

U.S. EPA Hydrofluorocarbon (HFC) Phasedown Final Rule



**RETAIL INDUSTRY
LEADERS ASSOCIATION**

October 19, 2021

Technology Reminders

Everyone is muted upon entry.

- This reduces background noise during the presentations and while others are posing questions.
- To participate in the discussion via phone, unmute yourself by pressing *6.
- Computer users may hit the 'unmute' button in the Zoom platform.

Please do not put us on hold.

- Should you need to step away, please hang up and rejoin the call later

Zoom Screen name.

- If you have joined via computer or the Zoom App, please take a moment to check that your screen name is unambiguous.

Posing a question/commenting

- When speaking up on the call, introduce yourself first with your name and company.
- To pose questions/comments anonymously, email susan.kirsch@rila.org or message me in the Zoom messaging system **by messaging Host.**

Recording

- We will be recording today's first presentation. Q&A section (including any question attribution will be removed prior to posting)

Antitrust Statement

RILA believes strongly in competition. Our antitrust laws are the rules under which our competitive system operates. It is RILA's policy to comply with both the letter and the spirit of antitrust laws. This Antitrust Statement has been adopted to avoid even the appearance of impropriety under the antitrust laws.

At any association meeting, participants must avoid any discussion of the following subjects in order to avoid even an appearance of impropriety:

- Do not discuss current or future prices, price quotations or bids, pricing policies, discounts, rebates, or credit terms.
- Do not discuss cost information such as production costs, operating costs, or wage and labor rates.
- Do not discuss profits or profit margins, including what is a "fair" profit margin.
- Do not discuss allocating markets, territories, or customers.
- Do not discuss current or future production or purchasing plans, including plans to take facility downtime, production quotas, or limits on output.
- Do not discuss refusing to deal with any suppliers, customers, or competitors (or any class or type of suppliers or customers).
- Do not require or pressure any supplier, customer, or competitor to adopt any particular actions or policies.
- Never agree on any aspect of future pricing or output.

Do not engage in prohibited discussions before a meeting or after a meeting is over. These antitrust guidelines apply not only in formal RILA meetings, but also in hallways, casual conversations, phone calls, emails, text messages, cocktail parties, golf outings, or any other setting that is related in any way to the RILA. If you have questions or concerns, or if you are uncertain about the propriety of any subject of discussion or proposed activity, you should stop the discussion immediately and bring the issue to the attention of RILA staff, or consult your company's general counsel.

Call Agenda

- I. Housekeeping & Antitrust Reminder
- II. Introductions
- III. EPA Begins Phasing-Down HFCs: What Retailers Need to Know
- IV. Questions/Wrap-up

EPA Begins Phasing-Down HFCs: What Retailers Need to Know

Retail Industry Leaders Association

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October 19, 2021



American Innovation & Manufacturing Act (“AIM Act”), 42 U.S.C. § 7675

Bipartisan federal law targeting HFCs, a class of potent greenhouse gases

- Refrigeration
- Air conditioning
- Manufacturing, insulation, fire extinguishers
- Aerosol propellant

Three-part law:

1. **Phasedown of HFC production/imports**
2. Restrictions on uses of HFCs (coming)
3. Encouraging HFC reclamation



EPA Finalizes Phasedown Rules

- **Biden EPA's first major climate rule**
- **Framework rule signed Sept. 23**
 - 86 Fed. Reg. 55,116 (Oct. 5, 2021)
 - **New regulations:** 40 C.F.R. part 84
- **Allocation rule distributing most allowances for 2022**
 - 86 Fed. Reg. 55,841 (Oct. 7, 2021)

**ENVIRONMENTAL PROTECTION
AGENCY**

40 CFR Parts 9 and 84

[EPA-HQ-OAR-2021-0044; FRL-8458-02-OAR]

RIN 2060-AV17

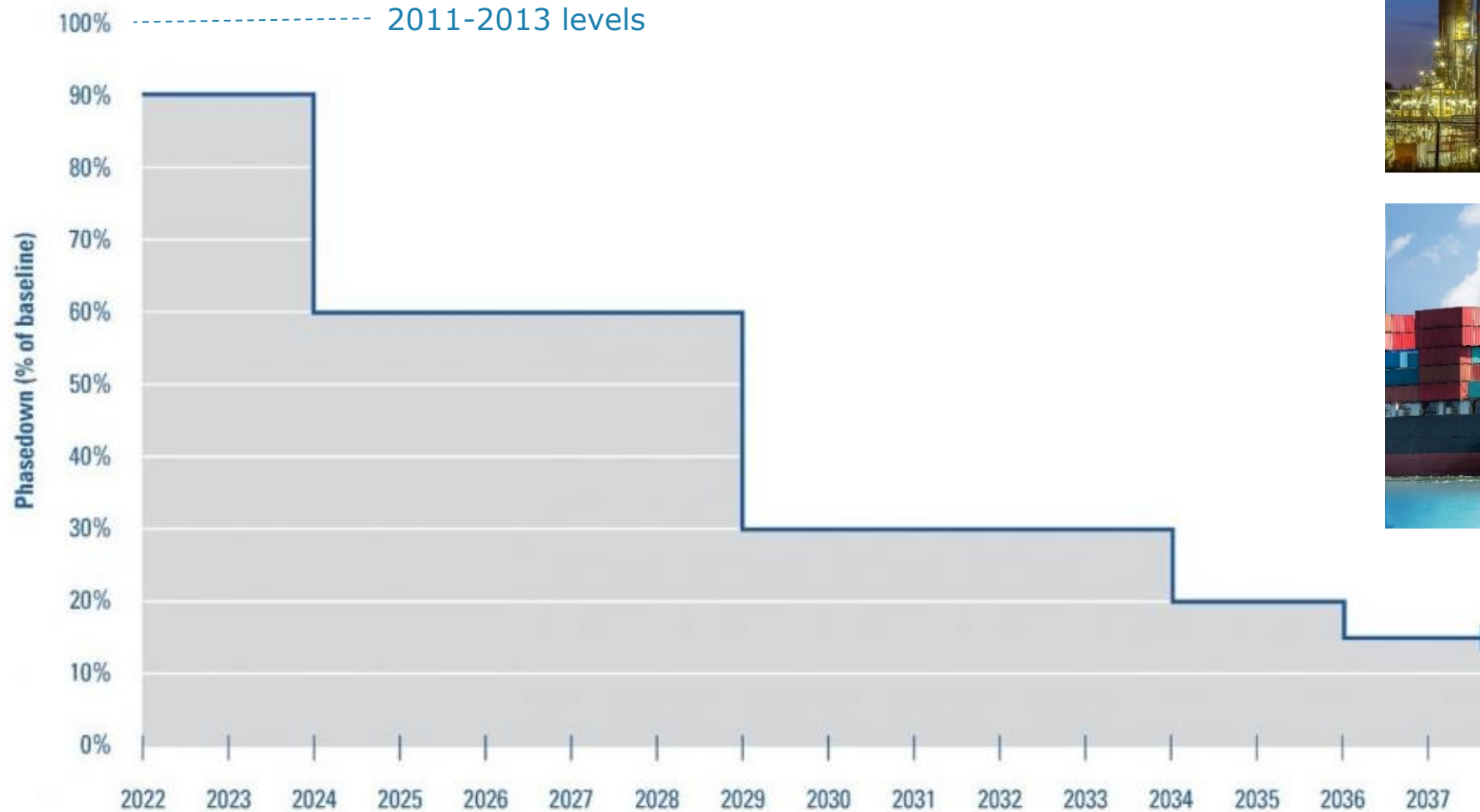
**Phasedown of Hydrofluorocarbons:
Establishing the Allowance Allocation
and Trading Program Under the
American Innovation and
Manufacturing Act**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency is issuing regulations to implement certain provisions of the American Innovation and Manufacturing Act, as enacted on December 27, 2020. This Act mandates the phasedown of hydrofluorocarbons, which are highly potent greenhouse gases, by 85 percent over a period ending in 2036. The Act directs the

Phasedown of HFCs



Does the HFC Phasedown Affect Me?

- **Yes.**
- **Direct regulation – allowances**
 - HFC producers (chemical companies)
 - HFC “bulk” importers
- **Indirect effects – supply chain**
 - Do your suppliers have plans for 2022?



How does the rule phasedown HFC imports?

- 1. Calculate the baseline (2011–2013)**
 - 1 allowance = 1 “exchange value”-equivalent metric ton
 - Every HFC has a different exchange value (53x to 14,800x)
- 2. Reduce to 90% of baseline**
- 3. Skim off the top:**
 - Set-aside pool
 - Application-specific allowances
- 4. Allocate remainder among bulk importers**
 - Proportionate to each importer’s “average best years” from 2011–2019
- 5. Allowances required starting Jan. 1, 2022**
- 6. New allowances issued by Oct. 1, 2022, to be used in calendar-year 2023**

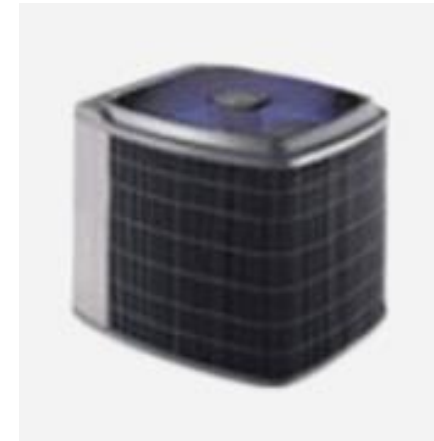


Joint Retail Association Comments

Docket ID No. EPA-HQ-OAR-2021-0044-0201

- 1. “Bulk” Containers vs. Manufactured products**
- 2. Imported “Small Cans”**
- 3. Ban on non-refillable cylinders**
- 4. Minimize recordkeeping/reporting**
- 5. Issue allowances directly to parent company, for flexibility**

Imports of Bulk HFCs vs. Products



Imports of Bulk HFCs vs. Products

- "**Bulk** means a regulated substance of any amount that is in a container for the transportation or storage of that substance such as cylinders, drums, ISO tanks, and small cans..."



- **SUBJECT TO PHASEDOWN:** "A regulated substance that must first be transferred from a container to another container, vessel, or piece of equipment in order to realize its intended use is a bulk substance."



- **NOT SUBJECT TO PHASEDOWN:** "A regulated substance contained in a manufactured product such as an appliance, an aerosol can, or a foam is not a bulk substance"

“Small Cans” – Bulk Container?



AC recharge kits



Electronics dusters



Pressurized drain openers

“Small Cans” – Bulk Container?

EPA: “[S]mall cans of HFCs qualify as containers of bulk HFCs under this rule . . . if the HFC must first be transferred from the small can to a piece of equipment in order to realize its intended use.”

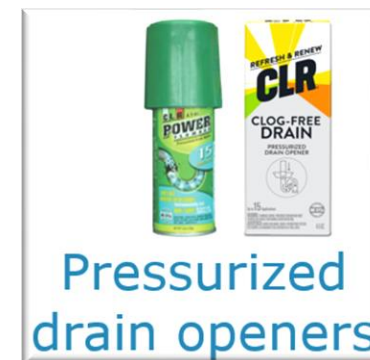


AC recharge kits

“Air conditioning recharge kits are small cans of refrigerant used to recharge motor vehicle air conditioners and would therefore qualify as a container of bulk HFC.”



Electronics dusters



Pressurized drain openers

Ban on Non-Refillable Cylinders

- **Proposed Rule**
 - July 1, 2023 (ban on importing or filling)
 - Jan. 1, 2025 (ban on sale/distribution)
- **Final Rule** pushed out deadlines:
 - Jan. 1, 2025 (ban on importing or filling)
 - Jan. 1, 2027 (ban on sale/distribution)
- **Authority?**



Recordkeeping / Reporting

- For imports, requirements only on “bulk” HFCs — not on non-bulk products
- Few requirements directly on non-importing retailers
- **QR codes on “bulk” containers**
 - Phase-in near universal QR tracking



- **2025:** Containers sold/distributed by producers/importers
- **2026:** Containers sold/distributed by any repackager or cylinder filler
- **2027:** Almost every container sold/distributed
 - Must register with EPA as a “supplier” at least 6 months before deadline if you sell/distribute bulk HFCs



Next Steps for Phasedown

- **Nov. 30, 2021**
 - Deadline to apply to EPA if you believe you are entitled to more allowances
- **Dec. 6, 2021**
 - Deadline to file lawsuit against rule
- **Jan. 1, 2022**
 - Becomes illegal to import bulk HFCs without requisite allowances
- **Importers – quarterly reporting**
 - Within 45 days of each quarter ending
- **Oct. 1, 2022**
 - EPA issues allowances for use in 2023



Beyond the Phasedown: Use Rules

- “**Technology Transitions**” authorizes EPA to restrict uses of HFCs
- **Public petition process to force EPA action**
 - 180-day deadline for EPA to act
 - If granted, then 2 years to complete rulemaking
 - Many petitions received re: SNAP 20 / SNAP 21
- **Oct. 7:** EPA granted or partially granted 11 petitions, incl. covering–
 - Various food refrigeration systems (incl. supermarket systems, household refrigerators)
 - Air conditioning systems (certain new chillers)



Questions

Thank you!



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Next Steps

- Look for call follow-up e-mail by this Thursday (10/21) with a copy of the slide deck from today's call.
- We will be working to post a recording of today's presentation to RILA's Environmental Advocacy Committee (EAC) page (RILA member login required).
- Contact Susan to follow-up individually on anything discussed today (susan.kirsch@rila.org)

**Thank you for your time and
participation!**