THOMPSON HINE

Environmental Update

August 2025

D.C. Circuit Sides with EPA in Refrigerant Phasedown Allocation Rule Challenge

On August 1, the U.S. Court of Appeals for the D.C. Circuit issued a closely watched decision upholding the EPA's 2024 rule for distributing hydrofluorocarbon (HFC) "allowances" under the 2020 American Innovation and Manufacturing (AIM) Act. The AIM Act directs the EPA to regulate and reduce HFCs, a class of refrigerants used in air conditioning, refrigeration, fire suppression, solvents, foam blowing agents, and aerosols. HFCs are significant contributors to climate change, with global warming potentials hundreds or thousands of times greater than carbon dioxide, as determined by the Intergovernmental Panel on Climate Change and adopted by Congress and the EPA.

The AIM Act mandates an 85% reduction in HFC production and consumption in the United States by 2036. The EPA's phasedown operates under a cap-and-trade system, allocating allowances to market participants and gradually reducing the total number of allowances over time.

The D.C. Circuit considered two main challenges to the 2024 allocation rule: (1) whether the AIM Act unconstitutionally delegated legislative power to the EPA, and (2) whether the EPA acted arbitrarily by excluding 2020 market data when setting allowances for 2024-2028. RMS Georgia (operating as "Choice") argued that the AIM Act's directive to distribute allowances "in accordance with this section" (42 U.S.C. § 7675(e)(3)) lacked sufficient specificity. The panel rejected this nondelegation challenge, holding that Congress provided adequate guidance by setting clear goals and modeling the HFC program on prior cap-and-trade schemes. The court found that the AIM Act's language supplied an "intelligible principle," meeting constitutional requirements.

Petitioner IGas Holdings challenged the EPA's methodology, contending that the agency unfairly limited its evaluation of market share to the years 2011 through 2019 and arbitrarily excluded 2020 data, resulting in a misallocation of allowances. The court upheld the EPA's approach for two main reasons: it found that 2020 was an outlier due to the pandemic and related disruptions, and that relying on the 2011-2019 data set maintained continuity and market stability, as companies had already adjusted to this framework. The court concluded that the EPA's reasoning satisfied the Administrative Procedure Act's standard for rational, evidence-based decision-making.

For most stakeholders, the ruling provides short- and long-term regulatory certainty. By affirming the status quo, the court ensures businesses with existing allowances will not experience sudden changes that could have forced emergency compliance purchases or triggered inventory write-downs. The decision also ensures regulatory stability through 2028 – the next opportunity for revisiting the allocation methodology – allowing industry participants to budget, invest, and negotiate supply contracts without concern that the 2020 data issue will resurface.

Overall, the court's endorsement of the EPA's market-share methodology offers industry a clearer outlook, with greater confidence that current compliance strategies can proceed under the current framework.

FOR MORE INFORMATION

For more information, please contact:

Joel D. Eagle
216.566.5938
Joel.Eagle@ThompsonHine.com

Ashley C. Kirk
216.566.5585
Ashley.Kirk@ThompsonHine.com

or any other member of our Environmental practice.