

The EPA Administrator, Michael S. Regan, signed the following interim final rule on 12/20/23, and EPA 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 rule, it is not the official version of the rule for purposes of compliance or effectiveness. Please refer to the official version in a forthcoming FR publication, which will appear on the Government Printing Office's website ([www.gpo.gov/fdsys/search/home.action](http://www.gpo.gov/fdsys/search/home.action)) and on Regulations.gov ([www.regulations.gov](http://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.

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**ENVIRONMENTAL PROTECTION AGENCY**

**[EPA-HQ-OAR-2021-0643; FRL-11594-02-OAR]**

**Phasedown of Hydrofluorocarbons: Technology Transitions Program Residential and Light Commercial Air Conditioning and Heat Pump Subsector**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Interim final rule and request for comments.

**SUMMARY:** The U.S. Environmental Protection Agency is amending a provision of the recently finalized Technology Transitions Program under the American Innovation and Manufacturing Act (AIM Act). This action allows one additional year, until January 1, 2026, solely for the installation of new residential and light commercial air conditioning and heat pump systems using components manufactured or imported prior to January 1, 2025. The existing January 1, 2025, compliance date for the installation of certain residential and light commercial air conditioning and heat pump systems may result in significant stranded inventory that was intended for new residential construction. EPA is promulgating this action to mitigate the potential for significant stranded inventory in this subsector. In addition, EPA is clarifying that residential ice makers are not included in the household refrigerator and freezer subsector under the Technology Transitions Rule and are not subject to the restrictions for that subsector. EPA is requesting comments on all aspects of this rule.

**DATES:** This interim final rule is effective on **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. Comments on this rule must be received on or before **[INSERT DATE 45 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

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**ADDRESSES:** You may send comments, identified by docket identification number EPA-HQ-OAR-2021-0643, by any of the following methods:

- Federal eRulemaking Portal: <https://www.regulations.gov> (our preferred method).

Follow the online instructions for submitting comments.

- Mail: U.S. Environmental Protection Agency, EPA Docket Center, Air and Radiation Docket, Mail Code 2822T, 1200 Pennsylvania Avenue NW, Washington, DC 20460.

- Hand Delivery or Courier (by scheduled appointment only): EPA Docket Center, WJC West Building, Room 3334, 1301 Constitution Avenue, NW, Washington, DC 20004. The Docket Center's hours of operations are 8:30 a.m. – 4:30 p.m., Monday – Friday (except Federal Holidays).

*Instructions:* All submissions received must include the Docket ID number for this rulemaking. Comments received may be posted without change to <https://www.regulations.gov>, including any personal information provided.

You may find the following suggestions helpful for preparing your comments: Direct your comments to specific sections of this rulemaking and note where your comments may apply to future separate actions where possible; explain your views as clearly as possible; describe any assumptions that you used; provide any technical information or data you used that support your views; provide specific examples to illustrate your concerns; offer alternatives; and, make sure to submit your comments by the comment period deadline. Please provide any published studies or raw data supporting your position. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official

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comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*e.g.*, on the web, cloud, or other file sharing system).

Do not submit any information you consider to be Confidential Business Information (CBI) through <https://www.regulations.gov>. For submission of confidential comments, please work with the person listed in the **FOR FURTHER INFORMATION CONTACT** section. For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>.

**FOR FURTHER INFORMATION CONTACT:** Allison Cain, Stratospheric Protection Division, Office of Atmospheric Programs (Mail Code 6205A), Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: 202-564-1566; email address: [cain.allison@epa.gov](mailto:cain.allison@epa.gov). You may also visit EPA's website at <https://www.epa.gov/climate-hfcs-reduction> for further information.

**SUPPLEMENTARY INFORMATION:** EPA is taking this action as an interim final rule without prior proposal and public comment because EPA finds that the good cause exemption from the notice and comment rulemaking requirement of the Administrative Procedure Act (APA), 5 U.S.C. 551 *et seq.*, applies here.

Subsection (k)(1)(C) of the American Innovation and Manufacturing Act (AIM Act) provides that Clean Air Act (CAA) sections 113, 114, 304, and 307 apply to the AIM Act and any regulations EPA promulgates under the AIM Act as though the AIM Act were part of title VI of the CAA. However, section 307(d) does not apply to any rule

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referred to in subparagraphs (A) or (B) of section 553(b) of the APA. *See* CAA section 307(d)(1). Section 553(b)(B) of the APA, 5 U.S.C. 553(b)(B), provides that, when an agency for good cause finds (and incorporates the finding and a brief statement of reasons therefor in the rule issued) that notice and comment public procedures are impracticable, unnecessary or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment.

EPA has determined that there is good cause for promulgating today's rule without prior proposal and opportunity for comment. After signature of EPA's October 2023 final rule that established, among other things, a prohibition beginning on January 1, 2025, of the installation of new residential and light commercial air conditioning and heat pump systems using regulated substances with a global warming potential of 700 or more, stakeholders brought to the Agency's attention that builders order equipment in this subsector well in advance of installation, often even before the installation date is known, and that the final rule's compliance date would potentially strand a significant amount of inventory. EPA is issuing this rule to address these concerns and to mitigate the harm that would be caused by unintentionally stranding inventory as a result of the January 1, 2025, compliance date for the installation of certain air conditioning and heat pump systems. Subsection (i)(6) of the AIM Act states that "[n]o rule under this subsection may take effect before the date that is 1 year after the date on which the Administrator promulgates the applicable rule under this subsection." In order to provide relief for entities subject to the January 1, 2025, compliance date, and in light of subsection (i)(6)'s one-year delay between promulgation and compliance date, EPA is taking this rulemaking action prior to January 1, 2024, one year in advance of the existing

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compliance date. It is impossible for the Agency to conclude a notice-and-comment rulemaking to provide this needed relief by January 1, 2024, and therefore EPA finds that this impracticability constitutes good cause for dispensing with the required procedures under 5 U.S.C. 553(b)(B). Nonetheless, EPA is providing 45 days for submission of public comments following today’s action. EPA will consider all written comments submitted in the allotted time period to determine if any change is warranted. Because the rule revisions relieve a restriction and advance notice is not needed, the rule is effective upon publication.

Throughout this document, whenever “we,” “us,” “the Agency,” or “our” is used, we mean EPA. Acronyms that are used in this rulemaking that may be helpful include:

AC – Air Conditioning  
AHRI – Air-Conditioning, Heating, and Refrigeration Institute  
AIM Act – American Innovation and Manufacturing Act of 2020  
APA – Administrative Procedure Act  
CAA – Clean Air Act  
EPA – U.S. Environmental Protection Agency  
FR – *Federal Register*  
HARDI – Heating, Air-conditioning & Refrigeration Distributors International  
HFC – Hydrofluorocarbon  
OEM – Original Equipment Manufacturer  
SNAP – Significant New Alternatives Policy  
VRF – Variable Refrigerant Flow

## **I. Executive Summary**

### *A. What is the purpose of this regulatory action?*

The U.S. Environmental Protection Agency (EPA) is implementing provisions of the American Innovation and Manufacturing Act of 2020, codified at 42 U.S.C. 7675 (AIM Act or the Act). Subsection (i) of the Act, entitled “Technology Transitions,” authorizes EPA, by rulemaking, to restrict the use of regulated substances (used

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interchangeably with “HFCs” in this document)<sup>1</sup> in sectors or subsectors where the regulated substances are used.

On October 24, 2023, EPA’s final rule establishing the Technology Transitions Program was published in the *Federal Register* (88 FR 73098, hereafter “Technology Transitions Rule”). That rule restricted the use of higher-GWP HFCs in over 40 subsectors in which they are used. It also prohibited, among other things, the manufacture and import of factory-completed products and the installation of certain refrigeration, air conditioning, and heat pump systems using higher-GWP HFCs. The compliance dates for these restrictions vary by subsector and range from January 1, 2025, to January 1, 2028. The rule also prohibited the sale, distribution, and export of factory-completed products that do not comply with the relevant restrictions three years after the prohibition on manufacture and import.

After issuance of the Technology Transitions Rule, manufacturers, importers, and distributors of residential and light commercial air conditioning and heat pump equipment informed EPA that the compliance date for the restriction on installation will result in substantial stranded inventory in that subsector for residential new construction, including both single-family and multi-family dwellings, where builders order heating and cooling equipment well in advance of knowing the exact date of installation. This rule narrowly addresses the unique circumstances of that particular subsector to prevent such equipment from being stranded.

*B. What is the summary of this regulatory action?*

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<sup>1</sup> The Act lists 18 saturated HFCs, and by reference any of their isomers not so listed, that are covered by the statute’s provisions, referred to as “regulated substances” under the Act.

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This interim final rulemaking provides one additional year for the installation of new residential and light commercial air conditioning and heat pump systems when using components that were manufactured or imported before January 1, 2025. Specifically, this rule allows for pre-2025 condensing units, evaporators, and air handlers using R-410A, or other regulated substances and blends of regulated substances not meeting the Technology Transitions Rule's restrictions, to be assembled into new systems (*i.e.*, installed), so long as those systems are assembled prior to January 1, 2026.

We also clarify that residential ice makers are not included in the household refrigerator and freezer subsector and are not subject to the restrictions for that subsector under the Technology Transitions Rule. The preamble to the Technology Transitions Rule incorrectly included them as an example of a product in that subsector.

*C. What is the summary of the costs and benefits?*

This rule will reduce regulatory burden associated with the Technology Transitions Program while having a negligible environmental impact. Original equipment manufacturers (OEMs) have indicated that collectively, over \$1 billion of inventory could go unsold without an extension of the installation date. Stranding significant amounts of equipment that does not meet the new restrictions is counter to the overall approach EPA has taken in the Technology Transitions Rule. Extending the installation date for these systems will not have an impact on the benefits modeled in the Technology Transitions Rule because EPA is limiting the extension to equipment manufactured or imported before the existing compliance date of January 1, 2025.

## **II. General Information**

*A. Does this action apply to me?*



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You may be potentially affected by this rule if you manufacture, import, export, sell or otherwise distribute, or install residential and light commercial air conditioning and heat pump equipment. Potentially affected categories, by North American Industry Classification System code, include:

- Plumbing, Heating, and Air Conditioning Contractors (238220)
- Air Conditioning and Warm Air Heating Equipment and Commercial and Industrial Refrigeration Equipment Manufacturing (333415)
- Major Household Appliance Manufacturing (335220)
- Household Appliances, Electric Housewares, and Consumer Electronics Merchant Wholesalers (423620)
- Plumbing and Heating Equipment and Supplies (Hydronics) Merchant Wholesalers (423720)
- Warm Air Heating and Air Conditioning Equipment and Supplies Merchant Wholesalers (423730)
- Appliance Stores, Household-Type (449210)
- Appliance Repair and Maintenance (811412)

This list is not intended to be exhaustive, but rather provides a guide for readers regarding entities that EPA expects could potentially be affected by this action. Other types of entities not listed could also be affected. To determine whether your entity may be affected by this action, you should carefully examine the regulatory text at the end of this notice. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

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*B. What is EPA's authority for taking this action?*

On December 27, 2020, the AIM Act was enacted as section 103 in Division S, Innovation for the Environment, of the Consolidated Appropriations Act, 2021 (codified at 42 U.S.C. 7675). Subsection (k)(1)(A) of the AIM Act provides EPA with the authority to promulgate necessary regulations to carry out EPA's functions under the Act, including its obligations to ensure that the Act's requirements are satisfied. Subsection (k)(1)(C) of the AIM Act also provides that CAA sections 113, 114, 304, and 307 apply to the AIM Act and any regulations EPA promulgates under the AIM Act as though the AIM Act were part of title VI of the CAA.

The AIM Act authorizes EPA to address HFCs by providing new authorities in three main areas: phasing down the production and consumption of listed HFCs; managing these HFCs and their substitutes; and facilitating the transition to next-generation technologies by restricting use of these HFCs in the sector or subsectors in which they are used. This rulemaking focuses on the third area: the transition to next-generation technologies by restricting use of these HFCs in the sector or subsectors in which they are used. Subsection (i) of the AIM Act, "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." 42 U.S.C. 7675(i)(1). The Act lists 18 saturated HFCs, and by reference any of their isomers not so listed, that are covered by the statute's provisions, referred to as "regulated substances" under the Act.<sup>2</sup> (42 U.S.C. 7675(c)(1)). Through

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<sup>2</sup> As noted previously in this notice, "regulated substance" and "HFC" are used interchangeably in this notice.

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this rule, EPA is amending recently finalized restrictions on the use of certain HFCs in the residential and light commercial air conditioning and heat pump subsector.

*C. How is EPA considering negotiated rulemaking?*

Prior to proposing a rule, subsection (i)(2)(A) of the Act directs EPA to consider negotiating with stakeholders in the sector or subsector subject to the potential rule in accordance with negotiated rulemaking procedures established under subchapter III of chapter 5 of title 5, United States Code (commonly known as the “Negotiated Rulemaking Act of 1990”). If EPA makes a determination to use the negotiated rulemaking procedures, subsection (i)(2)(B) requires that EPA, to the extent practicable, give priority to completing that rulemaking over completing rulemakings under subsection (i) that are not using that procedure. If EPA does not use the negotiated rulemaking process, subsection (i)(2)(C) requires the Agency to publish an explanation of the decision not to use that procedure before commencement of the rulemaking process.

EPA noted in the final Technology Transitions Rule that, where appropriate, EPA will consider recent Agency actions and decisions related to restrictions on the use of HFCs in sectors and subsectors when considering using negotiated rulemaking procedures. EPA provided the example of not issuing a separate notice to consider using negotiated rulemaking for four petitions received after a first round of petitions had received public notice. EPA’s reasoning was that these petitions were received well ahead of the final action and the requested restrictions are in the same sectors and subsectors contained in petitions for which a determination had already been made. EPA stated that nothing in those four petitions caused EPA to reconsider that decision and that

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it was unnecessary for the Agency to reconsider whether to use negotiated rulemaking procedures.

Upon considering recent Agency action, specifically the Technology Transitions Rule, today's interim final rulemaking does not merit a reconsideration of the prior determination not to use negotiated rulemaking procedures. This rule is a direct and immediate response to a specific concern arising from the recent agency action to establish a compliance date for the installation of certain systems within the residential and light commercial air conditioning and heat pump subsector. EPA is not addressing a new subsector nor even establishing a new restriction. Instead, this rule provides targeted relief to address concerns about stranded inventory in a particular subsector subject to a recently finalized restriction.

Furthermore, this action has been requested through a November 13, 2023, letter signed jointly by the Air-Conditioning, Heating, and Refrigeration Institute (AHRI), the Alliance for Responsible Atmospheric Policy (the Alliance), and Heating, Air-conditioning & Refrigeration Distributors International (HARDI), which together represents a majority of the stakeholders in the subsector subject to the rule.<sup>3</sup> EPA does not believe that the rule would benefit from the negotiated rulemaking procedure especially because timeliness is a concern universally shared by stakeholders in this subsector.

### **III. Final Rule**

#### *A. Addressing Stranded Inventory*

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<sup>3</sup> This letter can be found in the docket for this interim final rule at EPA docket number EPA-HQ-OAR-2021-0643.

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The November 13, 2023, letter to the EPA from AHRI, the Alliance, and HARDI requested clarification of the provisions of the rule regarding two categories of equipment: Residential and Light Commercial Air Conditioning and Heat Pump Systems and Variable Refrigerant Flow (VRF) Systems. The letter states that these organizations understand that components for systems in these two categories manufactured or imported before January 1, 2025, and January 1, 2026, respectively, using a regulated substance with a GWP of 700 or more, cannot be installed as new systems after each such compliance date. 40 CFR 84.54(a)-(c). They note that this would be “particularly problematic for residential new construction, including both single-family and multi-family dwellings, where builders order heating and cooling equipment well in advance of knowing the exact date of install. Such equipment is not installed until construction is nearly complete, but at time of order builders do not know when this date will be.” The letter further articulates that allowing the use of components manufactured or imported prior to the compliance date to be installed as part of new systems for one year after the compliance date would provide some relief to the economic and practical burdens.

An important consideration in the final rule was avoiding the stranding of inventory of existing equipment. This includes systems that are already installed and operating as well as unsold equipment in the manufacturing and distribution chain. EPA stated that “[w]e recognize that the production and purchase of products or components that are unable to be sold to consumers is an economic and environmental outcome no parties desire, and the proposed rule’s forward-looking compliance dates were intended to allow all parties in the market supply chain sufficient time to avoid that outcome.” 88 FR 73123. In response to concerns about stranded inventory raised during the public

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comment period on the proposed rule, EPA made two significant adjustments in the final rule.

First, EPA removed the applicability of the rule's use restrictions to components. EPA explained that components are pieces of equipment that, unlike factory-completed products, do not function independently and must be assembled together in the field in order to function for its intended purpose. Components are replaceable and a faulty component can be swapped out to avoid replacing an entire system. Recognizing the ongoing need for servicing and updating previously installed systems, EPA allowed for the continued manufacture, import, sale, distribution, offer for sale and distribution, and export of components that rely on regulated substances, which would not meet the new restrictions. Components are therefore not subject to the restrictions in the Technology Transitions Rule, except insofar as those components may not be installed in new systems on or after the installation compliance dates.

Second, the rule imposed a date by which factory-completed products, more narrowly defined as an item that is functional upon completion of manufacturing, could no longer be distributed, sold, and offered for sale or distribution, and extended that date in the final rule. EPA proposed that the "sell-through" limitation for such products would be one year after the compliance date for manufacturing and importing. The Agency received many comments on this topic, including from those that considered one year to be insufficient especially for certain seasonal products. In the final rule, EPA provided a sell-through for factory-completed products for three years after the manufacture and import compliance date.

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Through these two modifications in the final rule, EPA believed it had minimized the potential for stranded inventory. Specifically, with respect to components, the Agency's view was that there would continue to be a market for components not meeting the GWP limit thresholds for new systems, because those components could continue to enter the market to service existing systems. However, since the rule's signature, stakeholders representing the air conditioning and heat pump subsector have raised concerns indicating that certain aspects of the rule's compliance date structure may result in unintended stranded inventory. EPA has reevaluated the specific circumstances for residential and light commercial air conditioning and heat pumps, and for the reasons articulated below is extending the installation compliance date for that subsector from January 1, 2025, to January 1, 2026, when using components that were manufactured or imported prior to January 1, 2025. In this interim final rule, the Agency is not considering the January 1, 2026, installation compliance date applicable to VRF systems; however, EPA intends to consider VRF systems in a separate notice and comment action.

EPA has evaluated the planning, purchasing, and installation timeframes for residential new construction as referenced in the November 13, 2023, letter from industry stakeholders. We recognize that it is common in the residential new construction industry for communities and dwellings to be planned well in advance, including plans for the heating and cooling systems intended to be installed in that new construction. Builders of residential new construction may order those planned heating and cooling systems in concert with the planning process without knowing when those systems will be installed. As noted by stakeholders, installation of these systems is often one of the final steps in residential construction. We acknowledge that it may therefore be the case that for new

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residential construction planned to occur in 2025, builders may have already taken action with respect to the heating and cooling systems that are planned to be installed in that new construction. Specifically, for construction occurring during 2025, components of residential and light commercial air conditioning and heat pump systems may have already been ordered or purchased by builders, such that leaving the January 1, 2025, installation compliance date unaltered could result in builders of new residential construction being left with stranded inventory—residential and light commercial air conditioning and heat pump components—that could not be used. In particular, because such equipment may already be well along the distribution chain, including in the possession of the end-user builder, it would be challenging to redirect that equipment to another user who would be in a different segment of the market, such as those servicing existing systems. As discussed, EPA made changes to the final Technology Transitions Rule specifically to avoid stranding inventory, as this outcome is undesirable economically and environmentally, and the issue addressed in this rule was not brought to the Agency’s attention until after the final rule was signed. This action’s extension of the January 1, 2025, new installation compliance date to January 1, 2026, for components that were manufactured or imported prior to January 1, 2025, is intended to avoid stranding those components in the distribution chain.

We also acknowledge that some areas of the residential and light commercial air conditioning and heat pump subsector are experiencing rapid growth. In 2022, sales of heat pumps in the United States outpaced gas furnaces for the first time ever, following a 50% increase from 2015 to 2020. For certain technologies with extremely limited historic use in the United States, such as mini-split and multi-split systems, the final Technology



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Transitions Rule's continued allowance of high-GWP HFCs in components for repair and servicing only may be insufficient to absorb projected inventory of those components. Anticipated manufacture and import of mini-split systems, for example, is much larger than the stock of installed systems that are old enough to need components for repair or replacement. The nascent and rapid expansion of certain subsets of the residential and light commercial air conditioning and heat pump subsector therefore further supports the extension of the January 1, 2025, compliance date to January 1, 2026, for installation of components manufactured or imported prior to January 1, 2025.

*B. Limiting the environmental impact of this action*

EPA is narrowly tailoring this rule to respond to stakeholder concerns about stranded inventory in this subsector while maintaining the environmental benefits of the Technology Transitions Rule. To do so, EPA is extending the installation compliance date only for new systems installed from specified components (*e.g.*, condensing units and indoor evaporators) that were manufactured or imported prior to January 1, 2025. This restriction means that the total number of higher-GWP systems installed in 2024 and 2025 would match what the Agency modeled for installation in 2024. The extra year for installation would not increase demand for HFCs in this subsector but rather could shift some of the demand from 2024 into 2025.

EPA is not extending the original compliance date for new installations in this subsector beyond January 1, 2025, when using components manufactured or imported on or after January 1, 2025. These components remain subject to the original restrictions of the Technology Transitions Rule. Specifically, if they contain an HFC with a GWP of 700 or greater their use is limited to servicing previously installed systems. As elaborated

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on more below, all the existing labeling, reporting, and recordkeeping requirements also continue to apply to components using, or intended to use, any HFC. Extending the compliance date for all installations in the subsector by one year is not warranted based on EPA's prior analysis of the availability of substitutes within this subsector, as described in the Technology Transitions Rule and supporting documents in the docket for that rule.

EPA finds that this approach effectively responds to stakeholder concerns about stranded inventory while remaining protective of the environment. This approach was suggested by industry stakeholders in their letter dated November 13, 2023, and it aligns with industry's plans to transition in this subsector.

This interim final rule provides an additional year for installation only if all "specified components" of that system are manufactured or imported prior to January 1, 2025. The term "specified component" is defined under the Technology Transitions Rule as "condensing units, condensers, compressors, evaporator units, and evaporators." Other components of an air conditioning or heat pump system such as valves or refrigerant piping are not restricted by the Technology Transitions Rule and can be installed regardless of manufacture or import date.

*C. How do the labeling, recordkeeping, and reporting provisions apply?*

The Technology Transitions Rule requires labels on products and certain components that use HFCs. The labeling requirement takes effect for each subsector at the same time as the manufacture and import prohibition for products or the installation prohibition for systems. This timing reflects the primary purpose of the labels, which is

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for assessing compliance of products and systems in sectors and subsectors with active HFC restrictions.

This action does not require any specific labeling for components that are manufactured or imported prior to January 1, 2025. Nameplates typically include the date that a component is manufactured, which is sufficient for the purposes of this rule. Furthermore, it would be impractical to require entities that are not OEMs to relabel components that are already within the distribution chain.

This action does not change the existing labeling requirements related to components that are effective January 1, 2025. For specified components of systems, the Technology Transitions Rule required labels as of the applicable installation compliance date. This means that for specified components manufactured or imported on or after January 1, 2025, the final Technology Transition Rule's requirements continue to apply. These requirements include, among other things, that such components must be labeled with the statement "For servicing existing equipment only." This labeling is particularly important to distinguish components manufactured or imported before January 1, 2025, from those that are not.

The Technology Transitions Rule established recordkeeping and reporting requirements for any entity that manufactures or imports products or specified components that use or are intended to use HFCs in the sectors and subsectors covered in that rule. The reporting period for all sectors and subsectors starts on January 1, 2025, and the first reports must be submitted to the Agency by March 31, 2026.

This action does not add to nor modify the existing reporting and recordkeeping requirements for specified components. EPA is not establishing new reporting and

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recordkeeping requirements related to the sale or installation of components manufactured or imported prior to January 1, 2025. Reporting and recordkeeping is still required for specified components that are manufactured or imported on or after January 1, 2025.

*D. Evaluation of the subsection (i)(4) factors*

Subsection (i)(4) of the AIM Act directs EPA to factor in, to the extent practicable and using best available data, various considerations when carrying out a rulemaking under subsection (i). As discussed in detail in the preamble to the final Technology Transitions Rule, EPA views subsection (i)(4)(A) through (D) as providing overarching direction for setting restrictions under subsection (i). 88 FR at 73129-73141. EPA is not in this rule reconsidering the interpretations provided in the final Technology Transitions Rule regarding how it considers the factors laid out in subsection (i)(4). Nor is the Agency revisiting its analysis of the (i)(4) factors with respect to the residential and light commercial air conditioning and heat pump subsector as set forth in the final rule preamble. 88 FR 73177-73180. However, in issuing this narrow adjustment to the January 1, 2025, compliance date for the residential and light commercial air conditioning and heat pump subsector, we have considered the (i)(4) factors to the extent practicable, as applicable to the Agency's adjustment of that compliance date.

The issue being addressed by this interim final rule was brought to the Agency's attention by stakeholders impacted by the Technology Transitions Rule. As noted in EPA's discussion of subsection (i)(4)(A), in addition to information generated by other governing bodies and agencies, the Agency does also take into account information provided by industry, environmental organizations, trade associations, and academia, to

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name a few. *See* 88 FR 73129. We acknowledge that in some cases, regulated entities may be best situated to identify best available information regarding implementation challenges. We are as part of this action providing an opportunity for comment and invite stakeholders who may have information relevant to this action to weigh in.

With respect to the Agency's evaluation of the availability of substitutes under subsection (i)(4)(B), EPA previously determined that substitutes with a GWP less than 700 are available effective January 1, 2025, for the residential and light commercial air conditioning and heat pump subsector. EPA has not changed that determination and continues to find that substitutes with a GWP less than 700 will be available January 1, 2025, across this subsector. Manufacturers and importers in this subsector are currently making air conditioning and heat pump systems and components with lower-GWP refrigerants for other markets and are prepared to meet the January 1, 2025, installation compliance date for such systems. This action is not reconsidering the Agency's prior evaluation of the availability of substitutes for meeting the use restrictions issued in the final Technology Transitions Rule for this subsector; rather, this action is narrowly tailored to address the disposition of components manufactured or imported prior to January 1, 2025.

EPA's action to adjust the installation compliance date for certain installations within this subsector is motivated in large part by the policy goal of avoiding stranding inventory where possible. We believe this goal to be consistent with the direction in subsection (i)(4)(C), which instructs the Agency to factor in, to the extent practicable, overall economic costs and environmental impacts, as compared to historical trends. As discussed in the Technology Transitions Rule, EPA interprets (i)(4)(C) as purposefully

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accommodating different types and degrees of analysis of economic costs and environmental impacts, including costs and impacts that may be difficult to quantify. The narrow adjustment made in this interim final rule reduces the potential to unintentionally strand components. This action will not affect the overall consumption of HFCs and thus is not anticipated to have environmental impacts compared to the recently finalized Technology Transitions Rule. Further discussion of environmental impacts can be found in Section III.B.

EPA requests comment on the incremental costs and benefits associated with this action, including avoiding impacts such as stranded inventory (*e.g.*, number and type of units affected) and on the incremental impacts to regulated entities regarding compliance (*e.g.*, avoiding redistribution of equipment, avoiding revisions or new permits to replace previously secured building permits).

Finally, subsection (i)(4)(D) directs the Agency to factor in, to the extent practicable, the remaining phasedown period for regulated substances under the allowance allocation program. The reduction in the supply of HFCs is an important factor supporting compliance dates and GWP limits that are as stringent as feasible under the analysis of all the (i)(4) factors. EPA finds that this rule will not materially affect the demand for HFCs because it limits installations to components that were manufactured or imported prior to January 1, 2025. The effect of this rule is to extend the installations that EPA modeled to occur in 2024 over the two-year period of 2024 and 2025. EPA does not anticipate an increase from the total number of installed systems modeled in the Technology Transitions Rule's Regulatory Impact Assessment Addendum. Were the Agency to allow for the installation of new systems using components manufactured or

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imported through January 1, 2026, for instance, EPA would then find an effect on the number of new systems and increased demand for HFCs.

#### **IV. Other matters**

This notice is also providing a clarification regarding the scope of equipment within the household refrigerators and freezers subsector. For the reasons discussed below, household ice makers are not included within that subsector for purposes of the Technology Transitions Rule.

The proposed Technology Transitions Rule provided a functional description of the equipment found in each subsector and a non-exhaustive list of examples. EPA did not list all of the applications within a particular subsector given the variety of equipment types and end-uses. The proposed rule listed residential refrigeration systems as household refrigerators, freezers, and combination refrigerator/freezers and described the subsector as follows: “The designs and refrigeration capacities of equipment vary widely. Household freezers only offer storage space at freezing temperatures, while household refrigerators only offer storage space at non-freezing temperatures. Products with both a refrigerator and freezer in a single unit are most common. For purposes of this proposed rule, other small refrigerated household appliances such as chilled kitchen drawers, wine coolers, and minifridges also fall within this subsector.” 87 FR 76785.

The final rule incorrectly added “household ice makers” to the list of examples. 88 FR 73173. The functional description of this subsector in the Technology Transitions Rule remained the same between proposal and final and was equipment that offers storage space at freezing and non-freezing temperatures. Residential ice makers merit additional consideration because they are primarily designed to produce the ice in

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addition to providing storage for that ice at freezing temperatures. The types of ice and processes used to make them may differ from the other equipment covered by the restrictions for this subsector and additional analysis of available substitutes for household ice makers is warranted. As such, EPA does not consider residential ice makers to be within the scope of the household refrigerators and freezers subsector or the requirements of the Technology Transitions Rule.

## **V. Statutory and Executive Order Review**

Additional information about these statutes and Executive Orders can be found at <https://www.epa.gov/laws-regulations/laws-and-executive-orders>.

### *A. Executive Order 12866: Regulatory Planning and Review and Executive Order 14094: Modernizing Regulatory Review*

This action is a “significant regulatory action” under Executive Order 12866, as amended by Executive Order 14094. Nevertheless, the Office of Management and Budget waived review of this action. The EPA prepared an analysis of the potential impacts associated with this action. This analysis, *Regulatory Impact Analysis of the Proposed Waste Emission Charge*, is available in docket EPA-HQ-OAR-2023-0434 to this rulemaking and is briefly summarized in Section V of this preamble.

### *B. Paperwork Reduction Act (PRA)*

This action does not impose an information collection burden under the PRA because it does not contain any information collection activities.

### *C. Regulatory Flexibility Act (RFA)*

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. In making this determination, EPA



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concludes that the impact of concern for this rule is any significant adverse economic impact on small entities and that the agency is certifying that this rule will not have a significant economic impact on a substantial number of small entities because the rule relieves regulatory burden on the small entities subject to the rule. This rule prevents the stranding of components used to install residential and light commercial air conditioning and heat pump systems. We have therefore concluded that this action will relieve regulatory burden for all directly regulated small entities.

*D. Unfunded Mandates Reform Act (UMRA)*

This action does not contain any unfunded mandate as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. The action imposes no enforceable duty on any state, local or tribal governments or the private sector.

*E. Executive Order 13132: Federalism*

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

*F. Executive Order 13175: Consultation and Coordination with Indian Tribal Governments*

This action does not have tribal implications as specified in Executive Order 13175. It will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of

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power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this action.

*G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks*

EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that EPA has reason to believe may disproportionately affect children, per the definition of “covered regulatory action” in section 2-202 of the Executive Order. This action is narrowly tailored to prevent the stranding of certain air conditioning and heat pump equipment while not affecting the demand for HFCs. Therefore, this action is not subject to Executive Order 13045 because it does not concern an environmental health risk or safety risk. Since this action does not concern human health, EPA’s Policy on Children’s Health also does not apply.

*H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use*

This action is not a “significant energy action” because it is not likely to have a significant adverse effect on the supply, distribution or use of energy. This action applies to certain regulated substances and certain applications containing regulated substances, none of which are used to supply or distribute energy.

*I. National Technology Transfer and Advancement Act (NTTAA)*

This rulemaking does not involve technical standards.

*J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations and Executive Order 14096: Revitalizing Our Nation’s Commitment to Environmental Justice for All*

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The EPA believes that this type of action does not concern human health or environmental conditions and therefore cannot be evaluated with respect to potentially disproportionate and adverse effects on communities with environmental justice concerns. This action is narrowly tailored to prevent the stranding of inventory of air conditioning and heat pump equipment while not affecting the demand for HFCs.

Although this action does not concern human health or environmental conditions, the EPA identified and addressed environmental justice concerns within the Technology Transitions Rule (88 FR 73098; October 24, 2023).

*K. Congressional Review Act (CRA)*

This action is subject to the CRA, and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. The CRA allows the issuing agency to make a rule effective sooner than otherwise provided by the CRA if the agency makes a good cause finding that notice and comment rulemaking procedures are impracticable, unnecessary or contrary to the public interest (5 U.S.C. 808(2)). The EPA has made a good cause finding for this rule as discussed in the supplementary information section of the preamble where this is discussed, including the basis for that finding.

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### **List of Subjects in 40 CFR Part 84**

Environmental protection, Administrative practice and procedure, Air pollution control, Chemicals, Climate Change, Emissions, Imports, Reporting and recordkeeping requirements.

**Michael S. Regan,**

Administrator.

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For the reasons stated in the preamble, EPA amends 40 CFR part 84 as follows:

**PART 84-PHASEDOWN OF HYDROFLUOROCARBONS**

1. The authority citation for part 84 continues to read as follows:

**Authority:** Pub. L. 116-260, Division S, Sec. 103.

Subpart B [Amended]

2. Amend § 84.54 by revising paragraph (c)(1) as follows:

**§ 84.54 Restrictions on the use of hydrofluorocarbons.**

\* \* \* \* \*

(c) \* \* \*

(1) Effective January 1, 2025, residential or light commercial air-conditioning or heat pump systems using a regulated substance, or a blend containing a regulated substance, with a global warming potential of 700 or greater, except for variable refrigerant flow air-conditioning and heat pump systems. New residential and light commercial air-conditioning and heat pump systems using a regulated substance, or a blend containing a regulated substance, with a global warming potential of 700 or greater may be installed prior to January 1, 2026, where all specified components of that system are manufactured or imported prior to January 1, 2025.

\* \* \* \* \*