



The Alliance
for Responsible Atmospheric Policy

July 6, 2021

US Environmental Protection Agency
EPA Docket Center, Air and Radiation Docket
Mail Code:28221T
Attn Docket ID No: EPA-HQ-OAR-2021-0044
1200 Pennsylvania Ave., NW
Washington, DC 20460

**Re:Alliance for Responsible Atmospheric Policy Comments on Proposed Rule:
Establishing the Allowance Allocation and Trading Program Under the American
Innovation and Manufacturing Act (EPA Docket ID No. EPA-HQ-OAR-2021-0044)**

Dear Sir or Madam:

The Alliance for Responsible Atmospheric Policy (“Alliance”) 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. A list of members is attached.

The Alliance is proud of its extensive history of working in a constructive manner with the U.S. Environmental Protection Agency (“EPA”) on the phasedown of fluorocarbons, including hydrofluorocarbons (“HFCs”). Since the EPA issued the proposed rule Phasedown of Hydrofluorocarbons: Establishing the Allowance Allocation and Trading Program Under the American Innovation and Manufacturing, 86 Fed. Reg. 27,150 (May 19, 2021) (the “Proposed Rule”), the Alliance has been in dialogue with EPA, as well as industry and environmental groups, to discuss views of the proposed allocation and trading program. The Alliance and its members have had ongoing discussion with EPA staff on implementations of the American Innovation and Manufacturing Act (the “AIM Act”), including various aspects of the Proposed Rule. The Alliance also attended and presented comments at the public hearing EPA hosted for the Proposed Rule on June 3, 2021. Now, the Alliance is pleased to provide these comments in response to EPA’s Proposed Rule.

The Alliance is a strong supporter of the AIM Act and of the promulgation of rulemakings necessary to implement the AIM Act. The Alliance appreciates EPA’s prompt efforts to initiate

this rulemaking process. The Alliance generally supports the proposed HFC allocation and trading program. In order to promote the objectives of clarity, stability, and fairness in the final rule, the Alliance urges EPA to consider certain adjustments to the proposed allocation framework and proposed compliance obligations. In addition to these critical considerations, the Alliance asks that EPA address comments on the other distinct elements of the Proposed Rule discussed below as it works to finalize the allocation and trading program.

I. Allocation Framework

A. Proposed Allocation Time Period and Average

EPA has solicited comment on the time period to be used as a basis for the allocation of allowances. The Alliance appreciates the recommendation from EPA regarding the time period and formula for calculation of allocation allowances. EPA initially proposes “to issue allowances to companies that produced or imported HFCs in 2017, 2018, and/or 2019, and were still active in 2020.”¹ EPA also suggests two alternative options: (1) issuing allowances only to those companies that produced or imported HFCs in 2011-2013, or (2) issuing allowances to entities that produced or imported HFCs in some other combination of years between 2011 and 2019, in each case, assuming the company is still actively producing or importing as of 2020.

We believe that the proposed 2017-2019 period is too narrow. It is not reflective of the true market history from 2011-2019. Relying on the 2017-2019 period is too limited for fairly addressing longstanding market participants. On the other hand, relying on 2011-2013 may penalize established importers and newer entrants to the market who have abided by law, engaged in fair trade practices, and increased their presence in the market since 2011-2013.

We therefore propose that the time period for consideration should be the entire period from 2011-2019, with each entity averaging three years of its choice from that period. The Alliance supports this approach using the 2011-2019 time period because it is more accurate, equitable, and inclusive. Using an average of the three best years during the 2011-2019 period best represents both industry history and ongoing growth and market change. Accordingly, we propose that individual entities should be able to select their three best years, which need not be contiguous, within that time period, and then average those three years together. Given every entity would be free to select its optimized three years, this methodology promotes fairness and avoids discrimination. It is our understanding that with this averaged amount, allocations will then be calculated utilizing the market share analysis method described in footnote 48 of the Federal Register notice.² The Alliance further proposes that, if an entity does not have three years of production or import activity to average, then it should have the ability to opt into the new entrant set aside pool. The Alliance supports using the proposed market share approach because this methodology will better address market distortions for entities that had high production or consumption levels based on participation in unfair trade practices described further in subsection E below.

In addition, the Alliance disagrees with EPA’s proposal to limit the allocation of allowances to only those entities that were actively producing or importing in 2020. In the current

¹ 86 Fed. Reg. 27,169

² 86 Fed. Reg. 27,171, n.48

business climate and with the uncertainties and market disruptions caused by COVID-19, EPA should not limit the allocation of allowances to entities that were actively producing or importing in 2020, provided that such entities were producing or importing between 2011 and 2019 and have not exited the business. Discernment of whether an entity has actually “exited” the business should depend on all the facts and circumstances, not simply whether an entity produced or imported in a single year.

B. Avoid Promulgating Allowances Annually

EPA has also solicited comment on its intention to only issue allowances for 2022.³ To promote stability and certainty, the Alliance requests that EPA now issue multiyear allowance allocations. The first allowances should be allocated for 2022 and 2023, rather than just 2022, as currently proposed. Multiyear allowance allocations allow for better business planning among regulated entities. The statute does not require EPA to subject industry to separate rulemakings on allowances each year, with a potentially different allocation methodology each time.

It is critical to observe that here, unlike other EPA allocation programs, regulated companies must meet the first significant phasedown step in 2024—from 90% of the baseline to 60% of the baseline. To businesses, that is right around the corner. Leading up to 2024, providing a multiyear allocation to regulated entities will best allow entities to prepare for and manage to this milestone. Therefore, we request that EPA not promulgate annual allowance allocation rulemakings. Instead, EPA should provide multi-year certainty to allowance holders, while developing a mechanism for adjustments as EPA receives new information.

C. Support for Set Aside Pool of Allowances

The Alliance supports the proposed concept of a modestly sized set aside pool of allowances. We nevertheless encourage EPA to limit the size of the pool to be only as large as necessary to fulfill the three groups of users identified in the Proposed Rule. The three groups of companies are: (1) end-users in allocation-specific sectors; (2) new market entrants, and (3) importers of HFCs in 2017-2019 that have not been required to report through the greenhouse gas reporting program (“GHGRP”), where EPA does not learn of their past imports in time to issue allowances through the general pool.⁴ As stated above, we propose that entities without a minimum of three years of production or importing activity between 2011 and 2019 should have the option to obtain allowances from the new entrant pool. With such a change, the pool may need to be slightly larger than the 5 MMTEVe EPA has initially proposed. In no case, however, should it be larger than sufficient to provide for these stated categories.

The Alliance agrees that EPA should not allow entities that have previously imported HFCs, exited the HFC business, yet now seek to reenter, be allowed part of the new entrant pool. As EPA rightfully states in the preamble, doing so would be contrary to the goal of supporting entities that have not previously imported HFCs through the establishment of the set aside pool.⁵ At the same time, in the current business climate and with the uncertainties caused by COVID-19, EPA discernment of whether an entity has actually “exited” the business should depend on all the

³ 86 Fed. Reg. 27,168

⁴ 86 Fed. Reg. 27,176

⁵ 86 Fed. Reg. 27,178

facts and circumstances. It should not simply be a question of whether an entity produced or imported in a single year.

The Alliance also agrees that entities who are affiliated or associated with a current allowance holder should not be entitled to be part of the new entrant pool. Consistent with our comments in subsection III. A., where the set aside pool is used for eligible members of the reclaim industry, allowances should only be used to import single components, and only further sold into commerce as virgin component in a reclaim sale with proper recordkeeping.

Importantly, the Alliance agrees with the EPA proposal that recipients of allowances from this pool are only allowed to use them for the specified purpose. These allowances should not be transferable or otherwise resold to the market.⁶

The Alliance also supports EPA's proposal to redistribute unclaimed allowances to the general pool of existing allowance holders on a pro rata basis at the end of the first quarter each year. The Alliance does not support redistributing unclaimed allowances from the pool through an auction.

D. Managing Application Specific Allowances

The Alliance is generally supportive of EPA's stated goal that application-specific entities should only be allocated allowances they need, and not more. At the EPA hearing, representatives from some industries indicated that they were projecting extraordinary growth rates in the coming years. While the Alliance does not seek to dispute any projected growth rates, we urge EPA to ensure that allocations for specific uses be based on accurate reporting. This will ensure that allocations do not exceed amounts actually required to meet consumption. In addition, the Alliance concurs that the EPA should have the ability to revoke allowances, require future retirement of allowances at a greater level than the number of application-specific allowances allocated, or prohibit companies from receiving future allowances in the event EPA discovers that a company applying for application-specific allowances provided false or inaccurate information related to the Company's HFC use.⁷ The Alliance further supports EPA's proposal to limit the transferability of these allowances so that they can only be applied towards their intended use.

E. Prohibiting Allocations to Entities Who Have Participated in Unfair Trade in HFCs

The Alliance appreciates that EPA has proposed to ensure that no participating entities are in arrears with regard to established anti-dumping and counter-vailing duties currently in place.⁸ EPA should carefully consider and ensure that the final framework for HFC allowance allocations does not reward companies that have increased their market share by importing HFCs in violation of recognized trade requirements. It has been well established that during the 2011-2019 time period, there were instances of certain entities either dumping HFC material in violation of domestic and international trade law or otherwise attempting to circumvent duties imposed by the government to restrict these unacceptable practices. Based on investigations of Chinese imports

⁶ 86 Fed. Reg. 27,177

⁷ 86 Fed. Reg. 27,175

⁸ 86 Fed. Reg. 27,186

commencing in 2015, the U.S. International Trade Commission found that some Chinese imports of HFC blends were being dumped into the U.S. market and had seized market share from domestic producers, causing “material injury” within the meaning of 19 U.S.C. §1677(7).⁹

As the government has identified entities and quantities of material brought into the country in violation of recognized trade requirements based on official information and determinations, the Alliance encourages that such entities and material should not be considered as part of allocation allowance determinations. Including them will cause further harm to U.S. industry that has already suffered the effects of unfair trade practices.

The Alliance understands that the American HFC Coalition is providing detailed comment on this matter and respectfully refers EPA to those comments.

II. Proposed Compliance Requirements

A. Support for Reporting Consistent with ODS and GHGRP Requirements

The Alliance recognizes the importance of reporting during the full phasedown of consumption and production of HFCs. The Alliance generally supports the proposal for quarterly reporting.¹⁰ It is encouraged that EPA structure HFC reporting requirements to align with existing ozone-depleting substance (“ODS”) and GHGRP reporting requirements. Although the Alliance encourages regular reporting, HFC reporting should not be duplicative of these existing frameworks. Alliance members are concerned that the HFC timeline for the first quarter will be duplicative of annual GHGRP reports due March 31 annually. The Alliance requests that EPA address these overlapping reporting requirements in the final rule. EPA should limit the additional reporting requirements for affected entities that are also subject to ODS and GHGRP reporting requirements.

Further, additional clarity is needed on reporting requirements for products containing HFCs. Specifically, it is unclear whether OEMs must report products containing HFCs without a de minimis threshold limit. The proposed rule also does not make a distinction between products containing and imported products containing. This distinction should be clarified in the final rule.

Finally, the Alliance agrees that transparency of data reported to EPA is important. To foster transparency, while still protecting business interests, the Alliance urges EPA to maintain the confidential business information (“CBI”) protocols contained in the GHG reporting protocols. EPA should now adopt such protocols for HFC reporting. We also note that EPA’s proposal to release transactional import data would be a release of CBI. EPA’s assertion that this information is already available through privately developed global trade databases is inaccurate.¹¹ In accordance with EPA practice, only aggregated HFC production and consumption data is available. EPA should not finalize the proposal to release that data.

⁹ *Hydrofluorocarbon Blends & Components from China*, Inv. No. 731-TA-1279, USITC Pub. No. 4629 (Aug. 2016).

¹⁰ 86 Fed. Reg. 27, 193

¹¹ 86 Fed. Reg. 27,198

B. Concern About Mandatory Use of QR Codes

The Alliance supports appropriate tracking technology for the market. However, the proposal to require the use of QR codes¹² is unworkable in practice. A QR code system is particularly burdensome for reclaimers. It is difficult for reclaimers to predict how much they will reclaim at beginning of the year and what particular products will be reclaimed. That depends on the independent decisions of third parties, also reacting themselves to market conditions and unforeseen developments. Therefore, reclaimers should not be included in this requirement at all.

Moreover, many companies in the industry have already established tracking systems that do not involve the use of QR codes. For those companies, the Alliance encourages EPA to make the use of a QR code regime optional. EPA should allow companies the regulatory flexibility to maintain their current tracking systems, which are effective, notwithstanding that they do not use the QR code technology. Alternatively, EPA should at least allow such companies additional time to migrate to a QR system. Companies who have taken initiative to track HFCs through the use of means other than QR codes should not now be penalized for proactive investment in alternative systems.

Many other tracking and recordkeeping options exist that EPA should consider in addition to QR codes or similar systems. For instance, the robust recordkeeping and reporting system that EPA considers and seeks comment on would be appropriate.¹³ It would also be appropriate for EPA to identify the minimum specifications required from those tracking programs currently utilized by producers and importers. Additionally, the Alliance encourages EPA to consider using sales data to track products through the marketplace, while protecting CBI.

C. Find Alternatives or Delay Proposal to Ban Disposable Cylinders

The Alliance disagrees on policy grounds with EPA's proposal to ban disposal cylinders. The EPA's proposed compliance date of July 1, 2023 for the transition to refillable cylinders and implementation of the ban on disposal cylinders would cause significant disruptions to the market. Implementing this ban, particularly on the timeline EPA suggests, would require significant capital expenditure, raw material procurement, and supply chain modification. The Alliance is concerned that EPA has requested comment on an even shorter time frame for implementation.¹⁴ The proposed July 1, 2023 deadline is already too severe. An even shorter timeline is entirely unrealistic.

To avoid market disruptions from the proposed ban, EPA should use other means to accomplish similar objectives. These could be equally effective. For instance, EPA could consider a ban on disposal of cylinders in landfills (implemented already in Canada), or could impose take-back requirements. EPA may also consider requiring end of life cylinder heel removal to prevent residual amounts of HFCs from being released to the atmosphere prior to recycling the cylinder. In the event EPA decides to proceed with the ban of disposal cylinders, EPA should at least take

¹² 86 Fed. Reg. 27, 190

¹³ 86 Fed. Reg. 27,192

¹⁴ 86 Fed. Reg. 27,187

additional time to consider this requirement more closely and address it in later rulemakings, rather than this final rule.

D. Labeling and Batch Testing

EPA is proposing that all containers that contain a regulated substance in bulk must have an affixed label or other marking that indicates the specific HFC(s) in that container. EPA is seeking comment on whether the label should also include the quantity of HFC in the container. The Alliance's position is that it is unnecessary for EPA to impose any additional labeling requirements in the final rule. Existing labeling requirements imposed by other federal agencies already require this information. Therefore, the Alliance suggests that EPA defer to the labeling requirements in Department of Transportation ("DOT"), Occupational Safety and Health Administration ("OSHA"), and Department of Commerce ("DOC") regulations.

The regulated substances under the AIM Act are regulated by DOT. They must already be marked, labeled, and shipped in compliance with applicable DOT and OSHA hazardous materials requirements. The DOC weights and measures program requirements, including the Uniform Packaging and Labeling Regulations which specify the inclusion of quantity and unit of measure for labels and packaging of products, also apply. New EPA labeling requirements would be burdensome, duplicative, and potentially counterproductive.

Specifically, under 49 C.F.R. § 172.301, DOT requires that non-bulk (container water capacity 1,000 lbs. or less) containers have the following markings:

- Proper shipping name and identification # (typically UN #);
- Name and address of offeror; and
- Technical names, if applicable (required if proper shipping name does not specify the chemical name).

Under 49 C.F.R. § 172.304, DOT requires that these markings be:

- Durable;
- Affixed to the surface of the package or on a label, tag, or sign;
- Displayed on a background of sharply contrasting color;
- Unobscured; and
- Located away from other markings that could reduce effectiveness.

In addition to DOT markings, under 29 C.F.R. § 1910.1200(f), OSHA requires the following information on containers of hazardous materials:

- Product Identifier (e.g. chemical name);
- Name, address, and telephone number of the chemical manufacturer, importer, or other responsible party; and
- Other safety information (e.g. product hazard based on the Global Harmonized System (GHS) standards).

For ISO tank containers (bulk) being used to import hazardous materials, the International Maritime Dangerous Goods (“IMDG”) code require the following markings on each Iso:

- Proper shipping name on two opposing sides;
- UN#/placard on each end and each side; and
- Owner or lessee name.

For both DOT and IMDG purposes, shipping papers are required to accompany shipments of hazardous materials. The shipping papers must contain the following information, which must correspond to the required markings and labels on hazardous materials being shipped:

- Proper shipping description (UN#, proper shipping name, hazard class, packing group);
- Name and address of offeror; and
- Technical names (if applicable).

These labeling requirements are sufficient to address the goals of EPA in the Proposed Rule. These labels will deter noncompliance and ensuring that affected entities are complying with law. Given the extensive existing labeling requirements, more labeling requirements would not facilitate more effective enforcement or deter noncompliance more effectively than the current DOT/IMDG and OSHA requirements. These are already readily available to EPA inspectors, Customs and Border Protection officials, and others. Additional labeling requirements would place an undue regulatory burden on our industry, which is already heavily regulated. For all of these reasons, the Alliance respectfully requests that EPA not finalize any further labeling requirements. At a minimum, EPA should deem compliance with DOT/IMDG and OSHA requirements as satisfying any EPA labeling requirements.

EPA’s proposal to use batch testing as a mechanism for ensuring label accuracy is already a common industry practice among both producers and importers. Thus, the Alliance supports its continued use and agrees it is a mechanism that can be used to reinforce accurate labeling of HFC content. To combat illegal imports, the Alliance supports including a requirement in the final rule that all companies (not just reclaimers) comply with AHRI Standard 700 where relevant.

III. Additional Areas for Comment

In addition to the comments regarding the mechanics of establishing the allocation framework and compliance obligations under the proposed rule, the Alliance provides comment on the following discrete issues.

A. EPA Should Further Promote Reclaiming

The AIM Act directs EPA to maximize reclaiming and “increase opportunities for reclaiming” HFCs.¹⁵ The Alliance supports reclaim activities, which are crucial for achieving not only near-term environmental benefits, but also realization of an efficient phasedown. The Alliance urges EPA to promote reclaim in the final rule. The Alliance is particularly supportive of small, and women- and minority-owned, business participation in reclaim efforts. The Alliance

¹⁵ § 103(h)(1), (2)(A)

encourages EPA to review and determine that EPA-certified reclaimers have access to the allowances necessary from all sources, including from their own allowance-holding affiliated entities, for purposes of acquiring HFC components needed for reclaiming blends to fulfill reclaim purity standards. As stated previously, these allowances should be only for the designated use and otherwise not transferable. To promote reclaim initiatives, EPA may consider use of destruction credits to access virgin product for reclaim purposes, subject to appropriate precautions against illegal imports of material.

B. Transfer Offsets Should Be Consistent with ODS

The Alliance appreciates the opportunity to provide comment on the proposed mechanism for transferring allowances.¹⁶ As EPA has opted to do elsewhere in the Proposed Rule, EPA should seek stability. EPA should follow the precedent set by regulatory offset transfers for ODS in implementing transfer offsets for HFCs under the AIM Act. For ODS, transfer offsets ranged from 0.1% to 1.0%. Consequently, the EPA's proposal for HFC offsets of 5%, or even higher, is arbitrary.¹⁷ If EPA were to impose a 5% offset, it would inhibit the transfer of HFC allowances, reduce market supply of HFCs, and increase costs. Higher transfer offsets will also impede the transition to lower GWP alternatives. Last, the Alliance is concerned that EPA's proposal only applies to domestic, not foreign, allowance holders. U.S. entities would be disadvantaged against foreign counterparts with an unduly high transfer offset. This would penalize U.S. entities from rationalizing the U.S. supply chain. Such an approach is contrary to the intent of the AIM Act. The Act seeks to promote domestic production and increase domestic jobs. For these reasons, the Alliance urges EPA to set HFC transfer offsets no higher than they were under Title VI of the Clean Air Act.

C. Definition of "Process Agent"

In the Proposed Rule, EPA has provided a definition for the term "process agent." That term is not defined in the AIM Act. EPA has solicited comment on proposed defined terms, including process agent.¹⁸ The Alliance believes the proposed definition is too narrow. EPA should broaden the term to include additional relevant production processes that should be regulated. Specifically, the Alliance proposes that EPA revise the definition as follows:

Process agent means the use of a regulated substance to form the environment for a chemical reaction *or physical process* (e.g., use as a solvent, catalyst, or stabilizer) where the regulated substance is not consumed in the reaction *or physical processing*, but is removed or recycled back into the process and where no more than trace quantities remain in the final product. A feedstock, in contrast, is consumed during the reaction *or processing*.

These changes are consistent with the originally proposed definition. They clarify that regulated substances can be utilized in processes using both chemical reactions and physical means.

¹⁶ 86 Fed. Reg. 27,175-76

¹⁷ 86 Fed. Reg. 27,176

¹⁸ 86 Fed. Reg. 27,163

D. Inclusion of Imported Products Containing in the Consumption Baseline or Allocation Framework

In the Proposed Rule, EPA has not included products pre-charged with HFCs and imported into the United States (referred to as imported products containing or “IPC”) in the consumption baseline.¹⁹ The Proposed Rule also does not address IPCs in the allocation framework. The Alliance acknowledges that IPCs must be considered in order to effectively phase down the production and consumption of HFCs. The Alliance has discussed this issue with EPA, environmental groups, and Alliance members. Although the Alliance members do not currently have a consensus on how and when to most effectively account for and control IPCs, the Alliance wishes to continue to be part of the IPC conversation moving forward. Alliance members will comment on the IPC issue individually at this time.

E. Exemption of Heels

EPA has requested comment on whether it should consider exempting heels or U.S. goods returned as a necessary part of importers’ standard practice.²⁰ The Alliance supports an exemption of heels in cylinders, railcars, tank trucks, and ISO tanks, similar to how EPA opted to regulate ODS heels. This would allow for easier import and export of regulated substances. However, EPA should adjust the definition of heel to mean no more than 5% of the volume of the container, rather than the currently proposed 10% of the volume of the container.

F. Degradation Products

A recent report by the German environment agency (“UBA”), cited by some stakeholders during EPA’s public hearing on the proposed rule and in already submitted comments on the Proposed Rule, asserted conclusions about the environmental impact of trifluoroacetic acid (“TFA”) from hydrofluoroolefins (“HFOs”).²¹ These conclusions contradict what the 2018 World Meteorological Organization and United Nations Environment Program (“WMO/UNEP”) assessment reported and what many previous studies have concluded.

While it is correct that HFO refrigerant 1234yf yields nearly 100% TFA via degradation of the trifluoroacetyl fluoride (CF₃C(O)F) intermediate, this mechanism and its environmental impact have been studied by many research groups and fully evaluated by the WMO/UNEP scientific assessment panel.²² The 2018 WMO/UNEP assessment concludes: “There is increased confidence that trifluoroacetic acid (TFA) produced from degradation of HFCs, HCFCs, and HFOs will not harm the environment over the next few decades. This assessment is based on the current estimates of future use of HFCs, HCFCs, and HFOs.”²³ Furthermore, it is stated that the resulting

¹⁹ 86 FR 27,164

²⁰ 86 Fed. Reg. 27,167

²¹ See *Trifluoroacetic acid from fluorinated refrigerants contaminates rainwater*, available at <https://www.umweltbundesamt.de/en/press/pressinformation/trifluoroacetic-acid-from-fluorinated-refrigerants>.

²² See Neale, R. E. et al. Environmental effects of stratospheric ozone depletion, UV radiation, and interactions with climate change: UNEP Environmental Effects Assessment Panel, Update 2020. *Photochemical & Photobiological Sciences 2021*, 20 (1), 1-67; *Scientific Assessment of Ozone Depletion: 2018*, World Meteorological Organization (WMO) Global Ozone Research and Monitoring Project – Report No. 58, Geneva, Switzerland; WMO: 2018.

²³ *Scientific Assessment of Ozone Depletion: 2018*, World Meteorological Organization (WMO) Global Ozone Research and Monitoring Project – Report No. 58, 60 pp., Geneva, Switzerland; WMO: 2018.

levels of TFA from HFCs, HCFCs, and HFOs, indicate de minimis risks: “The large body of published field measurements, toxicological studies, modeling studies, and environmental assessments point to a clear conclusion: The current and estimated future concentrations of TFA and its salts resulting from degradation of HCFCs, HFCs, and HFOs do not pose any known significant risk to human or ecosystem health.”²⁴

The UBA report largely ignores these published conclusions. Furthermore, the report assumes a high emission scenario for HFCs, HFOs, and HCFCs. That has a direct impact on the predicted TFA deposition in the environment for the future. In sum, the report is contrary to previous well-documented emission estimates and is not supported by current atmospheric observations of HFCs and HFOs. EPA should not rely on the UBA report. The Alliance will continue to provide additional data and information on this topic as it becomes available.

IV. Environmental Justice

Alliance members are committed to principles of environmental justice. We recognize that the implementation of the AIM Act through this rulemaking will lead to a reduction in greenhouse gas emissions. Therefore, the proposed phasedown is expected to positively influence many communities of color and lower income communities, many of which have been disproportionately affected by the impacts of climate change. Further, one of the purposes of the AIM Act is to promote high-quality domestic job growth as the country transitions away from HFCs. Thus, in addition to decreasing greenhouse gas emissions, the AIM Act and subsequent rulemaking is expected to contribute benefits into communities through job creation and associated economic growth.

Nevertheless, it is appropriate for EPA to consider how the phasedown of the production and consumption of HFCs will impact environmental justice communities in practice, including whether the rulemaking may further harm already disadvantaged communities.²⁵ Fenceline emissions from facilities producing HFCs should be reviewed to avoid adverse impacts to nearby communities. While HFC emissions will decline over the lifespan of the phasedown, air toxics emissions from certain facilities could potentially be impacted from the HFC allocation transfer scheme, or the production of HFC alternatives. The Alliance is committed to coordinating with EPA and other stakeholders to address such emissions. However, EPA should also consider that there are state air permitting requirements and other EPA regulations currently in place to address this potential issue. Given the complexity of environmental justice and the current lack of criteria to assess environmental justice implications of the proposed HFC phasedown, the Alliance recommends that environmental justice should be addressed further in subsequent rulemakings. At this time, there appear to be sufficient regulatory requirements already in place at the federal, state, and local level.

²⁴ *Id.* at 456.

²⁵ 86 Fed. Reg. 27158–60

V. Conclusion

To date, Alliance members have invested heavily in the development of low global warming potential compounds and user technologies to replace HFCs. The Alliance is prepared to invest further to achieve this transition away from HFCs in a cost-effective manner, while also realizing the desired environmental benefits. In promulgation of rules under the AIM Act, the Alliance seeks clarity, stability, and fairness. Our comments are grounded in these ideals. We appreciate EPA's consideration of them as the agency works to finalize this rule. The Alliance believes it is possible to achieve these objectives and continue the 30-year history of successful cooperative efforts among government, industry, and environmental organizations.

Sincerely,

A handwritten signature in black ink, appearing to read 'Kevin Fay', with a stylized flourish at the end.

Kevin Fay
Executive Director
Alliance for Responsible Atmospheric Policy



The Alliance
for Responsible Atmospheric Policy

Alliance 2021 Member Roster:

A-Gas	Heating Air-conditioning & Refrigeration Distributors International (HARDI)
AGC Chemicals Americas Inc.	Honeywell
Air-Conditioning, Heating, and Refrigeration Institute (AHRI)	Hudson Technologies
American Pacific	Hussmann
Arkema	International Pharmaceutical Aerosol Consortium (IPAC)
Atomic Capital	Johnson Controls Inc.
Carrier	Koura Global
Chemours	Lennox Int.
Daikin Americas	Mitsubishi Electric
Daikin Applied	National Refrigerants
Danfoss	Nortek
Dynatemp Int.	Olin BC
Emerson	Rheem Manufacturing Co.
Energizer Holdings	Trane Technologies
Falcon Safety Products	
Golden Refrigerant	