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Andrew Wheeler
Acting Administrator
United States Environmental Protection Agency
1200 Pennsylvania Avenue NW
Washington, DC 20460

Re: Protection of Stratospheric Ozone: Revisions to the Refrigerant Management Program's Extension to Substitutes (40 CFR Part 82)
Docket ID No. EPA-HQ-OAR-2017-0629

Dear Acting Administrator Wheeler:

The New York State Department of Environmental Conservation (DEC) strongly objects to the Environmental Protection Agency's (EPA) October 1, 2018 proposal to rescind 2016 rule changes to the Section 608 program (2016 Rule), which applied emission controls to hydrofluorocarbon (HFC) refrigerants. EPA's stated justification for this proposed change is flawed, misguided, and not informed by science. EPA's actions will increase emissions of harmful greenhouse gases (GHG) across the United States, exposing residents of New York and the nation at large to increased risks from global climate change.

HFC refrigerants have been adopted as the primary replacement for banned ozone-depleting substances. Notably, HFC use in the United States was limited prior to the introduction of EPA's programs under the Clean Air Act to prohibit ozone depleting substances, but HFCs are now the most common refrigerants used in the United States. The use of HFCs as a substitute for banned ozone depleting substances has increased HFC emissions in the United States from a negligible amount in 1990 to more than 150 million metric tons of carbon dioxide equivalent emissions per year in 2016, based on the EPA's Inventory of U.S. Greenhouse Gas Emissions and Sinks.¹

EPA's current proposal is part of a suite of simultaneous proposals that will partially or fully rescind the few limits that currently exist for HFC refrigerants. Just like EPA's other related proposals to roll back limits on emissions of HFCs, this proposal is another step in the wrong direction, and will result in additional emissions of the GHGs that cause climate change. The 2016 Rule, which EPA is proposing to rescind, adopted

¹ EPA-430-R-18-003

a common sense approach for managing HFC emissions by extending leakage, venting, and disposal control requirements that already existed for other refrigerants used in the same equipment. EPA is also proposing to rescind the extension of prohibitions on refrigerants in new equipment² and a flexible compliance mechanism for GHG emission reductions in motor vehicles.³

The nationwide increase in HFC emissions is contributing to global climate change and harming the State of New York. Conservative emission projections suggest that the annual emission rates in New York will increase by more than 4 million metric tons by 2030⁴ in the absence of strong regulatory action. Although DEC is considering taking its own regulatory or other actions to replace some of EPA's rescinded controls within New York to lower this emission level, doing so would impose additional administrative burdens on the State and its taxpayers. More critically however, HFC emissions in New York are only a small proportion of nationwide HFC emissions. EPA estimates that its proposal to limit Section 608 will result in "at least" an additional 3 million metric tons of GHGs per year. The full suite of EPA programs that could be rescinded may result in an increase in annual GHG emissions of more than 100 million metric tons nationwide.⁵

Unlike other GHGs that persist in the atmosphere for centuries or longer, HFCs are 'short-lived climate pollutants' and persist in the atmosphere for decades or less. As a result, HFC emissions have a pronounced effect on near-term warming. The United Nations Intergovernmental Panel on Climate Change considers reducing HFC emissions to be critical for limiting global warming to 1.5 or 2 degrees Celsius.⁶ If emissions are not adequately reduced to stay below these thresholds, the potential impacts to New York State include up to six feet of sea level rise in New York City by the end of the century, which is an unacceptable risk.⁷

As an indication of the global importance of HFC emission control, 197 countries adopted the Kigali Amendment to the Montreal Protocol in 2016 to eliminate HFCs along with ozone-depleting substances. This amendment will enter into force in January 2019.

² EPA-HQ-OAR-2003-0118 Protection of Stratospheric Ozone: Notification of Guidance and a Stakeholder Meeting Concerning the Significant New Alternatives Policy (SNAP) Program

³ EPA-HQ-OAR-2018-0283 The Safer Affordable Fuel Efficient (SAFE) Vehicles Proposed Rule for Model Years 2021-2026

⁴ Business As Usual scenario modeling provided by the California Air Resources Board per Gallagher et al. 2014. High-global warming potential f-gas emissions in California: Comparison of ambient-based versus inventory-based emission estimates, and implications of refined estimates. *Environmental Science and Technology* 48: 1084-1093.

⁵ *ibid*

⁶ IPCC Special Report on Global Warming of 1.5°C (SR15) <http://www.ipcc.ch/report/sr15/>

⁷ 6 NYCRR Part 490

DEC strongly objects to the removal of any HFC emission controls in the Title VI programs in general and under Section 608 specifically. These rules provide a necessary limit to emissions that cannot be achieved through voluntary management programs alone. Specifically, the proposal to exclude HFC refrigerants from the refrigerant management program, i.e., the leak reporting and repair provisions in 608, should be continued because EPA's voluntary programs have been insufficient.

Notably, EPA has provided a voluntary refrigerant management program for supermarkets, the largest sector, since 2007 via the GreenChill Partnership. EPA estimated that if all supermarkets adopted the leak management practices of the GreenChill members, the industry would save \$100 million in costs per year, and eliminate 22 million metric tons of GHGs and 240 tons of ozone depleting substances.⁸ However, EPA reports that only 29% of supermarkets⁹ have volunteered to become GreenChill members, while national HFC emissions have more than doubled (55% increase, 2005-2016¹⁰). This suggests that even concerted and long-term efforts to reduce HFC refrigerant leakage through voluntary programs fall short of effectively mitigating these emissions. EPA needs to do more, rather than less, to manage HFC refrigerant leakage across the United States.

Finally, EPA's current proposal adopts an overly restrictive view of EPA's authority to limit "topping-off" refrigerant or addressing leakage that occurs during operation as opposed to venting that occurs during the maintenance, service, repair, or disposal of equipment. In other words, although topping-off may only occur when refrigeration equipment is being serviced, EPA assumes that it does not warrant the same level of control as the servicing itself. As a result, EPA now contends, contrary to the 2016 Rule, that it may prohibit the venting, but not the knowing leakage of, HFCs or any other harmful substitute for ozone depleting substances. This defies common sense and ignores opportunities for additional emission reductions.

New York supports common sense and effective regulations to reduce nationwide GHG emissions and protect businesses and communities from the harmful effects of global climate change. Accordingly, DEC is considering regulations that will phase out the use of HFCs in New York. But only a national approach will provide the emission reductions of a scale necessary to mitigate potentially catastrophic climate change. When combined with other simultaneous actions, EPA's current proposal will remove all federal controls on HFCs. It introduces new sources of confusion to the

⁸ Most recent EPA GreenChill Progress report: EPA 430-R-12-005

⁹ EPA press release 9/25/2018 <https://www.epa.gov/newsreleases/epa-recognizes-supermarkets-across-america-smart-refrigerant-management>

¹⁰ EPA 430-R-18-003 Inventory of U.S. Greenhouse Gas Emissions and Sinks 1990-2016

affected industries and provides no apparent benefits. EPA should abandon this proposal and redirect its efforts to limiting the GHG pollution that contributes to climate change.

Sincerely,

A handwritten signature in black ink, appearing to read 'Basil Seggos', written in a cursive style.

Basil Seggos
Commissioner