

The Director of the Stratospheric Protection Division signed the following document on October 7, 2021, and the Agency is submitting it for publication in the Federal Register (FR). While we have taken steps to ensure the accuracy of this Internet version of the document, it is not the official version. Please refer to the official version in a forthcoming FR publication, which will appear on the Government Printing Office's website (<https://www.govinfo.gov>) and on Regulations.gov (<https://www.regulations.gov>) in Docket No. EPA-HQ-OAR-2021-0643. Once the official version of this document is published in the FR, this version will be removed from the Internet and replaced with a link to the official version.

6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OAR-2021-0643; FRL-9128-01-OAR]

Notice of Determination to Grant or Partially Grant Certain Petitions Submitted under Subsection (i) of the American Innovation and Manufacturing Act of 2020

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The purpose of this notice is to alert the public of the Administrator's decision to grant in full ten petitions and partially grant one petition submitted under subsection (i) of the American Innovation and Manufacturing Act of 2020. These petitions request that the Environmental Protection Agency restrict the use of certain regulated substances, as defined in the American Innovation and Manufacturing Act of 2020, in certain applications, pursuant to its authority under subsection (i) to promulgate rules that restrict, fully, partially, or on a graduated schedule, the use of a regulated substance in the sector or subsector in which the regulated substance is used. Information considered by the Agency in its evaluation of these petitions is available in the docket associated with this notice.

DATES: Petitions referenced in this notice were granted by the Administrator via letters signed on October 7, 2021.

FOR FURTHER INFORMATION CONTACT: Joshua Shodeinde, Stratospheric Protection Division, Office of Atmospheric Programs (6205T), Environmental Protection Agency, telephone number: 202-564-7037; email address: shodeinde.joshua@epa.gov. You may also visit EPA's website at <https://www.epa.gov/climate-hfcs-reduction> for further information.

SUPPLEMENTARY INFORMATION:

I. Background

Subsection (i) of the American Innovation and Manufacturing Act of 2020 (AIM Act or Act),¹ entitled “Technology Transitions,” provides that the Administrator may by rule restrict, fully, partially, or on a graduated schedule, the use of a regulated substance in the sector or subsector in which the regulated substance is used. Under subsection (i)(3) a person may petition the Administrator to promulgate a rule for the restriction on use of a regulated substance² in a sector or subsector which shall include a request that the Administrator negotiate with stakeholders in accordance with subsection (i)(2)(A). Once the Environmental Protection Agency (EPA) receives a petition, the AIM Act directs the Agency to make petitions publicly available within 30 days of receipt and to grant or deny the petition within 180 days of receipt, taking the factors listed in subsection (i)(4) into account to the extent practicable.

The Agency has received a number of petitions under subsection (i) of the AIM Act requesting that EPA promulgate rules to restrict the use of hydrofluorocarbons in certain refrigeration, air conditioning, foam and aerosol applications.³ After reviewing information provided by petitioners, relevant information collected and summarized in technical memos available in the docket, the Administrator has made determinations concerning 11 petitions—specifically, to grant ten petitions and partially grant one petition. EPA’s letters to petitioners are contained in the docket for this action, along with a number of technical memos and a summary and determination document that highlights the statutory factors considered for each petition and

¹ The AIM Act was enacted as section 103 in Division S, Innovation for the Environment, of the Consolidated Appropriations Act, 2021 (Pub. L. 116-260).

² The Act provides that “regulated substance” refers to those substances included in the list of regulated substances in subsection (c)(1) of the Act and those substances that the Administrator has designated as a regulated substance under subsection (c)(3). Subsection (c)(1) lists 18 saturated hydrofluorocarbons (HFCs), and by reference their isomers not so listed, as regulated substances. This is the current list of regulated substances, as no additional substances have been designated as regulated substances under subsection (c)(3).

³ A full list of petitions received to date under subsection (i) of the AIM Act with links to copies of the petitions can be found in the table at <https://www.epa.gov/climate-hfcs-reduction/petitions-under-aim-act>. The EPA has also opened a docket (Docket ID EPA-HQ-OAR-2021-0289-0044), where all subsection (i) petitions are posted, and where the public may submit information related to those petitions. We have also opened a separate docket, (Docket ID EPA-HQ-OAR-2021-0643) for the 11 petitions that have been granted or partially granted.

This document is a prepublication version, signed by the Director of the Stratospheric Protection Division on 10/7/21. We have taken steps to ensure the accuracy of this version, but it is not the official version.

the rationale for EPA’s decision. At this time, the Agency is not taking action on any other petitions or on certain elements of one petition (i.e., California Resources Air Board et al.).

II. Which petitions is EPA granting?

Table 1 lists the petitions that EPA is granting or partially granting.

Table 1. List of Granted or Partially Granted Petitions

Petitioner	Topic	EPA Determination
Natural Resources Defense Council (NRDC), Colorado Department of Public Health & Environment (CDPHE), and Institute for Governance & Sustainable Development (IGSD)	“Replicate HFC Prohibitions from SNAP Rules 20 & 21”	Grant
DuPont	“Replicate SNAP Rule 20 with Regard to the Phase-out of HFC-134a in Extruded Polystyrene Boardstock and Billet (XPS) End-use”	Grant
DuPont	“Replicate SNAP Rule 21 with Regard to Rigid Polyurethane Low-pressure Two-component Spray Foam (2K-LP SPF) End-use”	Grant
American Chemistry Council’s Center for the Polyurethanes Industry (CPI)	“Replicate SNAP Rules 20 and 21 HFC prohibitions for the Polyurethane Industry”	Grant
Household & Commercial Products Association (HCPA) and National Aerosol Association (NAA)	“Replicate SNAP Rules 20 and 21 HFC prohibitions for Aerosol Propellants”	Grant
Environmental Investigation Agency (EIA) et al.	“Restrict the Use of HFCs in Certain Stationary Refrigeration and Air Conditioning End-uses”	Grant
Air Conditioning, Heating, and Refrigeration Institute (AHRI) et al.	“Restrict the Use of HFCs in Residential and Light Commercial Air Conditioners”	Grant
Air Conditioning, Heating, and Refrigeration Institute (AHRI) et al.	“Restrict the Use of HFCs in Certain Commercial Refrigeration Equipment”	Grant
Association of Home Appliance Manufacturers (AHAM)	“Restrict the Use of HFCs in Certain Air Conditioners and Dehumidifiers”	Grant
International Institute of Ammonia Refrigeration (IIR) et al.	“Restrict the Use of HFCs in Certain Refrigeration End-Uses”	Grant
California Air Resources Board et al.	“Replicate HFC Prohibitions from SNAP Rules 20 & 21 and Issue Additional Federal Standards”	Partial Grant

This document is a prepublication version, signed by the Director of the Stratospheric Protection Division on 10/7/21. We have taken steps to ensure the accuracy of this version, but it is not the official version.

Subsection (i)(4) of the AIM Act identifies factors for the Agency to consider to the extent practicable when making a determination to grant or deny a petition. As stated above, EPA considered available information related to these factors in its determination to grant and partially grant the petitions listed in Table 1, and this information can be found in the docket with this notice.

III. What happens after EPA grants a petition?

Where the Agency grants a petition submitted under subsection (i) of the AIM Act, the statute requires that EPA promulgate a final rule not later than two years from the date the Agency grants the petition. Per subsection (i)(1) of the AIM Act, EPA may issue rules that restrict, fully, partially, or on a graduated schedule, the use of a regulated substance in the sector or subsector in which the regulated substance is used. The Act establishes that no rule developed under subsection (i) may take effect earlier than one year after the rule promulgation date. In addition, prior to issuing a proposed rule under subsection (i), EPA must consider negotiating with stakeholders in the sector or subsector in accordance with negotiated rulemaking procedures.⁴ If the Agency decides not to undergo a negotiated rulemaking, the AIM Act requires the Agency to publish an explanation of its decision not to use that procedure.⁵

Cynthia A. Newberg,

Director, Stratospheric Protection Division.

⁴ The negotiated rulemaking procedure is provided under subchapter III of chapter 5 of title 5, United States Code (commonly known as the “Negotiated Rulemaking Act of 1990”).

⁵ EPA intends to issue a separate notice in the Federal Register regarding its consideration of using negotiated rulemaking procedures for a rulemaking that responds to granted and partially granted petitions.