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Dated: October 13, 2023.

Debbie-Anne A. Reese,

Deputy Secretary.

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ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OAR-2021-0669; FRL-9116-04-OAR]

Phasedown of Hydrofluorocarbons: Notice of 2024 Allowance Allocations for Production and Consumption of Regulated Substances Under the American Innovation and Manufacturing Act of 2020, and Notice of Final Administrative Consequences

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) has issued calendar year 2024 allowances for the production and consumption of hydrofluorocarbons in accordance with the Agency's regulations. This issuance of allowances is undertaken pursuant to the American Innovation and Manufacturing Act, which directs the Environmental Protection Agency by October 1 of each calendar year to determine the quantity of production and consumption allowances for the following calendar year. In this notice, the Agency is also providing notice of separate Agency actions finalizing administrative consequences for certain entities. These

administrative consequences were applied to withhold, retire, and revoke entities' remaining calendar year 2023 and newly issued calendar year 2024 allowances in accordance with the administrative consequence regulatory provisions.

FOR FURTHER INFORMATION CONTACT:

Andy Chang, U.S. Environmental Protection Agency, Stratospheric Protection Division, telephone number: 202-564-6658; email address: chang.andy@epa.gov. You may also visit EPA's website at <https://www.epa.gov/climate-hfcs-reduction> for further information.

SUPPLEMENTARY INFORMATION:

Subsection (e)(2)(D)(i) of the American Innovation and Manufacturing Act of 2020 (AIM Act) directs the Environmental Protection Agency (EPA) to determine, by October 1 of each calendar year, the quantity of allowances for the production and consumption of regulated substances that may be used for the following calendar year. EPA has codified the production and consumption baselines and phasedown schedules for regulated substances in 40 CFR 84.7. Under the phasedown schedule, for 2024, total production allowances may not exceed 229,521,263 metric tons of exchange value equivalent (MTEVe) and total consumption allowances may not exceed 181,522,990 MTEVe.

EPA regulations at 40 CFR part 84, subpart A, outline the process by which the Agency determines the number of allowances each entity is allocated. EPA allocated allowances consistent with this process for calendar year 2024, and has posted entity-specific allowance allocations on its website at <https://www.epa.gov/climate-hfcs-reduction>. An allowance allocated under the AIM Act does not constitute a property right and is a limited authorization for the production or consumption of a regulated substance.

Note that while allowances may be transferred or conferred once they are allocated, they can only be expended to cover imports and production in the calendar year for which they are allocated. In other words, calendar year 2024 allowances may only be expended for production and import of bulk HFCs between January 1, 2024, and December 31, 2024.

Application-Specific Allowances

EPA established the methodology for issuing application-specific allowances

in the 2021 final rule titled *Phasedown of Hydrofluorocarbons: Establishing the Allowance Allocation and Trading Program Under the American Innovation and Manufacturing Act* (86 FR 55116) and codified the methodology for issuing allowance allocations in 40 CFR 84.13. Because application-specific allowances can be expended to either produce or import HFCs, and application-specific allowances must be provided from within the overall annual production and consumption caps, EPA subtracts the amount of application-specific allowances allocated from both the production and consumption general allowance pools. EPA issues application-specific allowances to end users in five applications established by the AIM Act: propellants in metered dose inhalers (MDIs), defense sprays, structural composite preformed polyurethane foam for marine use and trailer use, etching of semiconductor material or wafers and the cleaning of chemical vapor deposition chambers within the semiconductor manufacturing sector, and onboard aerospace fire suppression. Additionally, EPA issues application-specific allowances to the U.S. Department of Defense for mission-critical military end uses.

EPA's 2023 final rule titled *Phasedown of Hydrofluorocarbons: Allowance Allocation Methodology for 2024 and Later Years* (88 FR 46836), updated the methodology for how the Agency would issue production and consumption allowances for 2024 through 2028. These updates are codified in 40 CFR 84.9 (production) and 40 CFR 84.11 (consumption), and EPA is issuing allowances to entities who meet the criteria in the regulations, including those who were previously issued consumption allowances as new market entrants pursuant to 40 CFR 84.15.

EPA's final calculations for allocation of allowances for each entity on September 29, 2023, follows below. EPA followed the methodology from the applicable regulations in determining allocations, *i.e.*, 40 CFR 84.13 for application-specific allowances, 40 CFR 84.9 for production allowances, and 40 CFR 84.11 for consumption allowances.

Applying the methodology codified in 40 CFR 84.13, EPA allocated the number of application-specific allowances shown in Table 1.

TABLE 1—NUMBER OF CALENDAR YEAR 2024 APPLICATION-SPECIFIC ALLOWANCES ALLOCATED PER ENTITY

Entity	Application	Application-specific allowances (MTEVe) allocated
Analog devices	Semiconductors	18,130.0
Applied Materials	Semiconductors	10,666.7
Armstrong Pharmaceuticals	Propellants in MDIs	230,001.2
ASML US	Semiconductors	1,033.8
AstraZeneca Pharmaceuticals	Propellants in MDIs	3,848.9
Aurobindo Pharma USA	Propellants in MDIs	28,316.9
Broadcom	Semiconductors	213.1
Compsys	Structural Composite Preformed Polyurethane Foam	19,928.6
Defense Technology	Defense Sprays	1,537.4
Diodes Incorporated	Semiconductors	2,584.5
General Electric	Semiconductors	73.9
GlaxoSmithKline	Propellants in MDIs	523,906.9
GlobalFoundries	Semiconductors	152,916.2
Guardian Protective Devices	Defense Sprays	7,467.0
Hitachi High-Tech America	Semiconductors	537.9
IBM Corporation	Semiconductors	369.4
Intel Corporation	Semiconductors	597,502.0
Invagen Pharmaceuticals	Propellants in MDIs	156,427.2
Jireh Semiconductor	Semiconductors	1,600.2
Keysight Technologies	Semiconductors	537.7
Kindeva Drug Delivery	Propellants in MDIs	335,693.4
LA Semiconductor	Semiconductors	2,584.5
Lam Research Corp	Semiconductors	182,210.4
Lupin	Propellants in MDIs	21,415.7
Medtronic Tempe Campus	Semiconductors	457.1
Microchip Technology	Semiconductors	43,757.2
Micron Technology	Semiconductors	40,557.8
Newport Fab DBA TowerJazz	Semiconductors	6,414.4
Northrop Grumman Corporation	Semiconductors	2,116.0
NXP Semiconductor	Semiconductors	72,169.2
Odin Pharmaceuticals	Propellants in MDIs	1,075.7
Polar Semiconductor	Semiconductors	11,718.5
Proteng Distribution	Onboard Aerospace Fire Suppression	6,723.4
Qorvo Texas	Semiconductors	1,065.3
Raytheon Technologies	Onboard Aerospace Fire Suppression	1,535.4
Renesas Electronics America	Semiconductors	1,065.3
Samsung Austin Semiconductor	Semiconductors	334,439.8
Security Equipment Corporation	Defense Sprays	53,652.3
Semiconductor Components Industries DBA ON Semiconductor.	Semiconductors	19,001.0
SkyWater Technology	Semiconductors	18,718.8
Skyworks Solutions	Semiconductors	536.8
Taiwan Semiconductor Manufacturing Company Arizona Corporation (TSMC Arizona Corporation).	Semiconductors	34,250.1
Texas Instruments	Semiconductors	193,836.7
The Research Foundation for The State University of New York OBO SUNY Polytechnic Institute.	Semiconductors	1,034.4
Tokyo Electron America	Semiconductors	558.8
Tower Semiconductor San Antonio	Semiconductors	8,502.2
UDAP Industries	Defense Sprays	37,629.1
Wabash National Corporation	Structural Composite Preformed Polyurethane Foam	66,340.0
WaferTech	Semiconductors	18,103.3
Wolfspeed	Semiconductors	48,648.1
X-FAB Texas	Semiconductors	2,432.6
Department of Defense	Mission-critical Military End Uses	2,511,081.5
Total Issued	All	5,836,924.3

EPA has denied requests for application-specific allowances from Apple Inc. and Zarc International, Inc. because they are ineligible under 40 CFR 84.13. The requests were ineligible for at least one of the following reasons:

- (1) Did not report purchases of regulated substances in the past three years; or
- (2) Failed to submit a request by the deadline.

General Pool Allowances for Production

Applying the methodology codified in 40 CFR 84.9, EPA allocated the number of production allowances shown in Table 2.

TABLE 2—NUMBER OF CALENDAR YEAR 2024 PRODUCTION ALLOWANCES ALLOCATED PER ENTITY

Entity	Production allowances allocated (MTEVe)
Application-specific allowances	^a 5,836,924.3
Arkema	26,990,669.0
Chemours	50,038,369.2
Honeywell International	113,275,864.9
Iofina Chemical	1,160.9
Mexichem Fluor DBA Koura	33,378,274.7
Total Issued	229,521,263.0

^a See Table 1; this value corresponds to the total number of application-specific allowances allocated.

General Pool Allowances for Consumption of consumption allowances shown in Table 3.

Applying the methodology codified in 40 CFR 84.11, EPA allocated the number

TABLE 3—NUMBER OF CALENDAR YEAR 2024 CONSUMPTION ALLOWANCES ALLOCATED PER ENTITY

Entity	Consumption allowances allocated (MTEVe)
Application-specific allowances	^a 5,836,924.3
A.C.S. Reclamation & Recovery (Absolute Chiller Services)	128,987.8
Ability Refrigerants	128,987.8
ACT Commodities	50.4
Advance Auto Parts	461,215.3
Advanced Specialty Gases	184,102.8
AFK & Co	124,689.8
AFS Cooling	128,987.8
A-Gas	2,199,784.7
Air Liquide USA	321,682.9
AllCool Refrigerant Reclaim	128,987.8
American Air Components	128,987.8
Arkema	20,051,844.9
Artsen	663,053.3
Automart Distributors DBA Refrigerant Plus	128,987.8
AutoZone Parts	1,304,000.7
AW Product Sales & Marketing	77,991.8
Bluon	21,590.6
CC Packaging	125,118.2
Chemours	22,115,332.4
Chemp Technology	128,987.8
ChemPenn	14,336.2
ComStar International	232,510.8
Creative Solution	128,987.8
Cross World Group	128,987.8
Daikin America	2,013,820.3
EDX Industry	370,884.7
Electronic Fluorocarbons	67,293.9
Fireside Holdings DBA American Refrigerants	128,973.9
First Continental International	496,747.8
FluoroFusion Specialty Chemicals	1,647,053.3
Freskoa USA	128,987.8
GlaxoSmithKline	347,339.2
Golden Refrigerant	128,987.8
Harp USA	493,996.4
Honeywell International	53,136,510.9
Hudson Technologies	1,928,081.5
Hungry Bear	128,987.8
ICool USA	2,198,406.6
IGas Holdings	16,846,810.7
Iofina Chemical	817.1
Kidde-Fenwal	128,987.8
Lenz Sales & Distribution	716,447.4
Lina Trade	128,987.8
Linde	343,607.9
Matheson Tri-Gas	22,015.7

TABLE 3—NUMBER OF CALENDAR YEAR 2024 CONSUMPTION ALLOWANCES ALLOCATED PER ENTITY—Continued

Entity	Consumption allowances allocated (MTEVe)
MEK Chemical Corporation	53,572.5
Meraki Group	128,987.8
Metalcraft	103,835.2
Mexichem Fluor DBA Koura	16,441,211.7
Mondy Global	205,649.7
National Refrigerants	12,780,590.6
Nature Gas Import and Export	528,873.0
North American Refrigerants	128,987.8
O23 Energy Plus	128,987.8
Perfect Score Too DBA Perfect Cycle	24,427.9
Reclamation Technologies	256,685.4
Resonac America (formerly Showa Chemicals of America)	42,851.2
RGAS (formerly listed as Combs Gas)	2,951,990.2
RMS of Georgia	1,063,455.0
Sciarra Laboratories	5,604.6
SDS Refrigerant Services	128,987.8
Solvay Fluorides	711,375.5
Summit Refrigerants	128,987.8
SynAgile Corporation	725.8
Technical Chemical	2,203,622.1
TradeQuim	128,987.8
Transocean Offshore Deepwater Drilling	11.0
Tulstar Products	473,694.4
Tyco Fire Products	128,987.8
USA United Suppliers of America DBA USA Refrigerants	273,401.8
USSC Acquisition Corp	84,777.8
Walmart	1,471,574.6
Waysmos USA	361,839.8
Wego Chemical Group	36,492.6
Weitron	4,089,895.7
Wesco HMB	128,987.8
Wilhelmsen Ships Service	26,063.9
Total Issued	181,522,990.0

^a See Table 1; this value corresponds to the total number of application-specific allowances allocated.

Administrative Consequences

Separate from the allocation of calendar year 2024 allowances, EPA also took administrative consequences against certain entities. Each administrative consequence is an independent stand-alone action, but for administrative efficiency EPA is providing notice of these independent actions through this notice as well. The requirements surrounding administrative consequences are codified in 40 CFR 84.35. Using this authority, EPA can retire, revoke, or withhold the allocation of allowances, or ban an entity from receiving, transferring, or conferring allowances. A retired allowance is one that must go unused and expire at the end of the year; a revoked allowance is one that EPA takes back from an allowance holder and redistributes to all the other allowance holders; and a withheld allowance is one that is retained by the Agency until an allowance holder that has failed to meet a regulatory requirement comes back into compliance, at which point EPA

allocates it to the allowance holder. A withheld allowance could become a revoked allowance if the allowance holder fails to meet the regulatory requirement at issue within the timeframe specified by EPA.¹ More information on EPA's approach to administrative consequences can be found at 86 FR 55168.

EPA finalized administrative consequences for certain entities that were allocated consumption allowances, listed in Table 3 for calendar year 2024, effective concurrently with the issuance of calendar year 2024 allowances. Specifically, the following entities failed to submit complete HFC reports as required in 40 CFR 84.31 and therefore EPA has withheld a portion of their consumption allowances until the missing reports are filed and verified by EPA: Air Liquide USA; Creative Solution; and Matheson Tri-gas, Inc.

¹ Administrative consequences that the Agency has finalized can be found here: <https://www.epa.gov/climate-hfcs-reduction/administrative-consequences-under-hfc-allocation-rule>.

The following entities imported regulated HFCs without expending the requisite number of consumption allowances at the time of import and therefore EPA has retired and/or revoked consumption allowances commensurate with the quantities of regulated substances imported without allowances: American Air Components; AFK & Co.; Artsen; Bluon, Inc.; Electronic Fluorocarbons; Fluorofusion Specialty Chemicals; and Resonac America, Inc. Lastly, Honeywell International produced and imported regulated substances without expending the requisite number of consumption allowances at the time of production or import.

In some of these cases, EPA finalized administrative consequences that totaled more than was allocated to an entity. For example, American Air Components, Bluon, Inc., and Resonac America, Inc. imported regulated HFCs without the necessary allowances at the time of import in such quantities that exceed their initial allocation of calendar year 2024 allowances. With

respect to one entity, the Agency decided to apply the administrative consequence across multiple years. EPA made this determination given the size of the administrative consequence and

as a result of considerations related to the step reduction in 2024 and implications for the market as a whole regarding access to chemicals that are anticipated to be impacted by EPA HFC

regulations. A summary of these administrative consequences is included in Table 4.

TABLE 4—SUMMARY OF ADMINISTRATIVE CONSEQUENCES EFFECTIVE ON SEPTEMBER 29, 2023, PURSUANT TO 40 CFR 84.35

Entity	Number of affected allowances (MTEVe)	Applicable year(s)	Administrative consequence action	Reasoning
American Air Components	208,516.5 ^a 104,258.3	2024 and future years as needed 2025 and future years as needed	Retire Revoke.	Imported regulated HFCs without expending requisite number of allowances; Will retire and revoke allowances until the full administrative consequence is covered.
AFK & Co	5,701.9 ^a 2,851.0	2024	Retire Revoke.	Imported regulated HFCs without expending requisite number of allowances.
Artsen	346.7 ^a 173.4	2024	Retire Revoke.	Imported regulated HFCs without expending requisite number of allowances.
Bluon	575,800.7 ^a 288,855.8	2024 and future years as needed As early as 2025 and future years as needed.	Retire Revoke.	Imported regulated HFCs without expending requisite number of allowances; Will retire and revoke allowances until the full administrative consequence is covered.
Electronic Fluorocarbons	64,931.9 ^a 32,466.0	2023 2024	Retire Revoke.	Imported regulated HFCs without expending requisite number of allowances.
Fluorofusion Specialty Chemicals	^a 5,505.2	2024	Revoke	Imported regulated HFCs without expending requisite number of allowances.
Resonac America	200,070.5 ^a 100,035.3	2024 and future years as needed As early as 2025 and future years as needed.	Retire Revoke.	Imported regulated HFCs without expending requisite number of allowances; Will retire and revoke allowances until the full administrative consequence is covered.
Honeywell International	^a 231,334.0 ^a 462,668.1 ^a 925,336.2 ^a 1,388,004.3 ^a 1,619,338.4	2024 2025 2026 2027 2028	Revoke Revoke. Revoke. Revoke. Revoke.	Produced and imported HFCs without expending requisite number of allowances; ^b Will spread the administrative consequence over five years.
Air Liquide USA	64,336.6	2024	Withhold	Failure to submit complete HFC reports as required in 40 CFR 84.31.
Creative Solution	25,797.6	2024	Withhold	Failure to submit complete HFC reports as required in 40 CFR 84.31.
Matheson Tri-Gas	4,403.1	2024	Withhold	Failure to submit complete HFC reports as required in 40 CFR 84.31.

^a As stated in the HFC Allocation Framework Rule (86 FR 55116), EPA explained it would take a 50% premium in first instances of administrative consequences. These values correspond to 50% of the full amount of consumption without requisite allowances at the time of production and/or import.

^b EPA only finalized administrative consequences for Honeywell International that affect the company's consumption allowances, since the company did not produce regulated substances in a quantity that exceeded the quantity of available production allowances that it had in its possession.

The allowance adjustments by way of withholding, retiring, and/or revoking a portion of entities' calendar year 2024 allowances effective September 29, 2023, are reflected below in Table 5.

TABLE 5—CALENDAR YEAR 2024 ALLOWANCES ADJUSTED THROUGH ADMINISTRATIVE CONSEQUENCES EFFECTIVE SEPTEMBER 29, 2023

Entity	Number of withheld consumption allowances (MTEVe)	Number of retired consumption allowances (MTEVe)	Number of revoked consumption allowances (MTEVe)
Air Liquide USA	64,336.6		
Creative Solution	25,797.6		
Matheson Tri-Gas	4,403.1		
Electronic Fluorocarbons			32,466.0
Honeywell International			231,334.0
AFK & Co		5,701.9	2,851.0
American Air Components		128,987.8	
Artsen		346.7	173.4
Bluon		21,590.6	
Fluorofusion Specialty Chemicals			5,505.2
Resonac America		42,851.2	

Adjustments to Consumption Allowances

EPA notes that entities in Table 4 who either imported or produced (or both) without expending the requisite number of consumption allowances at the time of production or import were not eligible to receive allowances that were redistributed as a result of allowances revoked for calendar year 2024. Further, an entity is not eligible to receive redistributed allowances if they were subject to administrative consequences that resulted in the revocation of allowances that contributed to the

overall total of allowances being redistributed at the time. For example, if EPA revoked 50 MTEVe allowances from company A and 50 MTEVe allowances from company B, effective on the same day, EPA's redistribution of that single pool of 100 MTEVe allowances would go to all general pool allowances holders except company A and company B. This applies regardless of whether the revocation happens in one year or over multiple years. However, entities who only had allowances withheld by the Agency as a result of failure to comply with certain HFC reporting requirements as

contained in 40 CFR 84.31 were eligible to receive allowances that were redistributed as a result of allowances revoked for calendar year 2024. For 2024, the total number of revoked and redistributed allowances is 272,329.6 MTEVe, which are being apportioned to eligible consumption allowance holders based on their relative market share, and the total number of retired allowances in 2024 is 199,478.2 MTEVe.

Table 6 reflects consumption allowance totals available to each entity as of September 29, 2023, after taking into account the administrative consequences shown in Table 5.

TABLE 6—TOTAL NUMBER OF CALENDAR YEAR 2024 CONSUMPTION ALLOWANCES AVAILABLE TO EACH ENTITY AS OF SEPTEMBER 29, 2023, ADJUSTED FOR ADMINISTRATIVE CONSEQUENCES

Entity	Available consumption allowances, adjusted for administrative consequences (MTEVe)
Application-specific allowances	^a 5,836,924.3
A.C.S. Reclamation & Recovery (Absolute Chiller Services)	129,280.9
Ability Refrigerants	129,280.9
ACT Commodities	50.5
Advance Auto Parts	462,263.3
Advanced Specialty Gases	184,521.1
AFK & Co.	116,136.9
AFS Cooling	129,280.9
A-Gas	2,204,783.0
Air Liquide USA	258,077.2
AllCool Refrigerant Reclaim	129,280.9
American Air Components	0.0
Arkema	20,097,406.2
Artsen	662,533.2
Automart Distributors DBA Refrigerant Plus	129,280.9
AutoZone Parts	1,306,963.6
AW Product Sales & Marketing	78,169.0
Bluon	0.0
CC Packaging	125,402.5
Chemours	22,165,582.4
Chemp Technology	129,280.9
ChemPenn	14,368.8
ComStar International	233,039.1
Creative Solution	103,483.3
Cross World Group	129,280.9
Daikin America	2,018,396.1
EDX Industry	371,727.4
Electronic Fluorocarbons	34,827.9
Fireside Holdings DBA American Refrigerants	129,266.9
First Continental International	497,876.5
FluoroFusion Specialty Chemicals	1,641,548.1
Freskoa USA	129,280.9
GlaxoSmithKline	348,128.4
Golden Refrigerant	129,280.9
Harp USA	495,118.8
Honeywell International	52,905,176.9
Hudson Technologies	1,932,462.4
Hungry Bear	129,280.9
ICool USA	2,203,401.8
IGas Holdings	16,885,089.6
Iofina Chemical	819.0
Kidde-Fenwal	129,280.9
Lenz Sales & Distribution	718,075.3
Lina Trade	129,280.9
Linde	344,388.6
Matheson Tri-Gas	17,662.6
MEK Chemical Corporation	53,694.2
Meraki Group	129,280.9

TABLE 6—TOTAL NUMBER OF CALENDAR YEAR 2024 CONSUMPTION ALLOWANCES AVAILABLE TO EACH ENTITY AS OF SEPTEMBER 29, 2023, ADJUSTED FOR ADMINISTRATIVE CONSEQUENCES—Continued

Entity	Available consumption allowances, adjusted for administrative consequences (MTEVe)
Metalcraft	104,071.1
Mexichem Fluor DBA Koura	16,478,569.0
Mondy Global	206,117.0
National Refrigerants	12,809,630.4
Nature Gas Import and Export	530,074.7
North American Refrigerants	129,280.9
O23 Energy Plus	129,280.9
Perfect Score Too DBA Perfect Cycle	24,483.4
Reclamation Technologies	257,268.6
Resonac America (formerly Showa Chemicals of America)	0.0
RGAS (formerly listed as Combs Gas)	2,958,697.6
RMS of Georgia	1,065,871.4
Sciarra Laboratories	5,617.3
SDS Refrigerant Services	129,280.9
Solvay Fluorides	712,991.9
Summit Refrigerants	129,280.9
SynAgile Corporation	727.4
Technical Chemical	2,208,629.1
TradeQuim	129,280.9
Transocean Offshore Deepwater Drilling	11.0
Tulstar Products	474,770.7
Tyco Fire Products	129,280.9
USA United Suppliers of America DBA USA Refrigerants	274,023.0
USSC Acquisition Corp	84,970.4
Walmart	1,474,918.3
Waysmos USA	362,662.0
Wego Chemical Group	36,575.5
Weitron	4,099,188.7
Wesco HMB	129,280.9
Wilhelmsen Ships Service	26,123.1
Total Available	181,228,974.5

Judicial Review

The AIM Act provides that certain sections of the Clean Air Act (CAA) “shall apply to” the AIM Act and actions “promulgated by the Administrator of [EPA] pursuant to [the AIM Act] as though [the AIM Act] were expressly included in title VI of [the CAA].” 42 U.S.C. 7675(k)(1)(C). Among the applicable sections of the CAA is section 307, which includes provisions on judicial review. Section 307(b)(1) provides, in part, that petitions for review must only be filed in the United States Court of Appeals for the District of Columbia Circuit: (i) When the agency action consists of “nationally applicable regulations promulgated, or final actions taken, by the Administrator,” or (ii) when such action is locally or regionally applicable, but “such action is based on a determination of nationwide scope or effect and if in taking such action the Administrator finds and publishes that such action is based on such a determination.” For locally or regionally applicable final actions, the CAA

reserves to the EPA complete discretion whether to invoke the exception in (ii).

The issuance of calendar year 2024 allowances for the production and consumption of hydrofluorocarbons herein noticed is “nationally applicable” within the meaning of CAA section 307(b)(1). The AIM Act imposes a national cap on the total number of allowances available for each year for all entities nationwide. 42 U.S.C. 7675(e)(2)(B)–(D). For 2024, there was a national pool of 229,521,263 production allowances and 181,522,990 consumption allowances available to distribute. The allocation action noticed herein distributed that finite set of allowances consistent with the methodology EPA established in the nationally applicable framework rule. As such, the allowance allocation is the division and assignment of a single, nationwide pool of HFC allowances to entities across the country according to the uniform, national methodology established in EPA’s regulations. Each entity’s allowance allocation is a relative share of that pool; thus, any

additional allowances awarded to one entity directly affects the allocations to others.

In the alternative, to the extent a court finds the final action to be locally or regionally applicable, the Administrator is exercising the complete discretion afforded to him under the CAA to make and publish a finding that the allocation action is based on a determination of “nationwide scope or effect” within the meaning of CAA section 307(b)(1).² In deciding to invoke this exception, the Administrator has taken into account a number of policy considerations, including his judgment regarding the benefit of obtaining the D.C. Circuit’s authoritative centralized review, rather than allowing development of the issue in other contexts, in order to ensure consistency in the Agency’s approach to

² In the report on the 1977 Amendments that revised section 307(b)(1) of the CAA, Congress noted that the Administrator’s determination that the “nationwide scope or effect” exception applies would be appropriate for any action that has a scope or effect beyond a single judicial circuit. See H.R. Rep. No. 95–294 at 323, 324, reprinted in 1977 U.S.C.C.A.N. 1402–03.

allocation of allowances in accordance with EPA's national regulations in 40 CFR part 84. The final action treats all affected entities consistently in how the 40 CFR part 84 regulations are applied. The allowance allocation is the division and assignment of a single, nationwide pool of HFC allowances to entities across the country according to the uniform, national methodology established in EPA's regulations, and each entity's allowance allocation is a relative share of that pool; thus, any additional allowances awarded to one entity directly affect the allocations to others. The Administrator finds that this is a matter on which national uniformity is desirable to take advantage of the D.C. Circuit's administrative law expertise and facilitate the orderly development of the basic law under the AIM Act and EPA's implementing regulations. The Administrator also finds that consolidated review of the action in the D.C. Circuit will avoid piecemeal litigation in the regional circuits, further judicial economy, and eliminate the risk of inconsistent results for different regulated entities. The Administrator also finds that a nationally consistent approach to the allocation of allowances constitutes the best use of agency resources. The Administrator is publishing his finding that the allocation action is based on a determination of nationwide scope or effect in the **Federal Register** as part of this notice in addition to inclusion on the website announcing allocations.

For these reasons, the final action of the Agency allocating hydrofluorocarbon allowances to entities located throughout the country is nationally applicable or, alternatively, the Administrator is exercising the complete discretion afforded to him by the CAA and finds that the final action is based on a determination of nationwide scope or effect for purposes of CAA section 307(b)(1) and is hereby publishing that finding in the **Federal Register**.

Under section 307(b)(1) of the CAA, petitions for judicial review of this allocation action must be filed in the United States Court of Appeals for the District of Columbia Circuit by December 18, 2023. Under section 307(b)(1) of the CAA, petitions for judicial review of the administrative consequence actions noticed herein must be filed in the United States Court of Appeals for the appropriate circuit by December 18, 2023. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for purposes of judicial review nor does it extend the time within which a petition for judicial

review may be filed and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. See CAA section 307(b)(2).

Paul Gunning,

Director, Office of Atmospheric Protection.

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ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OGC-2023-0500; FRL-11447-01-OGC]

Proposed Consent Decree, Clean Air Act Citizen Suit

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed consent decree; request for public comment.

SUMMARY: In accordance with the Clean Air Act, as amended (CAA or the Act), notice is given of a proposed consent decree in *Center for Biological Diversity v. United States Environmental Protection Agency, et al.*, No. 2:23-cv-01843 (E.D. Pa.). On May 16, 2023, Plaintiff Center for Biological Diversity filed a complaint in the United States District Court for the Eastern District of Pennsylvania. Plaintiff alleged that the Environmental Protection Agency (EPA or the Agency) has unreasonably delayed taking action following the United States Court of Appeals for the Third Circuit's September 3, 2021, order in Case No. 21-1279. That order granted EPA's request to remand to EPA for reconsideration a final rule titled "Air Plan Approval; Pennsylvania; Reasonably Available Control Technology (RACT) for Volatile Organic Compounds (VOC) Under the 2008 Ozone National Ambient Air Quality Standards (NAAQS)," published in the **Federal Register** on December 14, 2020). The proposed consent decree would establish a deadline for EPA to complete its reconsideration of that final rule.

DATES: Written comments on the proposed consent decree must be received by November 20, 2023.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-HQ-OGC-2023-0500, online at <https://www.regulations.gov> (EPA's preferred method). Follow the online instructions for submitting comments.

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

personal information provided. For detailed instructions on sending comments and additional information on the rulemaking process, see the "Additional Information about Commenting on the Proposed Consent Decree" heading under the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Derek Mills, Air and Radiation Law Office, Office of General Counsel, U.S. Environmental Protection Agency; telephone (202) 564-3341; email address mills.derek@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Obtaining a Copy of the Proposed Consent Decree

The official public docket for this action (identified by Docket ID No. EPA-HQ-OGC-2023-0500) contains a copy of the proposed consent decree. The official public docket is available for public viewing at the Office of Environmental Information (OEI) Docket in the EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the OEI Docket is (202) 566-1752.

The electronic version of the public docket for this action contains a copy of the proposed consent decree and is available through <https://www.regulations.gov>. You may use <https://www.regulations.gov> to submit or view public comments, access the index listing of the contents of the official public docket, and access those documents in the public docket that are available electronically. Once in the system, key in the appropriate docket identification number then select "search."

II. Additional Information About the Proposed Consent Decree

On December 14, 2020, EPA issued a final rule approving two revisions to Pennsylvania's state implementation plan (SIP) to address certain reasonably available control technology requirements, specifically those related to control techniques guidelines for volatile organic compounds and the addition of regulations controlling volatile organic compounds emissions from industrial cleaning solvents. That final rule was titled "Air Plan Approval; Pennsylvania; Reasonably Available Control Technology (RACT) for Volatile Organic Compounds (VOC) Under the