

# COURT RULING THREATENS TO RESULT IN MORE HEAT-TRAPPING CHEMICALS

BY ROBBIE ORVIS ● AUGUST 2017

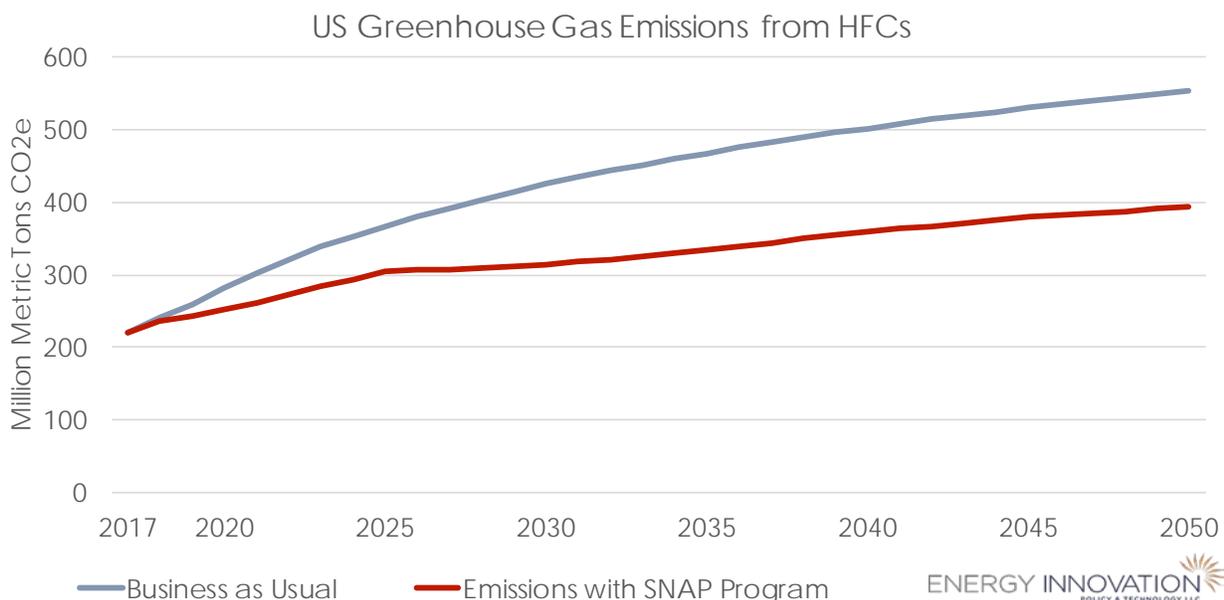
*The U.S. Court of Appeals vacated an Environmental Protection Agency standard intended to protect against potent heat-trapping chemicals called hydrofluorocarbons. This decision could cost at least 3.6 billion and up to 9.5 billion metric tons of avoided emissions by 2050.*

## COURT RULING COULD HAVE LARGE IMPLICATIONS

In August 2017, the U.S. Court of Appeals ruled that the U.S. Environmental Protection Agency overstepped its authority in regulating chemical refrigerants called hydrofluorocarbons (HFCs) through its Significant New Alternatives Policy (SNAP) program. In addition to risking billions of tons of greenhouse gas pollution, the ruling could also hamper America’s options for fulfilling [a commitment it made](#) at the end of last year to reduce HFCs and slow climate change.

### AT LEAST 3.6 BILLION TONS OF POLLUTION AT RISK

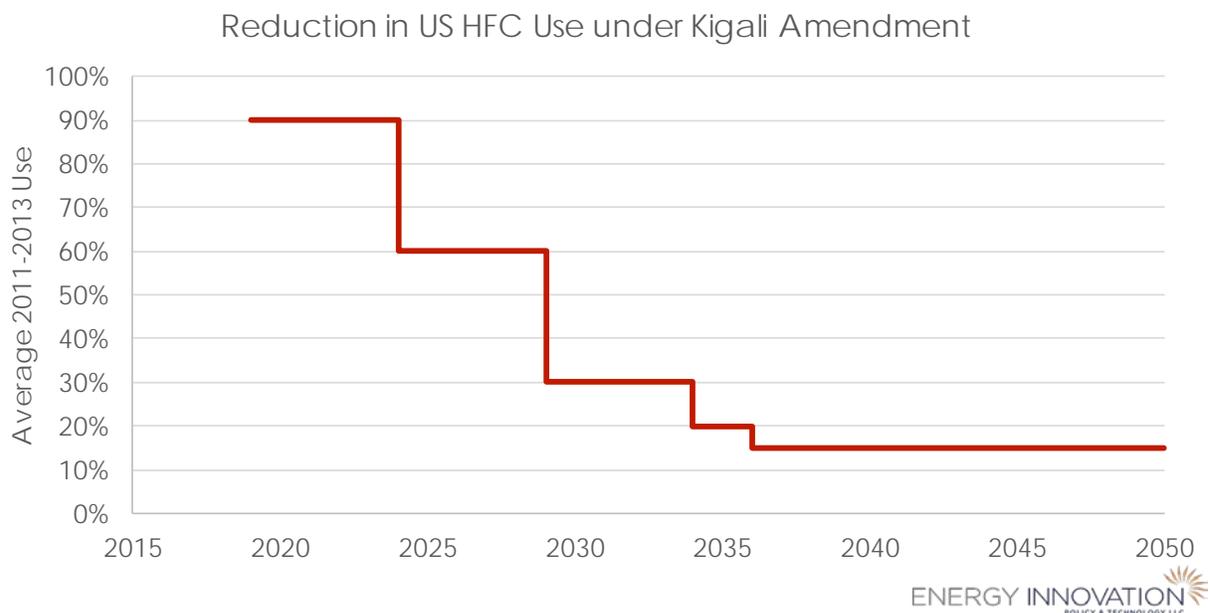
EPA’s proposed updates to the SNAP program would have prevented select high global warming potential (GWP) gases called HFCs from being used for certain applications in air conditioners, refrigerators, foams and aerosols over the next 5-10 years. As a result, greenhouse gas emissions



from HFCs were projected to decrease by nearly 30% by 2050, or about 162 million metric tons (MMT) per year. Through 2050, cumulative reductions would have totaled more than 3.6 billion metric tons, equivalent to more than half of the greenhouse gas pollution emitted by the entire U.S. economy each year.

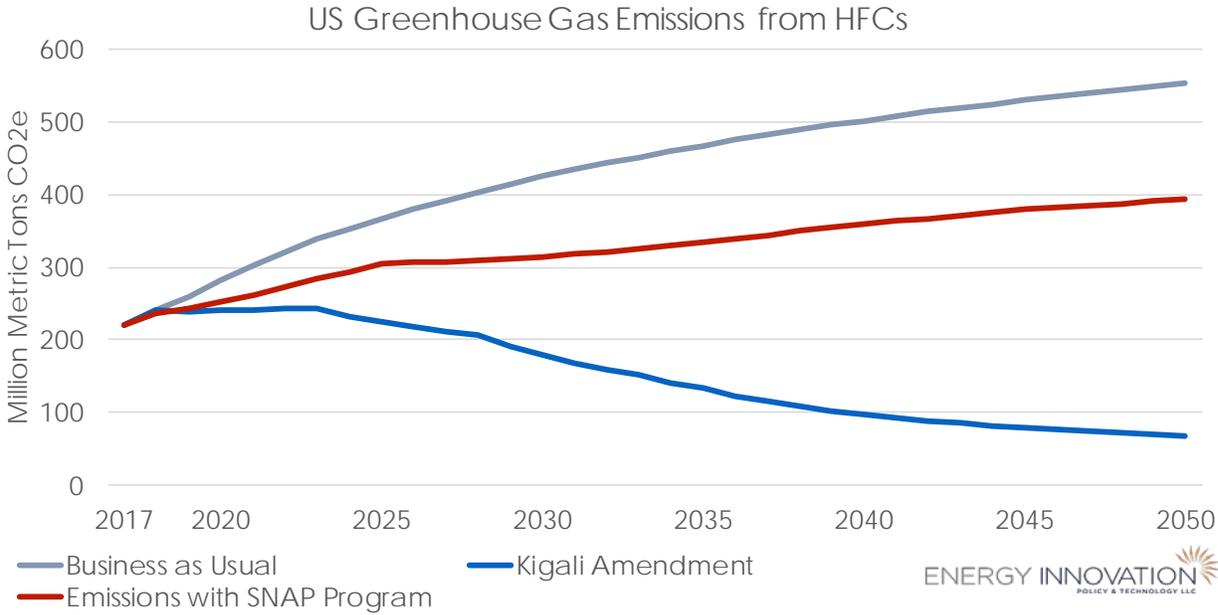
### DEEP CUTS IN HFC CONSUMPTION REQUIRED UNDER INTERNATIONAL TREATY

In October 2016, delegates from across the world met in Kigali, Rwanda to negotiate an amendment to the Montreal Protocol that would gradually phase out high GWP HFCs. Under the Kigali Amendment, use of HFCs in the U.S. is required to decrease by 85% between 2019 and 2036. One of the most promising options for implementing the required reductions is EPA’s SNAP program, which the Agency was using to start phasing down HFCs. But the U.S. Court of Appeals just limited the options for reducing this pollution.



### EMISSIONS REDUCTIONS UNDER THE MONTREAL PROTOCOL AT RISK

Under the Kigali Amendment, the U.S. would phase down the use of *all* major HFCs in air conditioners, refrigerators, aerosols, foams, solvents, and fire protection chemicals, realizing deep cuts in greenhouse gas emissions from those HFCs as well. If the U.S. implemented the Kigali Amendment as planned, HFC emissions would fall by nearly 90% by 2050, or nearly 500 MMT of CO<sub>2</sub>e per year, which would make up between five and 10 percent of forecasted U.S. GHG emissions in 2050. Upholding the SNAP rule could provide about one third of the emissions reductions needed to fully implement the Kigali Amendment in the U.S.. Cumulative emissions reductions from fully implementing the Kigali Amendment would total nearly 9.5 billion metric tons, about one and a half years’ worth of *total* U.S. GHG emissions.



### RULING LIKELY TO BE CHALLENGED

Two foreign companies, Mexichem and Arkema, brought the legal challenge to the U.S. standard for phasing down HFCs, as they stand to gain international market share if the U.S. does not implement the standard. But several U.S. companies have been pushing for an HFC phase-down for years, and Honeywell and Chemours even argued in favor of the EPA’s SNAP program in court. These large U.S. companies are likely to appeal the Court’s latest ruling, as they make HFC substitutes and stand to gain from the rule remaining in place.

Even if the Court’s current ruling stands, Congress could pass legislation that would allow EPA to regulate HFCs. While that may seem unlikely given today’s Congress, legislators would be very reasonable to support standards that would benefit some of the nation’s largest companies at the same time as they protect human health.

With the Court’s recent ruling, the future of HFC regulation in the U.S. is unclear, but the SNAP program only covered about a third of the HFC emissions targeted by the Kigali Amendment, and there are still alternative avenues for the U.S. to uphold the commitments it made under the Kigali Amendment. For example, EPA’s greenhouse gas requirements for passenger cars allow manufacturers to improve air conditioning leakage rates and replace HFCs used for air conditioning with non-GHGs as a way of complying with the rule. Similar approaches may be possible using existing rules at EPA and other agencies.