

**BEFORE THE UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY**

**In re: Phasedown of Hydrofluorocarbons:
Management of Certain Hydrofluorocarbons
and Substitutes Under the American
Innovation and Manufacturing Act of 2020**

Docket No. EPA-HQ-OAR-2022-0606

PETITION FOR RULEMAKING

Pursuant to 42 U.S.C. § 7607(d)(7)(B),¹ 5 U.S.C. § 553(e), and the First Amendment,² FMI – The Food Industry Association (“FMI” or “Petitioner”) respectfully petitions the Administrator of the United States Environmental Protection Agency (“EPA” or the “Agency”) to reconsider or otherwise amend certain aspects of the final rule entitled *Phasedown of Hydrofluorocarbons: Management of Certain Hydrofluorocarbons and Substitutes Under the American Innovation and Manufacturing Act of 2020*, 89 Fed. Reg. 82,682 (Oct. 11, 2024) (the “HFC Management Rule,” the “Final Rule,” or “Rule”).

The current costs borne by the food industry associated with the Final Rule were not completely known and therefore could not be raised completely during the comment period as these economic conditions had not yet completely materialized, though the industry predicted the impacts the Final Rule would have on costs. As the initial compliance deadlines have approached, the industry has more data about impracticability and costs associated with the Final

¹ Under AIM Act subsection (k)(1)(C), the provisions of Clean Air Act section 307 apply to the AIM Act and “any rule, rulemaking, or regulation promulgated by the Administrator” under the AIM Act, as though the AIM Act was “expressly included in title VI of [the Clean Air] Act.” 42 U.S.C. 7675(k)(1)(C) (incorporating by reference, *inter alia*, 42 U.S.C. 7607).

² U.S. Const. amend I (protecting the right to petition the Government for redress of grievances).

Rule, which are discussed more fully below. Because FMI’s objections in this petition go to the actual achievability and cost-effectiveness of the rule as finalized, they are also of central relevance to the rule’s outcome. Accordingly, this petition satisfies the criteria and requirements of CAA section 307(d)(7)(B) regarding mandatory reconsideration, and EPA should “convene a proceeding for reconsideration of the rule.”

Given the imminent January 1, 2026 compliance deadlines for some requirements, and the significant risk that this unexpectedly costly rule would further exacerbate grocery prices for American families, EPA should stay the Rule’s effectiveness for three months during the reconsideration. EPA should also consider any other available relief to the industry, such as enforcement discretion or other regulatory relief from the upcoming compliance deadlines.

Alternatively, for the same reasons—increases in compliance costs likely to be passed on to American consumers—the Administrator should treat this as a petition for discretionary rulemaking. And we urge EPA to amend the imminent compliance dates to ensure that American families are not burdened in their ability to buy groceries as a result of the Rule.

I. Introduction

As the food industry association, FMI works with and on behalf of the entire industry to advance a safer, healthier, and more efficient consumer food supply chain. FMI brings together a wide range of members across the value chain — from retailers that sell to consumers, to producers that supply food and other products, as well as the wide variety of companies providing critical services — to amplify the collective work of the industry.³ While we support the American Innovation and Manufacturing Act’s (“AIM Act”) goal of reducing emissions of hydrofluorocarbons (HFCs) by phasing down HFC production and consumption, transitioning to

³ More information about our organization is available at www.FMI.org.

next-generation technologies, reclaiming HFCs, and minimizing releases from equipment, the Final Rule regulates how businesses must manage leak detection, repair, and refrigerants long before the AIM Act timeline(s) and imposes expansive and unduly burdensome requirements on the grocery industry not called for in the legislation. These requirements will unnecessarily increase operational costs and ultimately lead to higher prices for consumers.

The targeted revisions we seek in this petition will alleviate these unnecessary burdens, mainly through easing overly restrictive and unrealistic timelines and harmonizing regulatory thresholds with other HFC regulatory requirements, while maintaining our shared goals of consistent and effective management of HFC and ozone depleting substances (ODS) refrigerants.

II. Background

On October 11, 2024, EPA promulgated the HFC Management Rule, which established an Emissions Reduction and Reclamation Program to minimize releases of HFCs from equipment by addressing leaks across the lifespan of refrigerant-containing equipment, such as air conditioners and refrigeration systems, while also maximizing the reuse of existing HFCs.

The Final Rule set requirements for the identification and repair of leaks in new and existing equipment in certain sectors, including the commercial refrigeration equipment used in the retail food/grocery sector. The Final Rule applies to HFCs and HFC substitutes that have a global warming potential (“GWP”) above 53, with specific exceptions, and regulated appliances include any appliance with a charge size of 15 or more pounds of regulated refrigerant.⁴ Owners and operators of regulated appliances are required to monitor and test for leaks, maintain records, and conduct repairs of leaking appliances.⁵ And for certain appliances (new and existing),

⁴ 40 C.F.R. § 84.106(a); 40 C.F.R. § 84.108(a).

⁵ 40 C.F.R. § 84.106.

owners and operators must install automatic leak detection systems.⁶ The Management Rule also singles out certain retail food/grocery subsectors (specifically supermarket systems, refrigerated transport, and automated commercial icemakers) by requiring only these subsectors to use reclaimed HFCs when servicing or repairing equipment, starting in 2029.⁷

This petition targets the most egregious and burdensome components of the HFC Management Rule by seeking revisions that will harmonize its requirements with ODS Regulations in Part 82, Subpart F, create realistic compliance timelines, and more accurately reflect the current and future state of the technologies necessary to achieve appropriate emissions reductions and thoughtful use of reclaimed HFCs. Importantly, each of the changes requested below is consistent with two of this Administration's core policy objectives: alleviating unnecessary regulatory burdens that stifle American businesses⁸ and lowering cost-of-living expenses, including the cost of groceries, for American families.⁹

III. Requested Changes

This section sets forth the specific changes to the regulations sought via this petition along with the supporting rationale for each change.

A. Harmonize Regulatory Thresholds with ODS Regulations in Part 82, Subpart F and Use Restrictions in Part 84, Subpart B

The recently finalized leak detection and repair requirements in Part 84, subpart C apply to refrigerant-containing appliances with a full charge of 15 or more pounds of HFC refrigerants

⁶ 40 C.F.R. § 84.108.

⁷ 40 C.F.R. § 84.112(e).

⁸ Executive Order 14192: Unleashing American Prosperity through Deregulation (Jan. 31, 2025); *see also* Office of Management and Budget, Request for Information: Deregulation, 90 Fed. Reg. 15481 (April 11, 2025).

⁹ Presidential Memorandum: Delivering Emergency Price Relief for American Families and Defeating the Cost-of-Living Crisis (Jan. 22, 2025) *available at* <https://www.whitehouse.gov/fact-sheets/2025/01/fact-sheet-president-donald-j-trump-delivers-emergency-price-relief-for-american-families-to-defeat-the-cost-of-living-crisis/>.

or substitutes with a GWP greater than 53.¹⁰ This applicability threshold is significantly lower than the threshold for subpart F's ODS regulations, which applies to appliances with a full charge of 50 or more pounds of Class I or Class II refrigerants or blends containing such refrigerants.¹¹ By setting such a low threshold, EPA dramatically and unnecessarily expanded the number of covered appliances and opened a significant regulatory gap between HFC management practices in subpart C and ODS management in subpart F. Similarly, by triggering requirements for HFC substitutes with a GWP greater than 53, the newly promulgated maintenance requirements apply much more broadly than the use restrictions set in EPA's Technology Transitions Rule, which apply to products or systems containing substances with a GWP above 150 or 300, depending on the retail food sector.¹²

Grocery chains have for many years managed their appliances consistent with subpart F's 50-pound threshold and invested in training and maintenance practices for these appliances based on that threshold. This dramatic expansion in regulatory scope will cause equally dramatic increases in industry costs. Moreover, the HFC Management Rule's misalignment with the Technology Transition Rule's thresholds in subpart B will actually discourage the transition to mid-range refrigerants that the Transition Rule was intended to facilitate. For example, a grocery store could reasonably and cost effectively transition a system currently using 1,000 GWP to a 250 GWP refrigerant in compliance with Transition Rule. Yet that system would still be subject to the costly compliance requirements of the Management Rule, such as automatic leak detection. Given the significant cost, and in many cases technical infeasibility, of transitioning to refrigerants below 53 GWP, grocery stores are likely to maintain use of the higher GWP

¹⁰ See 40 C.F.R. § 84.106(a).

¹¹ See 40 C.F.R. § 82.157(a).

¹² See 40 C.F.R. § 84.54

refrigerant. By harmonizing the Management Rule and Transition Rule thresholds, EPA would actually incentivize quicker transitions to lower GWP refrigerants.

This harmonization would also correct an apparent factual error in the Management Rule regarding transportation refrigeration units (TRUs). EPA's economic analysis assumed that road TRUs would remain below regulatory thresholds.¹³ However, FMI has learned that multi-temperature road TRUs often exceed the 15-pound threshold. This could inadvertently subject TRUs to regulation under the leak repair and automatic leak detection provisions despite EPA's economic analysis concluding that TRUs are not covered by those requirements. Amending § 84.106(a) would provide relief for TRUs as the Agency intended, and is another reason to grant this petition.

Accordingly, in order to eliminate unnecessary burden and ensure that meaningful, cost-effective HFC transitions remain viable, FMI requests that EPA revise the leak repair thresholds to align with those applicable to ODS in Part 82, Subpart F and the Technology Transition Rule codified in Part 84, subpart B.

Requested Changes:

Revise § 84.106(a) as follows:

(a) Applicability. This section applies to refrigerant-containing appliances with a full charge of ~~15~~ 50 or more pounds of refrigerant where the refrigerant contains:

(1) A regulated substance,

¹³ We also note that the preamble and economic impact analysis in the Final Rule show EPA assumed that road transportation refrigeration units (TRUs) will not be subject to the requirements in 40 C.F.R. § 84.106 regarding leak repair: "Road Transport and Intermodal Containers average charge sizes are less than 10 pounds but shown as rounded values. Therefore, these appliance types (even under the 'High' distributed charge size group) along with Ice Makers are not affected by the leak repair or [automatic leak detection] provisions but are affected by the reclaim provisions." See U.S. EPA STRATOSPHERIC PROT. DIV., REGUL. IMPACT ANALYSIS ADDENDUM – ANALYSIS OF THE ECON. IMPACT & BENEFITS OF THE FINAL RULE: MGMT. OF CERTAIN HYDROFLUOROCARBONS & SUBSTITUTES UNDER SUBSECTION (H) OF THE AM. INNOVATION & MFG. ACT OF 2020 at 37, tbl. 3-1 (Sept. 2024), available at https://www.epa.gov/system/files/documents/2024-09/ria-addendum_management-of-hfcs-and-substitutes.pdf (last visited Nov. 5, 2025).

(2) A substitute for a regulated substance that has a global warming potential greater than ~~53, based on the global warming potentials listed in table 1 of § 84.64(b)~~ the amount listed in § 84.54(c) for the applicable sector or subsector.

Additional conforming edits to revise references to the charge and GWP thresholds throughout subpart C.

B. Revise the Leak Rate

An owner or operator must repair a leak in a commercial refrigeration appliance if the calculated leak rate is over 20 percent.¹⁴ Yet, according to EPA, the typical food retail store refrigeration system leaks an estimated 25 percent of refrigerant annually. As a result, EPA's current 20 percent leak rate places the typical food retail store refrigeration system out of compliance from the start and mandates immediate action to repair and verify leaks, and plan for retrofit or retirement of impacted systems.

To avoid the immediate threat of noncompliance across the entire sector and further exacerbate current technician and supply chain constraints, FMI requests that EPA either change the applicable leak rate to 30 percent so that it is higher than the national average for commercial refrigeration systems or institute a phased schedule that starts with a higher leak rate and gradually becomes more stringent over time. For the latter option, EPA could set the applicable leak rate at 30 percent for the calendar year 2026, then reduce the leak rate to 25 percent for 2027, and finally bring the leak rate down to 20 percent for 2028 and beyond.

C. Implement Realistic Compliance Timeframes

Many of the compliance dates and timeframes set in the Management Rule are either technically infeasible or overly restrictive and fail to justify the increased compliance costs that result from the unrealistic timelines. FMI requests that EPA extend the following compliance

¹⁴ See 40 C.F.R. § 84.106(c)(2)(i).

dates and timeframes to provide adequate time for market development and compliance strategy implementation, as well as to minimize operational disruptions that could impact product availability and delivery schedules.

1. Timeframe for Identifying and Repairing Leaks

The Management Rule requires regulated parties to identify and repair leaks within just 30 days (or 120 days if an industrial process shutdown is required) of when refrigerant is added to an appliance that has exceeded the applicable leak rate.¹⁵ While companies might be able to comply for a small number of minor, easily identifiable leaks, the 30-day deadline is wholly unrealistic for the vast majority of system leaks. Such a limited compliance window fails to account for the size and complexity of covered supermarket systems, the current shortage of qualified technicians to conduct necessary repairs, and the long lead times for obtaining replacement parts and equipment. Moreover, the current regulations do not account for the often-time-consuming process of pinpointing the exact location of the leak after initially discovering that the system is leaking refrigerant. These compliance concerns are especially relevant for grocery stores in rural communities. For such stores, it can often be difficult to schedule a technician within 30 days, let alone obtain the necessary parts and complete the repairs within that same period.

While a company may seek an extension of the 30-day deadline when replacement components are unavailable, such extensions are limited to 180 days (or 120 days if an industrial process shutdown is required),¹⁶ and many replacement components may take longer than the provided period to source, order, receive and install. Moreover, the extension provision fails to

¹⁵ See 40 C.F.R. § 84.106(d).

¹⁶ See 40 C.F.R. § 84.106(f)(1)(iii).

account for technician unavailability. Notably, EPA implicitly conceded in the final rule that there will be instances where supermarket systems cannot comply within the allotted timeframe.¹⁷ The fact that complex supermarket systems “should typically” be able to comply with the rule is no comfort to other supermarket systems thrown into noncompliance for no fault of their own.¹⁸ Companies should not be penalized or deemed noncompliant for documented delays that are beyond their control. Lastly, unlike the extension provision for the retrofitting or retirement of an appliance, the extension provision for leak detection and repair does not limit the time in which EPA must act on an extension request. Rather, it simply states that a request is considered approved unless EPA notifies the owners or operators otherwise. This creates significant uncertainty for owners and operators, which is exacerbated by the tight timelines originally set in the Management Rule.

Finally, the condensed timeframe for identifying and repairing leaks fails to provide companies with sufficient time to adequately evaluate the costs and benefits of retrofitting or retiring the system versus repairing the system.

To accurately reflect real-world conditions and allow companies to make thoughtful repair-versus-retrofit or -replacement decisions, FMI requests that EPA extend the deadline for identifying and repairing leaks to within 120 days (or 240 days if an industrial process shutdown is required) of when refrigerant is added to an appliance that has exceeded the applicable leak rate. FMI further requests that EPA eliminate the 180-day limit on extension requests and instead simply require the owner to complete repairs within 30 days after receiving delivery of the necessary components. Lastly, FMI requests that EPA amend the extension provision for leak

¹⁷ See 89 Fed. Reg. at 82,727 (responding to concerns about noncompliance due to unavailable components by stating only that they “should typically” be able to perform repairs within the allotted 180-day timeframe).

¹⁸ *Id.*

detection and repair so that an extension request is deemed approved unless EPA notifies the owner or operator within 30 days of receipt of the request that it is not approved.

Requested Changes:

Revise § 84.106(d) as follows:

(d) Appliance repair. Owners or operators must identify and repair leaks in accordance with this paragraph within **30 120** days (or **120 240** days if an industrial process shutdown is required) of when refrigerant is added to a refrigerant-containing appliance exceeding the applicable leak rate in paragraph (c) of this section.

Revise § 84.106(f) as follows:

(f) Extensions to the appliance repair deadlines. Owners or operators are permitted more than 30 120 days (or 120 240 days if an industrial process shutdown is required) to comply with paragraphs (d) and (e) of this section if they meet the requirements of paragraphs (f)(1) through (4) of this section or the refrigerant-containing appliance is mothballed. Extension requests must be signed by an authorized company official. The request will be considered approved unless EPA notifies the owners or operators **within 30 days of receipt of the request that it is not approved.**

(1) One or more of the following conditions must apply:

* * *

(ii) Requirements of other applicable Federal, State, local, or Tribal regulations make repairs within **30 120** days (or **120 240** days if an industrial process shutdown is required) impossible. Additional time is permitted to the extent needed to comply with the pertinent regulations.

(iii) Components that must be replaced are not available within **30-120** days (or **120 240** days if an industrial process shutdown is required). Additional time is permitted up to **30 60** days after receiving delivery of the necessary components, ~~not to exceed 180 days (or 270 days if an industrial process shutdown is required) from the date the refrigerant-containing appliance exceeded the applicable leak rate.~~

2. Timeframe for Verification Testing

Regulated parties are required to conduct an initial verification test within 30 days (or 120 days if an industrial process shutdown is required) of the appliance exceeding the applicable

leak rate.¹⁹ This requirement has the effect of further shortening the time period in which to conduct the repairs given that verification cannot occur until after the repair is completed. As a result, FMI requests that EPA revise the timing of the initial verification such that the deadline runs from the date on which repairs were completed.

Requested Change:

Revise § 84.106(e)(1) as follows:

(e)(1) Initial verification test. Unless granted additional time, an initial verification test must be performed within 30 days (or 120 days if an industrial process shutdown is required) of ~~a refrigerant-containing appliance exceeding the applicable leak rate in paragraph (e) of this section completing the repair~~. An initial verification test must demonstrate that for leaks where repair attempts were made, the adjustments or alterations to the refrigerant-containing appliance have held.

3. Timeframes for Developing and Completing a Retrofit or Retirement Plan

The HFC Management Rule requires owners or operators to create a retrofit or retirement plan within 30 days of a failed verification test and other circumstances where the appliance continues leaking above the applicable leak rate.²⁰ The plan must contain a schedule for completing the retrofit or retirement that may not exceed 1 year from the date on which the plan is finalized.²¹ The 30-day window to complete a retrofit or retirement plan is wholly inadequate given the size and complexity of grocery store refrigeration systems and the complexity of information that must be included in the required plan. The unreasonably short deadline also creates a significant waste of important resources by requiring owners and operators to begin expensive engineering, design, permitting and sourcing work for a retrofit or retirement that may prove unnecessary if the leak is subsequently repaired. Moreover, the condensed timeframe

¹⁹ See 40 C.F.R. § 84.106(e)(1).

²⁰ See 40 C.F.R. § 84.106(h)(1).

²¹ *Id.* at § 84.106(h)(2)(vii) and (5)(i).

makes it much more likely that owners or operators will replace leaking systems with new HFC systems, which only frustrates EPA's ultimate goal of transitioning away from such systems.

In order to provide a realistic compliance timeframe that permits adequate time to identify and repair leaks and properly assess whether to retrofit or retire an impacted system, FMI requests that EPA extend the deadline to prepare a retrofit or retirement plan to within 90 days of a failed verification test or the other events listed in § 84.106(h)(1). FMI further requests that EPA extend the required schedule for completing a retrofit or retirement of an impacted system to 18 months. Doing so provides a more realistic timeframe for completion and would limit the need for extension requests.

Requested Changes:

Revise § 84.106(h) as follows:

(h) Retrofit or retirement plans.

(1) The owner or operator must create a retrofit or retirement plan within ~~30~~ 90 days of:

* * *

(2) (vii) A schedule, not to exceed ~~one year~~ 18 months, for completion of the appliance retrofit or retirement.

* * *

(5)(i) Unless granted additional time, all work performed in accordance with the plan must be finished within one year of the plan's date (not to exceed ~~12~~ 18 months from when the plan was finalized as required in paragraph (h)(1) of this section).

4. Compliance Dates for Installing Automatic Leak Detection Systems

Owners and operators are required to install automatic leak detection (ALD) systems on new and existing industrial process refrigeration (IPR) and commercial refrigeration appliances containing 1,500 lbs. or greater of a refrigerant or a substitute with GWP greater than 53. The current deadlines to install and use ALD—January 1, 2026 for new systems and January 1, 2027

for existing systems—are woefully inadequate. Requiring industry-wide installation of ALD systems on such short timelines will further exacerbate existing supply chain and technician shortages. Moreover, it is unclear whether there are ALD systems currently available that are capable of continuously monitoring the massive refrigeration systems utilized in grocery stores, which can routinely contain 30-50 cases, each with an evaporator, as well as multiple walk-in boxes each containing evaporators. As a result, many of these ALD systems must be custom-designed, and even “off-the-shelf” systems are likely to require significant modification. With each system likely requiring a unique design, procurement, and installation process, it is virtually impossible for the entire industry to complete the necessary changes under the current deadlines.

In order to align the ALD requirement with these real-world constraints and prevent significant numbers of owners or operators being forced into noncompliance, FMI requests that EPA extend the deadlines for ALD installation and use to January 1, 2029 for new systems and January 1, 2030 for existing systems. This change would provide the lead time necessary for owners and operators across the entire sector to design, procure, and install the required systems.

Requested Changes:

Revise § 84.108(b) as follows:

- (1) Owners and operators of refrigerant-containing appliances that are subject to the requirements under paragraph (a) of this section and that are installed on or after January 1, ~~2026-2029~~, must install and use an automatic leak detection system upon installation of the refrigerant-containing appliance or within 30 days of installation of the refrigerant-containing appliance.
- (2) Owners and operators of refrigerant-containing appliances that are subject to the requirements under paragraph (a) of this section and that were installed on or after January 1, 2017, and before January 1, ~~2026-2029~~, must install and use an automatic leak detection system by January 1, ~~2027-2030~~.

D. Eliminate Subsector-specific Reclaimed HFC Requirement

The Management Rule unfairly and unnecessarily singled out the supermarket systems subsector (along with refrigerated transport and automatic commercial ice makers) by mandating the use of only reclaimed HFCs for servicing and repair of refrigerant-containing appliances starting January 1, 2029. EPA's decision to target only three subsectors to shoulder the burden of using reclaimed HFCs will artificially increase demand for reclaimed HFC refrigerants and lead to corresponding increases in the price of such refrigerants. It makes little sense to impose these additional, unnecessary costs on supermarkets at a time when consumers are already struggling at the grocery store due to recent impacts of inflation on food prices. Supermarkets already operate on low profit margins, and unnecessarily increasing operating costs across the sector will further impact food pricing and ultimately harm American families.

FMI requests that EPA eliminate the reclaimed HFC mandate for the three subsectors identified in the Management Rule. Doing so will ensure that these three subsectors don't alone bear the burden of advancing the use of reclaimed HFCs and will demonstrate that this Administration is serious about lowering the cost-of-living for American families.²²

Requested Change:

Delete paragraph (e) from 40 C.F.R. § 84.112.

IV. Conclusion

For the foregoing reasons, FMI requests that EPA grant this Petition and promptly initiate a new rulemaking to revise the Management Rule consistent with the changes requested herein.

²² Alternatively, if EPA declines to eliminate this requirement entirely, FMI requests that the Agency delay implementation so that these deadlines align with the Congress's intended HFC phasedown timeline in the AIM Act. This would help ensure that an adequate supply of reclaimed refrigerants are available across all GWP levels, even as the GWP-weighted phasedown ratchets down. This Alternative Requested Change would be to revise § 84.112(e) to change the date from January 1, 2029 to instead **January 1, 2036**, aligning with Congress's deadline. See 42 U.S.C. § 7675(e)(2)(C).

November 6, 2025

Respectfully submitted.

A handwritten signature in cursive script that reads "Stephanie Harris".

Chief Regulatory Officer &
General Counsel