

January 30, 2023

The Honorable Michael Regan
Administrator
Environmental Protection Agency
Washington, DC 20004

Re: Proposed Rule, Environmental Protection Agency; Phasedown of Hydrofluorocarbons: Restrictions on the Use of Certain Hydrofluorocarbons Under Subsection (i) the American Innovation and Manufacturing Act of 2020 (87 Fed. Reg. 76,738-76,813, December 15, 2022)

Dear Administrator Regan:

The undersigned associations are pleased to provide comments on the proposed rule, “Phasedown of Hydrofluorocarbons: Restrictions on the Use of Certain Hydrofluorocarbons Under Subsection (i) the American Innovation and Manufacturing Act of 2020.” This technology transition rule would implement EPA’s work with industry in granting or partially granting petitions under the American Innovation and Manufacturing Act of 2020 (enacted as part of H.R. 133, the Consolidated Appropriations Act of 2021, P.L. 116-260).

We appreciate the opportunity to provide feedback on the important role of phasing down HFCs to contribute to our recovering economy and to address climate change. The allocation approach outlined in the proposed rule should provide long-term regulatory certainty. This proposal would impact key sectors for which HFCs play an important role in the practical capital investment and operations planning for companies across the country. The rule should also apply to our foreign competitors in a manner consistent with the Kigali amendment to the Montreal Protocol, as we transition out away from high global warming potential (GWP) HFCs.

We want to highlight several principles of importance to our organizations for consideration by EPA that will make the phasedown process smoother and ensure more certainty for companies as they fulfill the rule’s requirements:

- **Keep the current timeline.** The statute requires the agency to meet key milestones to stay on track for the fifteen-year phasedown. We support maintaining the timeframe for finalizing this approach.

Provide flexibility for reporting and future petitions. Quarterly reporting may be too aggressive in some instances. For instance, collection and tracking of detailed information regarding HFCs contained in foam products will be difficult and subject to error. This is particularly the case for foam products that are incorporated into complex products that are imported where the importer has little ability to gather such information from a global, multi-tiered supply chain. So long as

recordkeeping is consistent, annual reports should be sufficient to ensure compliance.

- **Eliminate sell-through requirement.** The time is too short, and the supply chain is too strained for stockpiling of old equipment and product. A sell-through period attempts to solve a challenge that simply cannot exist at a large scale. If the sell-through period is not eliminated flexibility should be provided, and it should be extended to multiple years.
- **Define “new” equipment using the date of manufacture on the label affixed to the equipment.** Limiting the sale of existing equipment will mean that it must be collected and shipped for either landfilling or recycling creating unnecessary waste. Equipment with a 10 to 50 year lifetime should not be made obsolete because maintenance redefines equipment as new. There will not be sufficient HFCs to circumvent the intent of the TT rules.
- **Offer appropriate exemptions for regulated products related to labeling.** EPA broadly defines Regulated Product to mean “any product in the sectors or subsectors identified in § 84.56 that contains or was manufactured with a regulated substance.” This definition may comprise many complex products and associated components from highly technical sectors with unintended consequences and for which it may be impractical to include labeling, such as complex products that integrate foam materials or components as part of their internal design (e.g., motor vehicles, aircraft, machinery). Requiring labeling of such internal components serves no purpose. Existing labels, such as product listing labels, with the same information should be considered compliant.
- **Assess the limits for regulated substances each sector.** The zero limit is not optimal for all applications and may not be acceptable for replacements. EPA should evaluate the most effective approach and offer more flexibility, including ranges. Exemptions for temperature ranges, safety, and economic feasibility should also be considered for applications, including industrial process refrigeration and aerospace. If EPA adds more controlled substances, some reasonable solutions would be eliminated due to this GWP limit of zero, including some hydrocarbons and carbon dioxide.
- **Clarify the definition of “manufacturer.”** Larger equipment is often installed without charges, so the timeframe of manufacturing may capture more firms than appropriate and needed.
- **Extend the proposed exemptions for GWP limits for new equipment.** Industrial process refrigeration systems employ a range refrigeration equipment and operate within certain temperature ranges depending on the needs of each application. Based on the specific requirements of each system, the proposed GWP limits included in the proposed rule will create present significant technological and feasibility challenges. EPA should provide flexibility with higher GWP limits (<2200 GWP) for different temperature ranges and extend the proposed exemptions from GWP limits for new equipment where chilled fluid leaving the chiller is less than -58 degrees F (-50 degrees C) to additionally cover IPR utilizing flooded or liquid overfed evaporators. This method would provide a level playing field for U.S. manufacturers with EU manufacturers, as it is consistent with the European F-Gas regulation,

which recognizes that there are no technically feasible alternatives. It is allowed for stationary refrigerants with a GWP <2500 up to -50 degrees C (-58 degrees F) and for temperatures below -50 degrees C, there is no GWP limit specified.

- **Clarify that the definition of product will allow normal servicing of equipment, no matter the origin.** There is some confusion in the current definition that non-U.S. manufactured components would not be able to undergo servicing. Retailers and other end-users need certainty that they can continue to service domestic and imported equipment, which represent a significant capital investment, especially for small business-owners.
- **Clarify that manufacturers may still export equipment designed to use current refrigerants and are not subject to these limitations.** Other jurisdictions do not have building codes updated to allow for next generation refrigerants, while depending on supply from the United States. Banning these sales would harm American manufacturing and limit access to receiving markets further encouraging the sale and use of older or refurbished equipment with potentially lower energy efficiency that may leak more refrigerant
- **Develop a guidance document or “frequently asked questions” clarifying the difference between “new” and “existing” equipment** for maintenance versus replacement requiring compliance with the new GWP limit.
- **Broaden the lens of potential environmental justice impacts to ensure that policies do not negatively impact the availability and cost of equipment for low- and medium-income households and small businesses, especially retailers in rural and urban food deserts, such that they cannot afford to replace equipment.** These “Mom & Pop” shops have slim profit margins and may be forced to continue to operate old leaky equipment with lower energy efficiency performance or purchase refurbished equipment without energy efficiency and refrigerant upgrades because they cannot afford new equipment.
- **Harmonize the GWP limit of all transport refrigeration, including truck and trailer, rail, and construction be harmonized with refrigerant bans listed for road systems and a January 1, 2025, transition date, including stand-alone transport equipment storing food and vaccines.** We also suggest determining the appropriate GWP limits and transition period timeline for aircraft technology through coordination with the FAA.
- **Provide flexibility for applying the definition of import.** The definition of import is broadly defined as “to land on, bring into, or introduce into, or attempt to land on, bring into, or introduce into, any place subject to the jurisdiction of the United States, regardless of whether that landing, bringing, or introduction constitutes an importation within the meaning of the customs laws of the United States.” EPA should tighten such a broad definition, which could include any “landed” component regardless of whether it was purchased for use or application in the U.S. market (e.g., a transportation vehicle in international service). EPA should allow refrigerated containers that are imported into the United States and intended for

export, passing through the US should continue to be allowed to be serviced, as it is unlikely that transition timing will align with this timeframe.

If you have questions or concerns, please contact Chuck Chaitovitz, Vice President of Environmental Affairs and Sustainability at the U.S. Chamber of Commerce. We stand ready to assist you in implementation.

Sincerely,

Alliance for Responsible Atmospheric Policy
American Chemistry Council
Air-Conditioning, Heating & Refrigeration Institute
Association of Home Appliance Manufacturers
Heating, Air-conditioning, & Refrigeration Distributors International
U.S. Chamber of Commerce

Cc: Cindy Newberg