

Insights

HFC REGULATION: NAVIGATING IMPACTS TO A FAST-GROWING “CLIMATE CONTROL” INDUSTRY

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SUMMARY

Climate control technology is increasingly a focal part of modern society’s expectation to have sophisticated supply chains, particularly relating to perishable items such as pharmaceuticals, raw products, and food. The United States federal government and state governments have been actively working to regulate hydrofluorocarbons (HFCs), which are critical to refrigeration and the quickly evolving supply chain.

This article provides a survey of United States legal obligations that may impact everyday business decisions regarding the production, use, and transport of HFCs, and what industries may expect as the regulations continue to develop and take force.

WHAT ARE HFCS?

HFCs are synthetic gases found in everyday applications such as air conditioning, refrigeration, fire suppression, solvents, foam blowing agents, and aerosols. HFCs are utilized in many final manufactured goods that require cooling, such as vending machines and ATMs. Although HFCs only make up a small fraction of overall global greenhouse gas (GHG) emissions, they are the fastest growing source of GHG emissions and have a high global warming potential (GWP).

HFCs are the successor to synthetic gases commonly referred to as ozone-depleting substances (ODS), which were phased out starting in the 1990s in a coordinated international effort pursuant to the Montreal Protocol. More recent amendments to the Montreal Protocol have called for reductions in HFCs use and production, calling for an 80-85% reduction of HFCs by 2047.

HFCS AND CLIMATE EMISSION DISCLOSURES

Many businesses have already begun to voluntarily quantify and disclose GHG emissions under sustainability or Environmental, Social, and Governance (ESG) commitments. Organizations such

as the [Greenhouse Gas Protocol \(GHP\)](#), the [Task Force on Climate-Related Financial Disclosures \(TFCD\)](#), and the [International Sustainability Standards Board \(ISSB\)](#) have developed guidance documents and disclosure frameworks to standardize these practices. For example, the GHP's [Revised Corporate Accounting and Reporting Standard](#) outlines the well-known Scope 1, Scope 2, and Scope 3 metrics to assist businesses in quantifying their GHG emissions. The TFCD's [Recommendation Report](#) and ISSB's "[IRFS S2](#)" standard focus on climate-related financial disclosures. Recently, these international standards have been incorporated into U.S. federal and state climate disclosure laws.

In March 2024, the Securities and Exchange Commission's (SEC) published its [Enhancement and Standardization of Climate-Related Disclosures for Investors](#) rule, explicitly building off these reporting frameworks to "mitigate . . . compliance burdens." For additional information about the rule, refer to [BCLP's insight](#). While the thrust of the SEC's rule relates to financial disclosures, some businesses will be required to provide Scope 1 and Scope 2 emission information as well, which would include HFCs emission information. Within a month of publishing its rule, the SEC issued a [voluntary stay](#), and it remains possible that the rule may never go into effect due to legal challenges and the change in administration. That noted, the international standards referenced by the rule remain and will likely serve as the basis for future federal or state climate disclosure action.

At the state level, California enacted the most comprehensive climate disclosure statutes through SB 253 and SB 261, as amended by SB 219. These two laws impose climate related emission and financial disclosures. Similar to the SEC's rule, California's laws either directly incorporate or require regulations in conformity with the reporting frameworks listed above. The first disclosures under California's rules are due in 2026, for the 2025 fiscal year. For additional information about these laws, [refer to BCLP's recent insight](#).

In sum, HFCs emissions are becoming a mandatory component of climate disclosures for businesses that fall within the scope of international standards and developing U.S. laws. Businesses will need to continue to dedicate time and resources to identify HFCs within their supply chain portfolio and familiarize themselves with these frameworks to ensure compliance.

DIRECT REGULATION OF HFCS USE AND DISTRIBUTION

FEDERAL LAW AND REGULATION: THE AMERICAN INNOVATION AND MANUFACTURING (AIM) ACT

In December 2020, Congress passed the [AIM Act](#) directing the U.S. Environmental Protection Agency (EPA) to regulate [certain HFCs](#) in three main ways: (1) phasing down the production and consumption of certain HFCs, (2) facilitating the transition to next generation technologies through sector-based restrictions, and (3) issuing regulations to maximize reclamation and minimize releases of HFCs from new and existing equipment.

At present, EPA has established different programs to implement each component, discussed below.

- The [HFC Allowance Allocation Program](#) seeks to gradually phase down production and consumption of HFCs to 85% of their historical baseline by 2036. This program establishes a specific number of calendar-year allowances that will be required for production and consumption of HFCs. Producers of HFCs will require both production allowances and consumption allowances while importers and other users of HFCs will only need consumption allowances. This program also establishes record keeping requirements, robust quarterly reporting obligations, and allows EPA to retire, revoke, or withhold allowances for violations.
- The [Technology Transitions Program](#) prohibits the manufacture, distribution, sale, installation, import, and export of certain HFCs with higher GWPs in new aerosols, foams, refrigeration, air conditioning, and heat pump equipment. EPA's compliance deadlines vary by sector and subsector, ranging from January 1, 2025, to January 1, 2028. In addition, the program imposes labeling requirements that take effect for each subsector at the same time as their respective compliance dates. EPA is also imposing recordkeeping and annual reporting obligations, with the first annual report due by March 31, 2026, for the preceding calendar year.
- The [Emissions Reduction and Reclamation \(ER&R\) Program](#) aims to maximize reclamation and minimize the release of regulated substances from equipment. ER&R imposes specific requirements for anyone who owns, operates, services, repairs, recycles, disposes, or installs equipment containing HFCs or their substitutes, as well as those that recover, recycle, or reclaim HFCs or their substitutes. For example, the final rule imposes certain leak repair requirements and mandates the use of an automatic leak detection systems for certain appliances. Consistent with the other programs, ER&R also has record keeping and reporting obligations to monitor compliance, with [enforcement dates](#) varying by sector from 2026 to 2028.

Broader uncertainty with the new administration could impact funding and enforcement of AIM. Although no executive orders directly target the AIM Act, it has been affected by the [Unleashing American Energy](#) executive order. Section 7 mandates a pause on the disbursement of funds under the Inflation Reduction Act (IRA) and requires agency heads to evaluate whether grants, loans, contracts, and other disbursements align with the new administration's energy policy. The AIM act is funded through the IRA, which allocated funding to EPA for implementation and compliance of the AIM Act.

However, even with the change in administration and the accompanying change in expected implementation and enforcement of AIM, the statute itself is fairly prescriptive and thus certain obligations are likely to remain absent Congressional action. For example, the production and consumption allowance regime and the gradual increase in stringency to 85% reduction by 2036 are defined by statute. [42 U.S.C. § 7675\(e\)](#). While the landscape of funding, implementation, and

enforcement is still unclear, it is important to note that AIM, and EPA's current programs, are still intact and enforceable.

STATE REGULATION: CALIFORNIA LEADING THE STATES WITH VARIOUS RULES AND STATUTES

California has enacted various statutes and regulations to reduce HFCs. [SB 1383](#), passed in 2016, requires the California Air Resources Board (CARB) to implement a comprehensive short-lived climate pollutant strategy by reducing HFC emissions to 40% below 2013 levels by 2030. This goal serves as the backdrop for the state's other actions, including:

- [SB 1013](#), passed in 2018, incorporates parts of EPA's former SNAP 20/21 rule, banning certain sector specific end uses of HFCs.
- CARB issued regulations in 2020 amending its 2018 regulations and adopting GWP limits for new refrigeration and air conditioning equipment. A comprehensive list of impacted products and enforceable dates have been consolidated in [CARB's regulations](#).
- [SB 1206](#), passed in 2018, forbids certain high GWP "bulk" HFCs from being sold, distributed, or otherwise entering into commerce. The prohibition becomes more stringent over time and prohibits any "bulk" HFCs with a GWP over 750 by 2033. "Bulk" HFCs are those intended for transport (however small, even if just an aerosol cannister) that do not achieve the intended purposes until the HFCs are transferred to another piece of equipment.
- [Refrigerant Management Program \(RMP\)](#) mandates leak management, inspection, and reporting for large refrigeration systems utilizing refrigerants of several types, including HFCs. RMP also imposes reporting obligations on refrigerant reclaimers, wholesalers, and distributors to monitor refrigerant movement within the state.
- [Refrigerant Recovery, Reclaim, and Reuse Requirements](#) requires air conditioning manufacturers use a percentage of reclaimed refrigerant in new equipment.
- [Small Containers of Automotive Refrigerant](#) requires refrigerant sold in these types of containers in California to be 25% reclaimed by January 1, 2025, and 100% reclaimed by January 1, 2027.

In addition to California, Washington and New York have enacted HFCs legislation which incorporate and expand upon EPA's former SNAP 20/21 rule. Maine, Vermont, Massachusetts, Connecticut, Rhode Island New Jersey, Virginia, Pennsylvania, Delaware, Maryland, Colorado, New Mexico, Oregon, and Hawaii have enacted SNAP 20/21-equivalent legislation or have legislation pending. BCLP is monitoring these important regulatory changes.

CONCLUSION

The recent increase in HFCs use and production coupled with their high GWP have made HFCs a common target of state and federal climate action. Businesses dealing with HFCs must be familiar with the breadth of climate change rules, including disclosure laws, to ensure compliance and make appropriate business decisions.

For questions or more information, contact one of the authors listed, [Erin Brooks](#), [Daron Ravenborg](#), [Pel Okeowo](#), [John Kindschuh](#), or any other member of our environment team.

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