

To: HPD development partners and design teams, HPD program teams

From: HPD Sustainability Unit

Re: DEC's R410a Refrigerant Phase Out

Issue: Projects with R410a Heat Pumps that will not complete before DEC's mandated startup deadline

Recommended Action Item: Owners/ design teams to submit request to DEC for Impossibility Variance

Background: On Dec 24th the New York State Dept of Environmental Conservation (DEC) finalized the HFC Refrigerant phase-out Law [6 NYCRR Part 494 HFC Standards and Reporting \(full text\)](#) to backstop the Federal [AIM Act EPA TT Rule](#). In place to reduce the environmental impact from refrigerant leaks, the state law requires VRF and multi-split heat pumps with high global warming potential (GWP) like R410a, to complete installation and startup by specified dates as shown in the table below.

Equipment	Applicable Variance	Building Permit Date	Startup Deadline
Multi-Split <6 tons (494-1.4.2.v) OR VRF >6 tons (494-1.4.2.vi)	None	Before 1/8/2025	1/01/2027
		After 1/8/2025	1/01/2026
	Buildings included in HPD Variance (see Appendix A)	N/A	1/01/2028
VRF >6 tons (494-1.4.2.vi)	VRF Manufacturer Variance (under review)	N/A	1/01/2027
Residential DHW Heat Pump Water Heaters (494-1.4.2.vii)	None	N/A	1/01/2027

Issue: Not all projects will be able to meet these startup deadlines, either due to project delays or other causes. Projects that include R410a Heat Pumps that will not meet the startup deadline based on their Permit date are strongly encouraged to proactively seek Impossibility Variances from the DEC. Note that HPD will NOT be seeking a blanket Variance for delayed projects, it will be up to project teams to do this themselves. Additional information about how to seek this variance is below:

What is an impossibility variance? A variance is a formal request to the agency for temporary relief from a regulation for that specific entity. Variance requests for Part 494 are allowable for economic hardship, impossibility, and force majeure, although the impossibility based on project timelines is most likely applicable. DEC variance approval process takes 4 months and includes a 30-day public comment period. More info can be found here: [Part 494 Variance Application and Public Comment - NYSDEC](#)

What can you do: If you have an HPD project w/ R410a that will not complete in time and you believe your project (or cohort of multiple affordable housing projects) should be eligible for a variance, work w/ your HVAC consultant to submit for a DEC Variance. Here are some tips:

- Consider if your project is part of a cohort and band together to seek a cohort variance (e.g., projects under a single owner, projects under a single manufacturer, etc.) or submit a standalone variance request to DEC:
 - Note that a joint VRF Variance Application was filed by Daikin, LG, Mitsubishi, and Samsung VRFs extending the deadline until January 1, 2027 if/ when approved in late November. Here is a link to that application, it is possible that some projects may be covered under it. Here is the link to that document: [Part 494 Variance Application Form](#)
- Reference HPD's previous blanket Impossibility Variance for language and tools:
 - Visit the DEC website to see examples of other Variance requests, including HPD's successful [NYC HPD Part 494 Variance Application](#). This might provide useful language for requesting a variance. Additional info about this variance is in Appendix A.
 - Click here to view or utilize the tool we used to calculate refrigerant leak impact for the HPD Variance. Note that this tool, and our successful Variance application is predicated on following HPD's Technical Requirements, specifically with regard to Refrigerant Leak Management. If your project is not subject to or able to follow those requirements then the tool will need to be modified to reflect the impact of your project's leak mitigation strategy.
 - [HPD's technical-requirements-space-heating-split-systems.pdf](#)
- You may contact DEC here climatechange@dec.ny.gov, and DEC will assign someone from the team to respond. HPD can provide some guidance for how to apply for a waiver based on our experience going through this process.

Additional Information can be found here:

- General Information: [Climate Change Regulatory Revisions - NYSDEC](#) , [Part 494 Fact Sheet](#)
- DEC Variance webpage: [Part 494 Variance Application and Public Comment - NYSDEC](#)

Appendix A: HPD's successful variance for pipeline projects not permitted by January 2025

In early 2025, HPD pipeline projects with R410A Heat Pumps closing before November 2025 that did not yet have permits were encouraged to transition to lower GWP A2L refrigerants or pursue an impossibility variance with DEC as part of the HPD variance cohort efforts during winter of 2025.

Additional information about this variance, which was approved by DEC, can be found here: [NYC HPD Part 494 Variance Application](#)