

**Congress of the United States**  
**House of Representatives**

COMMITTEE ON OVERSIGHT AND ACCOUNTABILITY

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<https://oversight.house.gov>

February 15, 2023

The Honorable Michael S. Regan  
Administrator  
U.S. Environmental Protection Agency  
1200 Pennsylvania Ave, N.W.  
Washington, D.C. 20460

Dear Administrator Regan:

The Committee on Oversight and Accountability writes regarding the U.S. Environmental Protection Agency's (EPA) October 5, 2021 final rule banning non-refillable cylinders used to store and transport chemicals vital to the heating, ventilation, and air-conditioning (HVAC) industry.<sup>1</sup> By banning this particular cylinder in an effort to phasedown the production and consumption of hydrofluorocarbons (HFCs), the EPA surpasses its jurisdictional authority, creates unnecessary industrial disruptions, and jeopardizes good-paying jobs. The Committee questions whether the EPA is ignoring stakeholder concerns related to the rule. One such example is a Petition for Partial Administrative Reconsideration of the final rule, filed by Worthington Industries, which included a proposal for a new prototype cylinder.<sup>2</sup> Since November 10, 2021, when Worthington Industries filed the petition, over *400 days* have passed, and they have received no substantive response from the EPA, fostering uncertainty for the future of their employees and manufacturing facilities in Kentucky and Ohio. EPA's nonresponse endangers jobs, decreases American business competitiveness, and increases reliance on foreign countries. We therefore request documents and communications, as well as a staff-level briefing from EPA regarding its actions in this matter.

The new prototype cylinder proposed by Worthington Industries would meet the EPA's goals of phasing down HFCs while preserving jobs and supplying the HVAC industry without disruption.<sup>3</sup> However, the EPA has remained silent, promoting market uncertainty and threatening employees' jobs. Because Worthington Industries is the only domestic manufacturer of the non-refillable cylinder, the EPA's decision to ban non-refillable cylinders would make the United States exclusively reliant on foreign production capacity.<sup>4</sup>

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<sup>1</sup> *Phasedown of Hydrofluorocarbons: Establishing the Allowance Allocation and Trading Program Under the American Innovation and Manufacturing Act*, 86 Fed. Reg. 55116 (Oct. 5, 2021) (codified at 40 C.F.R. pt. 9, 40 C.F.R. pt. 84).

<sup>2</sup> Petition for Partial Administrative Reconsideration submitted by Andy Rose, President and CEO, Worthington Industries (November 10, 2021), *on file with Committee Staff*.

<sup>3</sup> *Id.*

<sup>4</sup> See Letter from Troy Balderson, Member of Congress, et al., to Joseph R. Biden, President (Jan. 28, 2022), *on file with Committee Staff*.

The replacement cylinder championed by the EPA causes a host of problems for the HVAC Industry and future efforts to phase down HFCs. The heavier weight and design of the refillable cylinder add risk regarding the safe use and transportation of HFCs and the safety of HVAC industry workers.<sup>5</sup> Non-refillable cylinders are also preferred in the HVAC industry because of their lower weight and lower costs. Moreover, the legislation behind the final rule, the American Innovation and Manufacturing Act (AIM Act), was intended to assist phasing down HFCs, not the cylinder containing HFCs.<sup>6</sup>

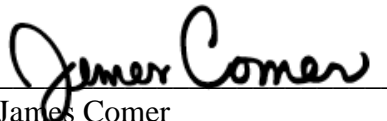
To assist the Committee in conducting oversight of EPA's actions in this matter, please provide the following documents and information no later than March 1, 2023:

1. All documents and communications regarding EPA's decision to ban non-refillable cylinders containing HFCs;
2. All documents and communications between EPA and Worthington Industries;
3. All documents and communications pertaining to EPA's handling of a Petition for Partial Administrative Reconsideration submitted by Andy Rose, President and CEO, Worthington Industries.

Additionally, please provide a staff-level briefing on this matter as soon as possible, but no later than February 22, 2023. Attached are instructions for producing the documents and information to the Committee. If you have any questions, contact the Committee on Oversight and Accountability Majority staff at 202-225-5074.

The Committee on Oversight and Accountability is the principal oversight committee of the U.S. House of Representatives and has broad authority to investigate, "any matter" at "any time" under House Rule X. Thank you for your attention to this important matter.

Sincerely,



James Comer  
Chairman  
Committee on Oversight and Accountability

cc: The Honorable Jamie Raskin, Ranking Member  
Committee on Oversight and Accountability

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<sup>5</sup> *Supra*, n. 2.

<sup>6</sup> American Innovation and Manufacturing Act, 42 U.S.C. § 7675 (2020).