



December 21, 2023

The Honorable Michael S. Regan  
Administrator  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460

***Re: Petition for Reconsideration of the Final Rule Entitled “Phasedown of Hydrofluorocarbons: Restrictions on the Use of Certain Hydrofluorocarbons Under the American Innovation and Manufacturing Act of 2020”***

Dear Administrator Regan:

Pursuant to 5 U.S.C. 553(e) and 42 U.S.C. 7607(d)(7)(B), as applicable to *The American Innovation and Manufacturing Act of 2020* (AIM Act) under 42 U.S.C. 7675(k)(1)(C), the undersigned organizations representing the U.S. heating, ventilation, air conditioning, and refrigeration industry (HVACR) hereby request that the U.S. Environmental Protection Agency (EPA) reconsider certain portions of the final rule entitled “Phasedown of Hydrofluorocarbons: Restrictions on the Use of Certain Hydrofluorocarbons Under the American Innovation and Manufacturing Act of 2020,” 88 Fed. Reg. 73098 (Oct. 24, 2023) (TT Final Rule).

**1. Petitioner Background and Standing**

The organizations submitting this letter are the Air-Conditioning, Heating, and Refrigeration Institute (AHRI), the Alliance for Responsible Atmospheric Policy (Alliance), and Heating, Air-conditioning & Refrigeration Distributors International (HARDI).

AHRI, a Virginia corporation, is the trade association representing manufacturers of heating, cooling, water heating, commercial refrigeration equipment, and refrigerant producers. More than 300 members strong, AHRI is an internationally recognized advocate for the industry and develops standards for and certifies the performance of many of the products manufactured by our members. In North America, the annual economic activity resulting from HVACR industry is approximately \$256 billion. In the United States alone, our member companies, along with distributors, contractors, and technicians, employ more than 1.3 million people.

The Alliance, a Texas corporation, is an industry coalition of fluorocarbon producers, user entities, and trade associations of companies that rely on these compounds. The Alliance was organized in 1980 and has been a leading voice in the development and implementation of ozone protection policy at the global level as well as domestic implementation under Title VI of the

Clean Air Act. Today, the Alliance coordinates industry participation in the development of economically and environmentally beneficial international and domestic policies at the nexus of ozone protection and climate change.

HARDI, an Ohio corporation, is a trade association comprised of over 800 member companies, more than 400 of which are U.S.–based wholesale distribution companies. Over 80 percent of HARDI’s distributor members are classified as small businesses that collectively employ in excess of 60,000 U.S. workers, representing more than \$40 billion in annual sales and an estimated 70 percent of the U.S. wholesale distribution market of heating, ventilation, air-conditioning and refrigeration (HVACR) equipment, supplies, and controls.

Should the EPA not reconsider the TT Final Rule, AHRI, the Alliance, HARDI, and their respective members will face market and operational disruptions, and potential lost sales caused by a disorderly transition to next generation refrigerants.

## **2. Petitioner Concerns with the TT Final Rule**

AHRI, the Alliance, and HARDI broadly support the TT Final Rule and the transition from hydrofluorocarbon (HFC) refrigerants to climate friendly substitutes pursuant to the Kigali Amendment to the Montreal Protocol and the AIM Act.

However, classifying condensing units charged with R-410A as components exempt from the TT Final Rule pursuant to 40 CFR § 84.56 will have adverse consequences for climate protection.

EPA’s treatment of condensing units charged with R-410A as components and therefore exempting them from the requirements of section § 84.54(a) and (b) would create a kind of “infinite” servicing loophole for certain types of equipment. Consumers will traditionally replace a condensing unit as a “repair” only when the condensing unit is nearing the end of its useful life (after 10+ years).

But under the TT Final Rule, as promulgated, rather than being replaced at end-of-life with new equipment containing refrigerants below the applicable thresholds for Global Warming Potential (GWP), an older unit system could have its condensing unit replaced with a new R-410A condensing unit and remain in operation virtually indefinitely.

This frustrates the intent of the TT Final Rule to guide an orderly transition to next generation refrigerant technologies by allowing the manufacture of R-410A condensing units to continue unchecked.

This also creates a conflict with the U.S. Department of Energy’s regulation of split air-conditioning and heat pump equipment under 42 U.S.C.6291 et. seq., where an outdoor

condensing unit and indoor unit are a system and must both meet the minimum energy performance standards.

Unless this is corrected, many manufacturers will be reluctant to proceed with plans to transition production lines to units with lower GWP refrigerants when demand persists for R-410A-charged condensing units.

### **3. Request for Reconsideration**

With this petition, AHRI, the Alliance, and HARDI are requesting reconsideration of the provisions of the rule regarding the exemption of residential and light commercial air conditioning and heat pump components pursuant to 40 CFR § 84.56 without impacting import or manufacture of VRF and multi-split heat pump components for service. Specifically, AHRI, the Alliance, and HARDI request that this provision be amended to exclude an exemption for residential and light commercial air conditioning and heat pump condensing unit components designed for use in configurations with a single condenser and a single evaporator containing R-410A, effective January 1, 2026, with the sale of any such condensing units containing R-410A that are manufactured before January 1, 2026, to be allowed to be sold, exported, and otherwise used in commerce for a period of three (3) years. For commercial systems that have more than one condenser and/or more than one evaporator, it is critical to maintain the existing provision to allow component replacements such that installed systems are able to be maintained without requiring a complete system replacement.

The most straightforward way to accomplish this is to modify the provisions of § 84.54(e) as follows:

The following actions, upon charging the system to full charge, are considered an installation of an air conditioning or heat pump system under paragraph (c) of this section:

- 1) Assembling a system for the first time from used or new components;
- 2) Increasing the cooling capacity, in BTU/hr., of an existing system;
- 3) For an existing system with a single condenser and single evaporator, replacing the exterior condenser, condensing unit, or remote condensing unit; or
- 4) For an existing system having more than one condenser and/or more than one evaporator, modifying the system such that the system has undergone cumulative replacements, within any three-year time period, of 75% or more of evaporators (by number) and 100% of the compressor racks, condensers, and connected evaporator loads of an existing system.

This would facilitate the transition to climate-friendly substitute refrigerants in a market- and consumer-friendly way and not unduly or materially perturb the U.S. HVACR market's shift to new equipment utilizing refrigerants with lower GWP. Nor would it result in any meaningful impact on the climate or otherwise affect compliance with the Kigali Amendment's HFC production and consumption phase down, as implemented by the AIM Act. Consumers still would have the option to repair legacy condensing units with replacement parts such as compressors, capacitors, and motors that are not charged with R-410A.

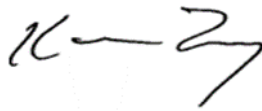
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Thank you for your attention to this matter. The U.S. HVACR industry has long been appreciative of its ability to work constructively with EPA in transitions to next generation refrigerant technologies that have protected the environment and benefited American manufacturers, workers, and consumers. We look forward to continuing this partnership as the agency continues to implement the AIM Act in the years ahead.

Sincerely,



Stephen R. Yurek  
President & CEO  
Air-Conditioning, Heating  
and Refrigeration Institute  
(AHRI)



Kevin Fay  
Executive Director  
Alliance for Responsible  
Atmospheric Policy



Talbot H. Gee  
CEO  
Heating, Air-conditioning &  
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Cc:

Joseph Goffman, Principal Deputy Assistant Administrator, U.S. EPA

Paul Gunning, Director, Office of Atmospheric Protection, U.S. EPA

Cynthia Newberg, Director, Stratospheric Protection Division, U.S. EPA