Don’t assume Trump will stop the HFC phasedown

By Jay Stein
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Many pixels have lit up with speculation about whether the Trump administration will pull out of the Paris Agreement on climate change, but there’s been little discussion of 2016’s other climate accord: the Kigali amendment to the Montreal Protocol. Approved on October 16, 2016, by representatives of nearly 200 countries, the amendment is designed to curtail the production and use of hydrofluorocarbon (HFC) refrigerants, which are known contributors to global warming.

Taking its name from the Rwandan city in which it was approved, the Kigali amendment lays out a series of declining production and consumption levels by which countries would reduce the overall Global Warming Potential (GWP) of the chemicals used as refrigerants and blowing agents.

In most cases, this reduction, or “phasedown” as it’s widely referred to, would be achieved by replacing high-GWP chemicals with low-GWP chemicals. In some cases, the HFC refrigerants targeted for phasedown feature GWPs that are thousands of times higher than their potential replacements.

For rich countries like the United States and Canada, the Kigali amendment’s prescriptions would result in an 85 percent GWP reduction by 2036 (against a baseline of 2011–2013 numbers), starting with a 10 percent reduction in 2019.

So long, HFC-134a! It’s been nice knowing you!

No matter how the US government reacts to the Kigali amendment of the Montreal Protocol, it’s probably not going to keep HFC-134a (the hydrofluorocarbon refrigerant contained in the can pictured below) from being eliminated from use and production in the US. The air-conditioning and chemical industries have already agreed on a plan to eliminate HFC-134a from their products, and they’ll likely go through with the plan regardless of whether it’s incorporated into US law.

At the time of its passing, the Kigali amendment was widely hailed as a boon to both the climate and industry. For example, US Secretary of State John Kerry was quoted in the New York Times article Nations, Fighting Powerful Refrigerant That Warms Planet, Reach Landmark Deal as saying, “It is the

biggest thing we can do in one giant swoop."

North American HVAC and chemical manufacturers also supported the Kigali amendment. In the Air-Conditioning, Heating, and Refrigeration Institute (AHRI) press release AHRI Applauds Agreement to Include HFCs in Montreal Protocol, AHRI president and CEO Stephen Yurek said, "While the freeze dates and step down levels are ambitious, the HVACR industry is confident we can meet them and continue to provide quality, innovative, energy efficient products and equipment for the benefit of the world's citizens."

The only hint that there could be rough seas ahead came from experts in international law who asserted that as an international treaty, it would require US Senate confirmation. Michael Wara, a professor at Stanford Law School who specializes in energy and the environment, was quoted in the Guardian article US Senate Could Block Landmark HFC Climate Treaty, Legal Experts Warn as saying, "This is different from Paris in that it requires ratification. … This is going to require getting Republicans to vote for it."

Then, Donald Trump won the election in November, and it's even more unclear what will now become of the HFC phasedown, at least in the United States. During the campaign, Trump never mentioned the Kigali amendment or the HFC phasedown.

Shortly after his victory though, he appointed the notorious climate skeptic Myron Ebell, of the Competitive Enterprise Institute (a libertarian public-policy think tank) to manage the transition of power at the Environmental Protection Agency (EPA). He also nominated Scott Pruitt, currently Oklahoma's attorney general—and a well-known climate skeptic—to head the EPA.

Ebell hasn't said what his approach to the Kigali amendment will be, but he did write about it unfavorably in the article Negotiators in Kigali Agree to Turn Montreal Protocol into a Climate Treaty, published just a few days after the amendment's passage. As the title suggests, Ebell's chief objection was that an ozone protection treaty was being used to regulate climate change. To our knowledge, Pruitt has not expressed any public opinions regarding the amendment.

Based solely on Trump's, Ebell's, and Pruitt's well-publicized disdain for climate-change regulations, it seems reasonable to assume that the amendment will be dead on arrival in the new US administration, but the situation is actually more complex.

Given that the phasedown is supported by US industry, and will likely lead to lots of new US jobs, it's possible both Trump's EPA and the Senate would go along with it. According to Alexander Hillbrand, a technical analyst with the Natural Resources Defense Council, "The amendment really does provide significant competitive advantages and trade benefits to US companies, which will encourage them to comply and may provide the incoming administration with plenty to like about it."

Even if the new administration decides to reject the amendment, or the Senate votes against confirming it, some portion of the HFC phasedown is already incorporated into US law. On December 1, 2016, the EPA published Rule 21 (PDF), which contains new regulations that eliminate the use of the most-popular HFC refrigerants in most chillers (machines that cool water that is then typically used to cool large commercial buildings and industrial processes) by 2024.

The new administration could roll back the new rule, but it would be difficult and time-consuming. At a minimum, there would be litigation and hearings. Alternatively, because Rule 21 was completed close to the end of Obama's term, it can, in theory, be undone by majority votes in both the House and the

Senate. However, Congress rarely uses its limited power to override regulations.

What might save the Kigali amendment and Rule 21 is that several industry-leading companies—including Honeywell, Chemours, Trane, and Carrier—have already invested tens of millions of dollars developing new low-GWP refrigerants and products that incorporate the refrigerants. These companies are expected to lobby both the new administration and Congress in favor of the HFC phasedown, and are likely to go through with the plan regardless of whether it's incorporated into US law.

With such strong industry support, the Kigali amendment will probably be confirmed by the Senate, and Rule 21 will stay in place. The Trump administration may well decide to focus on other battles.

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