

Express Terms Summary

Part 494 Hydrofluorocarbon Standards and Reporting

The Department of Environmental Conservation (Department) adopts an amendment to Part 494 to reinforce administrative and record-keeping requirements for manufacturers, expand enforcement provisions, and implement recommendations from the Climate Action Council Climate Change Scoping Plan needed to achieve the requirements of the Climate Leadership and Community Protection Act (Environmental Conservation Law Section 75-0109). In conjunction with the substantive changes, the Department has restructured the regulation into Subparts reflecting general provisions and requirements regarding new sources (Subpart 494-1) and requirements regarding existing, commercial sources (Subpart 494-2).

Subpart 494-1 General Provisions

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Section 494-1.1 Purpose

This section expands the scope of the regulation has been expanded to include additional types of policies and additional greenhouse gases.

Section 494-1.2 Applicability

This regulation applies to any persons who sells, imports, manufactures, distributes for sale, offers for sale, makes available for sale or distribution, purchases or receives for sale or distribution, or attempts to purchase or receive for sale or distribution, installs or that otherwise enters into commerce in the State of New York or that owns, operates, or uses for commercial purposes or, any product, equipment, material, or regulated substances.

Section 494-1.3 Definitions

This section lists the definitions to be used for this Part, which are primarily derived from EPA regulatory language and regulations in other states. This section is revised to include terminology used in new and revised sections and terms derived from the Climate Leadership and Community Protection Act, including the Global Warming Potential.

Section 494-1.4 Prohibitions

This section lists prohibitions on new and retrofitted equipment, products, and substances. The amendments backstop EPA’s recent nationwide prohibitions, adopt other prohibitions including a full phasedown of regulated substances to the lowest Global Warming Potential level, as recommended in the Climate Action Council Climate Change Scoping Plan to achieve the required statewide greenhouse gas emission limits. This section is also amended to clarify applicable “sell-through” provisions, or the period over which newly manufactured products may be sold after the prohibition date.

Section 494-1.5 Exemptions

This section lists exemptions to the prohibitions listed in Section 494-1.4.

Section 494-1.6 Labeling and Disclosure Requirements

This section mandates that manufacturers provide written disclosures to buyers and the public as well as a label or other documentation regarding the regulated substances, manufacture year, and quantity, where applicable. These requirements can be met through other State or federal requirements that meet the same standard.

Section 494-1.7 Requirements for Suppliers of Regulated Substances, Suppliers of Regulated Substances Contained in Pre-Charged Equipment or Products, and Reclaimers

This section combines existing requirements and new requirements for manufacturers and other suppliers of substances and equipment to register, report, register with the department, as well as maintain specific records. These requirements are modelled after provisions in place in other states or in existing EPA programs.

Section 494-1.8 Variances

This section provides a process for compliance entities to apply for a variance based on impossibility, a force majeure event, or economic hardship. These requirements are modelled after provisions in place in other states.

Section 494-1.10 Enforcement

This section has been added to provide a reference to the relevant section of Environmental Conservation Law.

Section 494-1.11 Reference Material

This section provides information on how to locate materials that have been incorporated by reference in this regulation.

Subpart 494-2 Refrigerant Management Program

This Subpart establishes terms related to the management of existing hydrofluorocarbon emission sources, specifically large, commercial equipment. These requirements are modelled after refrigerant management provisions in place in other states related EPA programs.

Section 494-2.2 Registration and Labeling

This section mandates that owners and operators of certain equipment that contain regulated substances register with the department and create a label or other documentation consistent with the requirements for new equipment in section 494-1.6 of this Part.

Section 494-2.3 Leak Detection and Monitoring

This section establishes requirements to monitor for leaks of regulated substances from equipment, with increasing frequency based on the amount of regulated substances contained in the equipment. It also requires the use of automated detection for commercial refrigeration systems as recommended in the Climate Action Council Climate Change Scoping Plan.

Section 494-2.4 Leak Repair Requirements

This section establishes requirements to repair leaks within a certain time period.

Section 494-2.5 Retrofit or Retirement Plans for Leaking Equipment

This section outlines a process for replacing substances or equipment if leaks cannot be repaired.

Section 494-2.6 Annual Reporting Requirements

This section requires owners and operators of the largest equipment to report annually on their equipment, leak management, and purchases of regulated substances.

Section 494-2.7 Record-Keeping Requirements

This section requires owners and operators subject to this program to maintain certain records.

Section 494-2.8 Supermarket Refrigerant Program

This section mandates that supermarket chains participate in a program to phasedown the emissions of greenhouse gas emissions from existing stores by replacing equipment or meeting an equivalent emission rate.

Regulatory Impact Statement Summary

6 NYCRR Part 494, Hydrofluorocarbon Standards and Reporting

1. Statutory Authority

The statutory authority to promulgate this rulemaking is derived from the Department's obligation to prevent and control air pollution, including greenhouse gases (GHGs), as set out in the Environmental Conservation Law (ECL) at Sections 1-0101, 1-0303, 3-0301, 19-0103, 19-0105, 19-0107, 19-0301, 19-0303, 19-0305, 71-2103, 71-2105, 75-0101, 75-0105, 75-0107, and 75-0109. Furthermore, the amendment to this regulation also addresses the Department's statutory responsibility to promulgate regulations under ECL 75-0109 and other provisions of the Climate Leadership and Community Protection Act of 2019 (Climate Act).

2. Legislative Objectives

The Climate Act directs the Department to promulgate regulations that, “reflect, in substantial part, the findings” of the Climate Action Council Scoping Plan (Scoping Plan) in order to achieve the Climate Act's statewide GHG emission limits (promulgated as 6 NYCRR Part 496) and net zero goal. The Scoping Plan included the following recommendations for the Department to address hydrofluorocarbon (HFC) emissions. The amendments to the Part 494 regulation address all recommendations that are within the scope of this regulation and that do not require additional legislation. As a summary, the Scoping Plan Strategies B12 and W5 include the following recommendations specifically related to the promulgation of regulations by the Department. In other words, the Climate Act directs the Department to promulgated regulations that “substantially reflect” these recommendations.

- “DEC should expand the scope of 6 NYCRR Part 494... including through the establishment of a GWP [Global Warming Potential] threshold that decreases over time as low and ultra-low GWP options become

available and addressing leakage in existing equipment during the transition. DEC should align New York policy with anticipated federal (EPA[Environmental Protection Agency]) policy measures to meet HFC reduction requirements as well as with other U.S. Climate Alliance states, to send a strong market signal to manufacturers and industry while mitigating costs of the transition.” (Scoping Plan Strategy B12)

- “[Ensure] proper disposal of HFCs already in use in existing equipment” (Scoping Plan Strategy B12).

- “Require reclamation or destruction of refrigerants from appliances at end-of-life, with verification and reporting, and require leak detection for certain commercial refrigeration equipment” (Scoping Plan Strategy B12).

- “Address leaks at end-of-life by requiring reclamation or destruction of refrigerants from appliances and institute requirements for verification and reporting” (Scoping Plan Strategy W5).

- “Ban the sale of virgin high GWP refrigerants for servicing with an exception for reclaimed refrigerants” (Scoping Plan Strategy W5).

- “Create a registry and reporting requirements (to track sales, stockpiles, and leaks) for large refrigeration and heating, ventilation, and air conditioning (HVAC) systems and refrigerant wholesalers and distributors” (Scoping Plan Strategy W5).

3. Needs and Benefits

The Department estimates that the amendments to Part 494 will address the relevant recommendations from the Climate Action Council Scoping Plan and reduce emissions in line with the requirements of the Climate Act.

This regulation is also aligned with the international Kigali Amendment to the Montreal Protocol as envisioned in the federal American Innovation and Manufacturing (AIM) Act of 2021. These policies intend to reduce the production and trade of HFCs in the U.S. 85% by 2036. The U.S. Environmental Protection Agency (EPA) has begun implementing regulations as directed under the AIM Act. EPA’s recent Technology Transitions rule will

step-down the Global Warming Potential (GWP) of substances in certain products to 150-700 GWP. The Department estimates that the Technology Transitions regulation could significantly reduce emissions in the State but will fall short of what was modeled in the Scoping Plan by approximately 7 million metric tons of carbon dioxide equivalent emissions (mmt CO₂e) in 2030 and 2050. The Department expects EPA to issue additional GWP step-downs in future years in line with the Kigali timeline. However, although EPA's regulations may control the national supply of new equipment, products and HFC substances; they will not control existing supplies or directly reduce emissions in New York State.

This regulation is particularly important for ensuring that the Climate Act emission reduction requirements and Scoping Plan recommendations are met. The regulation will establish a full phasedown timeline for HFCs (i.e., a 10 GWP Limit), controls on emissions from existing equipment (i.e., a Refrigerant Management Program and prohibitions on bulk HFC substances), and enable a transition away from HFCs in the largest equipment types (i.e., a Supermarket Refrigerant Program, and prohibition on all new commercial refrigeration facilities). The Department estimates that this will reduce emissions 3.5 to 24mmt CO₂e per year through 2050, compared to the current regulation.

4. Costs

To estimate potential costs, the Department considered EPA's analyses of the AIM Act Allocation Rule. The EPA Allocation Rule, finalized in 2021, encompasses the full phasedown of HFCs in the US under the Kigali Amendment. EPA estimated significant cost savings associated with the full phasedown of HFCs, and a negative abatement cost equivalent to \$9 billion in savings nationwide (up to \$540 million for New York if allocated based on population size). There are no additional costs anticipated to the Department for implementing this regulation.

The Department used the EPA Social Cost metrics and NYS Value of Carbon Guidance to estimate the societal benefits of the amended regulation from 2025 through 2050. Based on the Department's analysis, the rule has a present value of \$12.7-64.3 billion, with a value of \$25.5 billion at the central 2% discount rate. This significant societal value reflects the high Global Warming Potential of HFCs and the potential damages associated with their impact on global climate change.

5. Paperwork

The proposed rule will impose minimal additional paperwork on manufacturers, owners and operators of equipment, distributors and wholesalers, and reclaimers but it is not expected to be unduly burdensome as the majority of records are already subject to federal requirements.

6. Local Government Mandates

Part 494 will not create any mandates for local governments as compared to other entities.

7. Duplication

This proposal does not conflict with any other existing federal or State regulations or statutes.

8. Alternatives

The Department considers other alternatives infeasible because of the requirements of the Climate Act.

9. Federal Standards

This proposal does not result in the imposition of requirements that exceed any minimum standards of the federal government for the same or similar subject areas.

10. Compliance Schedule

Notwithstanding the following compliance schedule, pursuant to ECL Article 19, Part 494 will be effective 30 days after filing with the Department of State. This regulation will adopt a compliance schedule that prohibits specific substances in certain new products and systems and given certain exemptions.

Effective date of this Part or 2026: First step-down in GWP per EPA or US Climate Alliance state rules;

New refrigeration facilities limited to GWP of 10

January 2027: Prohibition on virgin refrigerant in small containers of automotive refrigerant

January 2028: Use of 100% reclaim in new residential and light commercial air conditioning and heat pumps, stand-alone refrigeration equipment

January 2034: Final stepdown for air conditioning and refrigeration end-uses to a GWP of 10

The regulation also prohibits the sale of bulk regulated substances on a graduated timeline between 2025 and 2040.

This regulation will also adopt a compliance schedule for registrations, reporting, record-keeping, leak management, and planning.

Effective date of this Part: Start of labeling requirements and leak detection and repair requirements

June 2025: Initial registration of suppliers, large commercial equipment, supermarket chains; Installation of automatic leak detection devices

March 2026: Start of annual reporting by suppliers and large commercial equipment

June 2026: Initial registration of medium-sized commercial equipment

March 31, 2027: Start of annual reporting by medium-sized commercial equipment

June 2028: Initial registration of small-sized commercial equipment

January 2035: Final phasedown of supermarket chains without an approved Transition Plan

Summary of the Assessment of Public Comments

6 NYCRR Part 494, Hydrofluorocarbon Standards and Reporting

Comments received from December 29, 2023 to March 19, 2024

The New York State Department of Environmental Conservation (Department) published a proposal to amend 6 NYCRR Part 494 (Part 494) on December 29, 2023. Formal notice of the proposal was provided in the State Register and Environmental Notice Bulletin on January 10, 2024. Comments on the proposed regulation were accepted until March 19, 2024. Two public hearings were held virtually on March 13, 2024. This Assessment of Public Comments responds to all comments within the scope of the regulation received during the public comment period, including written comments and oral statements made at the public hearings. Comments were compiled, reviewed, and categorized based on their content. The Department received comments from 230 entities, of which 103 were unique written or oral statements. An additional 127 written statements appeared to be from letter-writing campaigns from which few unique comments could be extracted.

The Department received comments from individuals, manufacturers, trade organizations, environmental advocacy groups, community groups, and others. Several commenters stated strong support for the Department's proposal, citing the reduction of HFC emissions or fairness to entities that are already making the transition away from HFCs. Almost all commenters voiced their support for addressing greenhouse gas emissions or "decarbonization," the Climate Leadership and Community Protection Act (or Climate Act), federal HFC policies (ratification of the international Kigali Amendment to the Montreal Protocol, the American Innovation and Manufacturing (AIM) Act¹) or related regulations by the US Environmental Protection Agency (EPA), and/or HFC regulations in other states. The remaining commenters either did not mention HFC or climate change policy or did not raise any issues related to this rule or these topics.

The Department considered issues and significant alternatives suggested by commenters within the scope of the regulation, including those related to applicability, definitions, prohibitions, exceptions, requirements for suppliers, the Refrigerant Management Program, and the supermarket refrigerant program. Many commenters also made general comments that the Department rescind the proposal or only consider regulations as first established by the federal government or by other states. As explained in the Regulatory Impact Statement, the Department made considerable efforts to align the regulation with federal government and US Climate Alliance (USCA) states rules, with some limited differences to meet New York State's requirements. There is no regulation that would achieve the same purpose – namely meeting the Climate Act requirements. The other most frequent requests for revisions related to prohibitions on the sale of bulk substances (such as for servicing), concerns about alternative substances, and the feasibility of an HFC phasedown. In summary, the Department's intent for regulating bulk substances is to align with California's SB1206 law, which has been incorporated-by-reference. Secondly, comments that stated a preference for or against certain substances based on any criteria other than GWP are beyond the scope of this rule, such as if it is synthetic or natural, or based on safety standards. For example, natural refrigerants like propane or carbon dioxide are already in use in many applications, but there is no requirement to use these substances. The availability of different substances on the market will continue to be determined by manufacturers, safety standards and codes, and the federal

¹ 42 U.S.C. § 7675.

government. The Department has revised for the GWP limit for certain sectors to 20 based on its relatively low GWP.

Finally, some commenters noted concerns about feasibility and the availability of compliant technologies by the prohibition dates outlined in this regulation. The global phasedown of HFCs necessitates that manufacturers develop alternatives and that these alternatives are made available on the market to meet the HFC phasedown timeline outlined in the Kigali Amendment and AIM Act. This reinforces the need for a clear, long-term regulatory signal to supplement international and federal HFC policies. The timelines adopted in this regulation are based on the best information available today, regulations in other jurisdictions, and multiple years of pre-proposal outreach. The regulation also provides variance provisions, aligned with other USCA state rules, to increase transparency, assist in compliance, and to allow for flexibility.

Notice of Adoption Statement

12(B)The edits made to the Express Terms do not require any changes to the JIS.

Notice of Adoption Statement

11(B)The edits made to the Express Terms do not require any changes to the RAFA.

Notice of Adoption Statement

10(B)The edits made to the Express Terms do not require any changes to the RFA.