also ask that the Agency revisit its decision to permit the continued sale of HCFC-22 condensing equipment beyond the original 2010 phase-out date. As you know, while the Agency prohibits the sale of new air-conditioning units that are pre-charged with HCFC-22, it permits the sale of uncharged condensing equipment. A new replacement HCFC-22 condensing unit extends the life of older, lower-efficiency central air conditioner systems by as much as 15 years. With an estimated installed base of 67 million HCFC-22 residential air conditioners in the U.S., the potential gains in energy efficiency and CO<sub>2</sub> reductions that could be achieved by addressing this policy are substantial. Ending the sale of these units will also allow the Agency to eliminate the need for approximately 8 million pounds of additional consumption allowances in 2015 and each year thereafter (estimated sales and charge size in 2012), beyond what is currently proposed.

As the Agency develops its final rule, we urge you to adopt a more aggressive phase-down than currently proposed and to end the sale of uncharged HCFC-22 condensing units. A faster phase-down of virgin HCFC-22 consumption will help stimulate reclamation, support the development of low-GWP alternative refrigerants, and foster better refrigerant management practices. It will also reap significant environmental benefits from both an ozone depletion and greenhouse gas perspective, placing our nation on stronger footing as we continue international negotiations to phase down HFCs. We also urge you to finalize the rule quickly to allow the industry to properly plan and prepare for compliance.

Thank you again for your steadfast commitment to protecting our environment. We appreciate your attention to this matter and stand ready to assist you in whatever manner possible



Sincerely,

**Christopher S. Murphy**  
United States Senator



**Barbara Boxer**  
United States Senator



**Richard J. Durbin**  
United States Senator



**Charles E. Schumer**  
United States Senator



**Thomas R. Carper**  
United States Senator



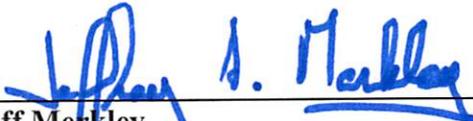
**Benjamin L. Cardin**  
United States Senator



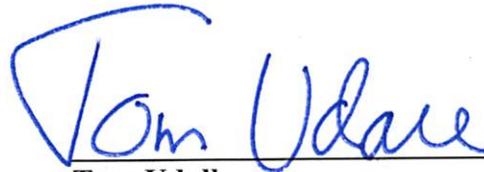
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United States Senator



**Sheldon Whitehouse**  
United States Senator



**Jeff Merkley**  
United States Senator



**Tom Udall**  
United States Senator



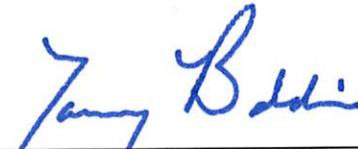
**Kirsten E. Gillibrand**  
United States Senator



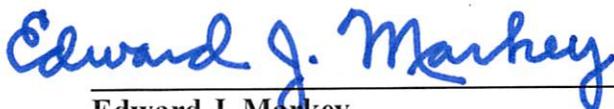
**Christopher A. Coons**  
United States Senator



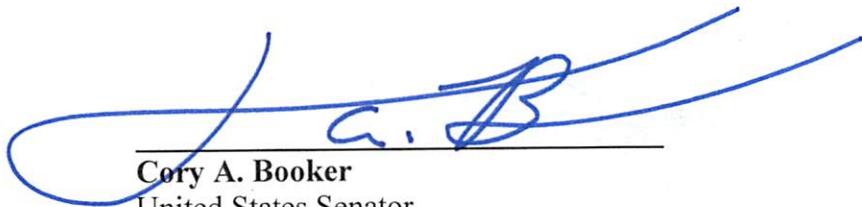
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United States Senator



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United States Senator



**Edward J. Markey**  
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United States Senator



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United States Senator



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Member of Congress



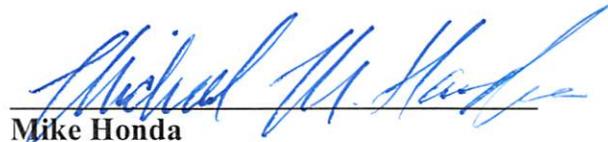
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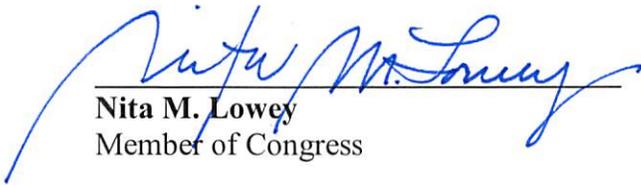
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**Anna G. Eshoo**  
Member of Congress



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**Chellie Pingree**  
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**Nita M. Lowey**  
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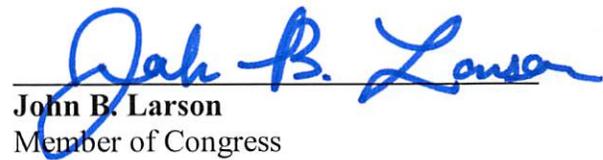
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