



For Release  
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## **Southeastern Legal Foundation and New Civil Liberties Alliance Challenge EPA's Illegal Power Over Refrigeration Companies**

*RMS of Georgia, LLC d/b/a Choice Refrigerants v. Environmental Protection Agency, Michael S. Regan*

ATLANTA, GA (Oct. 4, 2023): [Southeastern Legal Foundation \(SLF\)](#) and the [New Civil Liberties Alliance \(NCLA\)](#) announced that they filed a lawsuit today challenging the Environmental Protection Agency's unconstitutional regulation that the use of hydrofluorocarbons (HFCs) on behalf of Choice Refrigerants, a Georgia company located in Alpharetta. HFCs non-toxic compounds commonly used as refrigerants in air conditioners, refrigerators, and freezers. HFCs previously replaced ozone-depleting chlorofluorocarbons and other dangerous refrigerants, but under the American Innovation and Manufacturing (AIM) Act of 2020 Congress sought to phase out the use of HFCs for environmental reasons.

The problem, however, is that rather than legislative a process for the phase out to the American people, Congress instead assigned the EPA the power to distribute a limited and continually shrinking number of allowances for companies to import or manufacture these critical products. Lawmakers gave EPA essentially no guidance as to who should receive the allowances, violating basic Constitutional protections barring Congress from abdicating legislative authority to agencies.

Choice Refrigerants was denied the allowances attributable to its patent-protected products, but EPA oddly granted some of those allowances to Choice's former business partner and to a Chinese-owned company that infringed Choice's patent and engaged in illegal dumping into the United States market. EPA has also relied on Executive Orders to set aside some allowances for new market entrants rather than existing companies like Choice, saying priority for these rights would in part be given based on the race and gender of company owners. Between these actions, EPA granted Choice far fewer allowances than were needed for Choice to maintain the market share it had worked for decades to create.

Partnering with NCLA as co-counsel, SLF urges the U.S. District Court for the Northern District of Georgia to recognize that Congress has no right to delegate unbridled legislative power to EPA through the AIM Act. Article I, § 1 of the Constitution reserves such power for Congress, which may not divest it to any outside agency.

[Braden Boucek, SLF Director of Litigation](#) explained, "When Congress decides that it wants to make war on appliances that work, it needs to be accountable for that decision. Separation of powers isn't an inconvenience. It is a constitutional command. Congressional efforts to shift responsibility to other branches of government do not confuse the American people about who is responsible for making it harder to buy a properly functioning air conditioner or refrigerator."

[Zhonette Brown, Senior Litigation counsel at NCLA](#) said, "Choice's challenge to the AIM Act stands on a principle that was intuitive and fundamental to the founders of this nation: only Congress can bind the people's liberty and property through legislation. Here, Congress was derelict in its duty to make policy decisions that EPA would then implement. Instead, Congress left it to EPA to pick who could produce or import refrigerants, why such selection was appropriate, and what market share should be granted to each company. When Congress gives that type of unbounded discretion to an agency, it violates the Constitution."

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