

No. 22-1313

**United States Court of Appeals for the
District of Columbia Circuit**

RMS OF GEORGIA, LLC D/B/A CHOICE REFRIGERANTS

Petitioner,

v.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

AND

MICHAEL S REAGAN, ADMINISTRATOR,
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY,

Respondents.

PETITION FOR REVIEW

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Counsel for Petitioner

**CORPORATE DISCLOSURE STATEMENT
OF CHOICE REFRIGRANTS**

Pursuant to Rule 26.1 of the Federal Rules of Appellate Procedure, Petitioner RMS of Georgia, LLC d/b/a Choice Refrigerants states the following:

Petitioner is a limited liability company which is not owned in whole or in part by a parent corporation or a publicly traded company and which does not issue stock.

PETITION FOR REVIEW

Pursuant to Rule 15 of the Federal Rules of Appellate Procedure, Section 307(b)(1) of the Clean Air Act, 42 U.S.C. § 7607(b)(1), 42 U.S.C. § 7675(k)(1)(C), and 5 U.S.C. § 702, RMS of Georgia, LLC d/b/a Choice Refrigerants hereby petitions for review the Final Rule of the United States Environmental Protection Agency, published October 11, 2022, at 87 Fed. Reg. 61,314, titled *Phasedown of Hydrofluorocarbons: Notice of 2023 Allowance Allocations for Production and Consumption of Regulated Substances Under the American Innovation and Manufacturing Act of 2020*, a copy of which is attached hereto. Petitioners are aggrieved by the Final Rule at issue.

Respectfully submitted,

/s/David M. Williamson

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Dated: December 9, 2022

CERTIFICATE OF SERVICE

I hereby certify that on this day I served via FedEx a copy of the foregoing Petition for Review of RMS Georgie, LLC d/b/a Choice Refrigerants and Corporate Disclosure Statement upon the following:

Dated: December 9, 2022

United States Environmental Protection Agency

Correspondence Control Unit
Office of General Counsel (Mail Code: 2311)
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Michael S. Regan, Administrator
Office of the Administrator (Mail Code: 1101A)
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

United States of America

Merrick Garland, Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530-0001

/s/David M. Williamson

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ATTACHMENT A

will not be included in the public docket and should not be submitted through www.regulations.gov or email. For additional information about the EPA's public docket visit the EPA Docket Center homepage at <http://www.epa.gov/dockets/>.

Public Docket: Publicly available docket materials may be accessed Online at www.regulations.gov.

FOR FURTHER INFORMATION CONTACT: The Designated Federal Officer (DFO), Tom Tracy, via phone/voicemail at: 919-541-4334; or via email at: tracy.tom@epa.gov.

Any member of the public interested in receiving a draft agenda, attending the meeting, or making a presentation at the meeting should contact Tom Tracy no later than October 23, 2022.

SUPPLEMENTARY INFORMATION: The Board of Scientific Counselors (BOSC) is a federal advisory committee that provides advice and recommendations to EPA's Office of Research and Development on technical and management issues of its research programs. The meeting agenda and materials will be posted to <https://www.epa.gov/bosc>.

Proposed agenda items for the meeting include, but are not limited to, the following: review of the New Chemicals Collaborative Research Program.

Information on Services Available: For information on translation services, access, or services for individuals with disabilities, please contact Tom Tracy at 919-541-4334 or tracy.tom@epa.gov. To request accommodation of a disability, please contact Tom Tracy at least ten days prior to the meeting to give the EPA adequate time to process your request.

Authority: Pub. L. 92-463, 1, Oct. 6, 1972, 86 Stat. 770.

Mary Ross,

Director, Office of Science Advisor, Policy and Engagement.

[FR Doc. 2022-22046 Filed 10-7-22; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OAR-2021-0669; FRL-9116-03-OAR]

Phasedown of Hydrofluorocarbons: Notice of 2023 Allowance Allocations for Production and Consumption of Regulated Substances Under the American Innovation and Manufacturing Act of 2020

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) has issued calendar year 2023 allowances for the production and consumption of hydrofluorocarbons in accordance with the Agency's regulations as established in the 2021 final rule titled *Phasedown of Hydrofluorocarbons: Establishing the Allowance Allocation and Trading Program under the American Innovation and Manufacturing Act*. The American Innovation and Manufacturing Act 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. The Agency also provided notice to certain companies on September 30, 2022, that the Agency intends to retire an identified set of those companies' allowances in accordance with the administrative consequences provisions established in the final rule.

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 2023, total production allowances may not exceed 344,299,157 metric tons of exchange value equivalent (MTEVe) and total consumption allowances may not exceed 273,498,315 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 2023, 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.

EPA has codified the procedure for calculating application-specific allowance allocations in 40 CFR 84.13. These allowances are drawn from both the production and consumption allowance pools. EPA is issuing "application-specific allowances" to end users in five applications established by the AIM Act: propellants in metered dose inhalers, 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 is issuing "application-specific allowances" to the U.S. Department of Defense for mission-critical military end uses.

EPA has denied requests for application-specific allowances from Applied Materials, Inc; Benuvia Manufacturing; General Electric Global Research Center; Gilero LLC; Guardian Protective Devices, Inc.; nHalience LLC; and Shamrock Filling LLC because they are ineligible under 40 CFR 84.13. The requests were ineligible for at least one of the following reasons:

- (1) Did not meet the criteria for HFC use in a covered application;
- (2) Did not submit by the deadline;
- (3) Did not provide proper supporting documentation or justification for their requests; or
- (4) Did not report purchases of regulated substances in the past three years.

EPA has allocated 2023 application-specific allowances as shown in Table 1.

TABLE 1—APPLICATION-SPECIFIC ALLOWANCES FOR CALENDAR YEAR 2023

Entity	Application	Number of application-specific allowances issued (MTEVe) ¹
Analog Devices	Semiconductors	28,852.2
Apple	Semiconductors	1,033.8
Armstrong Pharmaceuticals	Metered Dose Inhalers	157,231.4
ASML US	Semiconductors	1,237.2
AstraZeneca Pharmaceuticals	Metered Dose Inhalers	4,652.7
Aurobindo Pharma USA	Metered Dose Inhalers	65,427.9
Broadcom	Semiconductors	834.7
Compsys	Structural Composite Foam	14,152.8
Defense Technology	Defense Sprays	9,366.7
Diodes Incorporated	Semiconductors	3,667.1
GlobalFoundries	Semiconductors	177,721.8
Hitachi High-Tech America	Semiconductors	1,064.4
IBM Corporation	Semiconductors	533.5
Intel Corporation	Semiconductors	746,212.5
InvaGen Pharmaceuticals	Metered Dose Inhalers	74,380.1
Jireh Semiconductor	Semiconductors	5,787.8
Keysight Technologies	Semiconductors	538.8
Kindeva Drug Delivery	Metered Dose Inhalers	408,952.0
Lupin	Metered Dose Inhalers	24,098.0
Medtronic	Semiconductors	637.6
Microchip Technology	Semiconductors	31,266.7
Micron Technology	Semiconductors	42,600.7
Newport Fab DBA TowerJazz	Semiconductors	8,042.3
NXP Semiconductors	Semiconductors	86,878.8
Odin Pharmaceuticals	Metered Dose Inhalers	1,708.5
Polar Semiconductor	Semiconductors	13,446.4
Proteng Distribution	Onboard Aerospace Fire Suppression	4,060.4
Qorvo Texas	Semiconductors	1,237.2
Raytheon Technologies	Onboard Aerospace Fire Suppression	952.6
Renesas Electronics America	Semiconductors	4,445.5
Samsung Austin Semiconductor	Semiconductors	384,969.7
Security Equipment Corporation	Defense Sprays	63,889.9
Semiconductor Components Industries DBA ON Semiconductor.	Semiconductors	38,821.5
SkyWater Technology	Semiconductors	17,549.8
Skyworks Solutions	Semiconductors	4,652.3
Texas Instruments	Semiconductors	194,744.9
The Research Foundation for The State University of New York.	Semiconductors	159.9
Tokyo Electron America	Semiconductors	558.8
Tower Semiconductor San Antonio	Semiconductors	4,948.7
TSMC Arizona Corporation	Semiconductors	32,632.0
UDAP Industries	Defense Sprays	110,727.8
Wabash National Corporation	Structural Composite Foam	73,543.0
WaferTech	Semiconductors	22,355.4
Wolfspeed	Semiconductors	36,114.7
X-FAB Texas	Semiconductors	5,076.0
Zarc International	Defense Sprays	1,384.1
Department of Defense	Mission-critical Military End Uses	2,513,169.3
Total	All	5,426,319.9

¹ Numbers may not sum due to rounding.

EPA has codified the procedure for calculating the production allowance

allocation in 40 CFR 84.9. EPA has

allocated calendar year 2023 production allowances as shown in Table 2.

TABLE 2—PRODUCTION ALLOWANCES FOR CALENDAR YEAR 2023

Entity	Number of production allowances issued (MTEVe) ¹
Application-specific allowances ²	5,426,319.9
Arkema	40,873,469.3
Chemour	75,703,417.3
Honeywell International	171,747,616.1
Iofina Chemical	1,758.6
Mexichem Fluor DBA Koura	50,546,575.8
Total	344,299,157.0

¹ Numbers may not sum due to rounding.

² See Table 1.

EPA has codified the procedure for calculating the consumption allowance allocation in 40 CFR 84.11. Calendar year 2023 consumption allowances have also been allocated to new market entrants consistent with 40 CFR 84.15.¹ EPA has allocated calendar year 2023 consumption allowances as shown in Table 3.

TABLE 3—CONSUMPTION ALLOWANCES FOR CALENDAR YEAR 2023

Entity	Number of consumption allowances issued (MTEVe) ¹
Application-specific allowances ²	5,426,319.9
A.C.S. Reclamation & Recovery (Absolute Chiller Services)*	200,000.0
Ability Refrigerants*	200,000.0
ACT Commodities*	77.8
Advance Auto Parts*	190,699.1
Advanced Specialty Gases	285,314.5
AFK & Co.*	193,335.9
AFS Cooling*	200,000.0
A-Gas	3,209,232.5
Air Liquide USA	498,530.3
AllCool Refrigerant Reclaim*	200,000.0
Altair Partners	2,918,730.4
American Air Components*	200,000.0
Arkema	31,075,488.7
Artsen	1,027,571.2
Automart Distributors DBA Refrigerant Plus*	200,000.0
AutoZone Parts	2,486,664.3
AW Product Sales & Marketing	194,505.7
Bluon	33,459.8
CC Packaging*	194,000.0
Certified Refrigerant Services*	200,000.0
Chemours	33,382,686.1
Chemp Technology*	200,000.0
Combs Gas	1,287,918.3
ComStar International	374,063.9
Creative Solution*	200,000.0
Cross World Group*	200,000.0
Daikin America	3,120,932.2
EDX Industry*	200,000.0
Electronic Fluorocarbons	104,289.0
Fireside Holdings DBA American Refrigerants*	199,978.5
First Continental International	769,838.0
FluoroFusion Specialty Chemicals	2,552,532.6
Freskoa USA*	200,000.0
GlaxoSmithKline	536,367.9
Golden Refrigerant*	200,000.0
Harp USA	765,574.0
Honeywell International	82,497,424.7
Hudson Technologies	2,988,057.5
Hungry Bear*	200,000.0
ICool USA	3,406,995.9
IGas Holdings	25,944,614.3
Iofina Chemical	1,264.9
Kidde-Fenwal*	200,000.0
Lenz Sales & Distribution	1,110,319.3
Lina Trade*	200,000.0
Linde	532,503.3
Meraki Group*	200,000.0
Metalcraft*	161,000.0
Mexichem Fluor DBA Koura	25,479,884.3

¹ A comprehensive overview and discussion of allocation decisions to new market entrants can be found in the Agency's April 5, 2022, notice

Phasedown of Hydrofluorocarbons: Notice of 2022 Set-Aside Pool Allowance Allocations for Production and Consumption of Regulated

Substances Under the American Innovation and Manufacturing Act of 2020 [87 FR 19683].

TABLE 3—CONSUMPTION ALLOWANCES FOR CALENDAR YEAR 2023—Continued

Entity	Number of consumption allowances issued (MTEVe) ¹
Mondy Global	318,706.9
National Refrigerants	19,806,810.9
Nature Gas Import and Export	819,624.4
North American Refrigerants*	200,000.0
O23 Energy Plus*	200,000.0
Perfect Score Too DBA Perfect Cycle*	37,876.0
Reclamation Technologies*	200,000.0
Refrigerants, Inc.	26,550.9
RMS of Georgia	1,621,276.8
RTR Suppliers*	198,000.0
Saalok*	200,000.0
Sciarra Laboratories*	8,700.0
SDS Refrigerant Services*	200,000.0
Showa Chemicals of America	73,466.6
Solvay Fluorides	1,102,459.2
Summit Refrigerants*	200,000.0
SynAgile Corporation*	1,125.1
Technical Chemical	974,140.0
TradeQuim*	200,000.0
Transocean Offshore Deepwater Drilling	16.8
Tulstar Products	734,110.9
Tyco Fire Products*	200,000.0
USA United Suppliers of America DBA USA Refrigerants*	200,000.0
USSC Acquisition Corp*	131,451.0
Walmart	2,280,583.0
Waysmos USA	634,504.6
Weitron	6,338,344.6
Wesco HMB*	200,000.0
Wilhelmsen Ships Service	40,392.5
Total	273,498,315.0

¹ Numbers may not sum due to rounding.

² See Table 1.

* These entities were issued consumption allowances consistent with the provisions in 40 CFR 84.15(e)(3). Consistent with 40 CFR 84.15(e)(3) and as clarified in the Agency's 2021 final rule, these entities were issued the same number of allowances for 2023 as they were in 2022. In accordance with 40 CFR 84.15(f)(1), allowances allocated to these entities may not be transferred.

On September 30, 2022, EPA also provided notice to four entities of the Agency's intent to take administrative consequences in accordance with 40 CFR 84.35. Using this authority, EPA can retire, revoke, or withhold the allocation of allowances, or ban a company from receiving, transferring, or conferring allowances.² EPA provided notice of its intent to retire an identified set of each of the four companies' allowances, affecting both calendar year 2022 and calendar year 2023 allowances.

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

² Administrative consequences that the Agency has finalized can be found here: <https://www.epa.gov/climate-hfcs-reduction/administrative-consequences-under-hfc-allocation-rule>.

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 final action 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 2023, there was a national pool of 344,299,157 production allowances and 273,498,315 consumption allowances available to distribute. The 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 action is based on a determination of

“nationwide scope or effect” within the meaning of CAA section 307(b)(1).³ 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 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 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 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

³In 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.A.N. 1402–03.

publishing that finding in the **Federal Register**.

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the District of Columbia Circuit by December 12, 2022.

Hans Christopher Grundler,
Director, Office of Atmospheric Programs.
[FR Doc. 2022–22059 Filed 10–7–22; 8:45 am]
BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0863; FR ID 108097]

Information Collection Being Reviewed by the Federal Communications Commission

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act of 1995 (PRA), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission’s burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees. The FCC may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written PRA comments should be submitted on or before December 12, 2022. If you anticipate that you will be submitting comments but find it difficult to do so within the period of time allowed by this notice, you should

advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Cathy Williams, FCC, via email to PRA@fcc.gov and to Cathy.Williams@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0863.
Title: Satellite Delivery of Network Signals to Unserved Households for Purposes of the Satellite Home Viewer Act.

Form Number: Not applicable.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents and Responses: 848 respondents; 250,000 responses.

Estimated Time per Response: 0.50 hours.

Frequency of Response:

Recordkeeping requirement, On occasion reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection action is contained in 47 U.S.C. 339.

Total Annual Burden to Respondents: 125,000 hours.

Total Annual Cost: No cost.

Needs and Uses: The information collection requirements contained in 47 CFR 73.686 describes a method for measuring signal strength at a household so that the satellite and broadcast industries would have a uniform method for making an actual determination of the signal strength that a household received. The information gathered as part of the noise-limited service contour signal strength tests will be used to indicate whether a household is “unserved” by over-the-air network signals.

Satellite and broadcast industries making field strength measurements for formal submission to the Commission in rulemaking proceedings, or making such measurements upon the request of the Commission, shall follow the procedure for making and reporting such measurements which shall be included in a report to the Commission and submitted in affidavit form, in triplicate. The report shall contain the following information:

(a) Tables of field strength measurements, which for each measuring location; (b) U.S. Geological Survey topographic maps; (c) All information necessary to determine the pertinent characteristics of the transmitting installation; (d) A list of