



## **ENVIRONMENTAL PROTECTION AGENCY**

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

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

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

**ACTION:** Notice.

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

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

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

### **SUPPLEMENTARY INFORMATION:**

#### **I. Background**

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

The Agency has received a number of petitions under subsection (i) of the AIM Act requesting that EPA promulgate rules to restrict the use of hydrofluorocarbons in certain refrigeration, air conditioning, foam and aerosol applications.<sup>3</sup> After reviewing information provided by petitioners, relevant information collected and summarized in technical memos available in the docket, the Administrator has made determinations concerning 11 petitions—specifically, to grant ten petitions and partially grant one petition. EPA’s letters to petitioners are contained in the docket for this action, along with a number of technical memos and a summary and determination document that highlights the statutory factors considered for each petition and the rationale for EPA’s decision. At this time, the Agency is not taking action on any other petitions or on certain elements of one petition (i.e., California Resources Air Board et al.).

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

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

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

## II. Which petitions is EPA granting?

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

**Table 1.** List of Granted or Partially Granted Petitions

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

Subsection (i)(4) of the AIM Act identifies factors for the Agency to consider to the extent practicable when making a determination to grant or deny a petition. As stated above, EPA considered available information related to these factors in its determination to grant and

partially grant the petitions listed in Table 1, and this information can be found in the docket with this notice.

### **III. What happens after EPA grants a petition?**

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

**Cynthia A. Newberg,**

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

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