

**OVERVIEW OF EPA SNAP REGULATIONS AFFECTING U.S.-BASED SMALL BUSINESS
FOAM-BLOWING APPLICATION**

- EPA's Significant New Alternatives Policy (SNAP) implements Clean Air Act (CAA) § 612, which requires the agency to evaluate ozone-depleting substances (ODS) and prohibit the continued use of an ODS where alternatives with lower overall risk to human health and the environment are available.
- In a 2015 final rule, issued at 80 Fed. Reg. 42,870 (July 20, 2015), entitled "*Protection of Stratospheric Ozone: Change of Listing Status for Certain Substitutes Under the Significant New Alternatives Policy Program*," EPA broadened its interpretation of CAA § 612. Under the new interpretation, EPA claimed the authority to require the substitution of non-ODS chemicals with substances with lower global warming potential (GWP). EPA issued a second, similar rule in September 2016, also requiring the replacement of non-ODS chemicals with lower-GWP alternatives.
- On August 8, 2017, the D.C. Circuit Court of Appeals issued a decision in *Mexichem Fluor v. EPA*, holding that EPA's 2015 rule exceeded the agency's statutory authority because the plain language of the CAA only permitted the agency to require the replacement of ODS. Under the Court's ruling, once an ODS has been replaced with a non-ODS substitute, EPA cannot require companies to replace the substitute with a lower-GWP alternative. The D.C. Circuit vacated the 2015 rule but did not address the 2016 rule, creating significant regulatory uncertainty.
- Compsys is a Florida-based small business pioneering a light-weight structural composite technology called Prisma for use in marine, transportation, and infrastructure applications. Compsys' process uses HFC-134a, a non-ODS, as the foam-blowing agent. Compsys' process has been improperly classified as "marine flotation foam" under both the 2015 and 2016 EPA rules and the company would be required to cease using HFC-134a and transition to a lower-GWP substance before January 1, 2020. Significant to the recent D.C. Circuit ruling, Compsys previously used R-22, an ODS, and made the switch to non-ODS HFC-134a under a prior SNAP rule. While the court's ruling would prohibit EPA from requiring Compsys to replace HFC-134a with a lower-GWP substitute, the 2016 rule remains in effect and would require just that.
- Compsys' product is currently used in marine vessels and on-road trailers produced by U.S.-based companies. In addition, Compsys has participated in DoD DARPA and SBIR projects and Prisma is being tested for bridge decking and other infrastructure uses at state DOT levels. The company continues to identify new opportunities and applications in which its products can be used.
- Compsys is now facing the prospect of being unable to continue production of Prisma due to the EPA SNAP rules unless EPA takes immediate action to implement the D.C. Circuit decision. Despite working diligently with BASF for nearly two years, Compsys has not yet been able to identify an alternative to HFC-134a for use in production of Prisma that meets the performance requirements of this innovative product. At this time, Compsys has no promising alternative foam-blowing agent to replace HFC-134a; without a replacement, the current EPA rules would force Compsys to shut down.
- To date, Compsys has unsuccessfully sought relief from EPA via administrative and judicial channels, notwithstanding the clear economic and environmental benefits of this product. A nominal amount of HFC-134a is released into the atmosphere during Compsys' production process, but the majority of HFC-134a is encapsulated within the cured foam product. However, the lightweight structural components, which replace heavier wood or metal components, decrease the weight of the marine vessel or on-road vehicle, significantly improving fuel efficiency and resulting in overall lower emissions from the boat or truck and a cost-savings for the operator. Prisma is also more durable than wood or metal structures, resulting in products that require less maintenance and have longer lifecycles.
- Compsys continues to seek relief from the regulatory obstacles that inhibit the continued viability of a cutting-edge small American business without achieving significant or long-term economic or environmental benefits.