



April 8, 2020

The Honorable John Barrasso
Chairman
United States Senate Environment and
Public Works Committee
307 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Thomas R. Carper
Ranking Member
United States Senate Environment and
Public Works Committee
513 Hart Senate Office Building
Washington, D.C. 20510

Re: *Statement of Support for S.2754*

Dear Chairman Barrasso and Ranking Member Carper:

Thank you for the opportunity to comment on S.2754, the American Innovation and Manufacturing Act. It is encouraging to see the Senate Committee on Environment and Public Works take constructive action that will spur economic growth and result in innovation and environmental benefits in the United States. Thank you for your interest and commitment. As states that regulate or are developing regulations on the use of hydrofluorocarbon (HFC), we welcome this opportunity to submit written testimony and continue to work with the committee.

The California Air Resources Board (CARB), the Washington State Department of Ecology, and the New York State Department of Environmental Conservation strongly support the American Innovation and Manufacturing Act as written (introduced by Senator Kennedy and co-sponsored by Senators Carper, Cassidy, Coons, Collins, Whitehouse, Wicker, Merkley, Graham, Booker, Young, Markey, Boozman, Blumenthal, Alexander, Cardin, Grassley, Murphy, Ernst, King, Murkowski, Heinrich, Moran, Schatz, Cotton, Manchin, Blunt, Feinstein, Perdue, Jones, Hyde-Smith, Van Hollen, Romney, and Bennet) and the corresponding House legislation H.R. 5544.

This important legislation would create jobs and drive innovation and economic growth in the United States by supporting the manufacturing of next-generation technologies while providing for a safe HFC transition.

The chlorofluorocarbon (CFC) and hydrochlorofluorocarbon (HCFC) phasedown, has been a tremendous success for 30 years. S. 2754 achieves a similarly thoughtful balance that could result in an equally bipartisan and successful HFC phasedown that balances federal and state regulations for the next 30 years.

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Historically, states have filled important gaps in the phasedown of CFCs and HFCs. To date, a number of states have adopted important Significant New Alternatives Policy (SNAP) laws concerning the use of HFCs. The states that are adopting these laws are coordinating to ensure consistency to reduce the regulatory burden on industry.

California

California adopted HFC laws beginning in 2010 (see Health & Saf. Code 39730.5, 39734; Cal. Code Regs., tit. 17, §§ 95371-95378, 95380-95398).¹ California's separate rules, on the use of HFCs, are necessary because California has the worst air quality in the nation and is severely impacted by climate change. Moreover, California has statutory emission reduction targets with which it must comply, necessitating the ability to adopt its own laws.²

California has a 30 year history of working successfully with other states, our federal partners, and industry to reduce ozone depleting substances. CARB also has a cooperative working relationship with the HFC industry spanning more than ten years. CARB meets regularly with industry stakeholders to understand challenges and opportunities including refrigerant manufacturers, refrigeration and air-conditioning equipment manufacturers, end-users of refrigeration equipment, and trade groups including the Alliance for Responsible Atmospheric Policy (ARAP) and the Air-Conditioning, Heating, and Refrigeration Institute (AHRI). In September 2018, the Natural Resources Defense Council (NRDC) and AHRI, representing 90 percent of air-conditioning manufacturers, issued a letter to CARB supporting California's goal to reduce HFC emissions from air-conditioning.

As an example of its ongoing flexibility, as California moves forward with industry and other stakeholders, CARB will consider if it is necessary to amend its regulation to allow for a variance in certain circumstances where feasibility truly is an issue, with certain restrictions.

A strong relationship between states and industry, in part, provided the foundation to create the thoughtfully drafted legislation we are commenting on today.

Washington

The State of Washington was the first state to pass HFC-focused legislation after California with the passage of HB 1112 in the 2019 session of the Washington legislature (now RCW 70.235.080). This legislation, modeled after the foundational

¹ There is a misconception that California's HFC program effectively bans vending machines that was cited in a letter to Senate leadership. The limitations around vending machines in California is largely due to building codes, not California HFC regulations.

² The State of California has a legislatively mandated goal of reducing HFC emissions 40 percent below 2013 levels by 2030 (S.B. 1383, California Health & Saf. Code § 39730.5).

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California laws noted above, ensures that the SNAP regulations put into place by EPA continue so that industry has the regulatory certainty that they prefer. The law also requires the state building code council to address barriers for using climate-friendly next generation refrigerants, a mandate that has led Washington to be the first state to change its building codes to allow these new refrigerants. It also puts in place a state procurement preference for climate-friendly equipment, and requires a study on incentive programs to help businesses acquire climate-friendly equipment.

Washington is closely coordinating with all of the states in the United States Climate Alliance (USCA) to ensure that its implementation of the SNAP rules, as well as its overall HFC policies, are compatible with the efforts of the other states and address industry concerns. Working together, these efforts are helping to create new opportunities for industry while also providing an invaluable tool in Washington's efforts to reduce greenhouse gases and combat climate change – resulting in the expected reduction of over 1 million metric tons of greenhouse gases in 2035.

New York

New York is actively engaged in a rulemaking process to phase-down HFCs (see proposed Part 494 of Title 6 of the New York Codes, Rules and Regulations). Last year, Governor Cuomo signed the Climate Leadership and Community Protection Act, which establishes the most aggressive greenhouse gas emission reduction requirements in the Nation.³ Because New York's new statutory greenhouse gas reduction requirements include HFCs, the State must retain the ability to adopt its own laws, regulations, and policies regarding these powerful greenhouse gases.

None of these laws conflict with or contradict S. 2754 as written— rather, they are all complementary.

S.2754 as *written* furthers the principles of cooperative federalism required by the federal Clean Air Act and this approach has worked for many years in the phasedown of CFCs and HCFCs. See 42 U.S.C. § 7416. Each state is different in its mix of pollution sources, regulated entities, market conditions, and environmental priorities. As written, the bill provides flexibility to each state, which is important to grow the economy. State policies work in concert with the national program to phase down production and consumption as set forth in the bill.

Furthermore, the HFC industry has provided vast support for the American Innovation and Manufacturing Act as *written*.

³ The Climate Leadership and Community Protection Act requires a 40 percent reduction in Statewide greenhouse gas emissions from 1990 levels by 2030, and an 85 percent reduction by 2050. New York State Environmental Conservation Law § 75-0107(1).

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The HFC industry typically serves a global market and must develop alternatives not only to comply with regulations in the United States, but also to compete in the global market. Several other countries, including Canada, Japan, and the countries in the European Union also prohibit the use of HFCs that our state programs will or currently regulate.

Also, as mentioned in the Legislation, the phasedown of HFCs will create 33,000 new manufacturing jobs per year, add approximately \$12.5 billion per year to the economy, and incentivize \$5 billion investment in the United States.

We encourage you to pass S.2754 out of committee *as written* as it will result in innovation, jobs, maintain the United States' place in the global market, and contribute to economic growth while simultaneously achieving environmental benefits.

Thank you for the opportunity to submit this statement of support to the Committee. If you have any questions about our programs, please contact Candace Vahlsing at candace.vahlsing@arb.ca.gov for California, Stuart Clark at scla461@ECY.WA.GOV for the State of Washington, and Jared Snyder at jared.snyder@dec.ny.gov for New York.

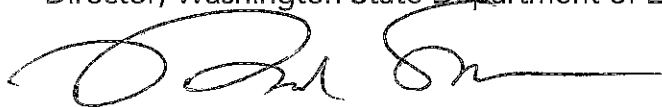
Sincerely,



Mary D. Nichols
Chair, California Air Resource Board



Laura Watson
Director, Washington State Department of Ecology



Basil Seggos, Commissioner
New York State Department of Conservation

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cc: U.S. Senator Dianne Feinstein
U.S. Senator Kamala Harris
U.S. Senator Chuck Schumer
U.S. Senator Kirsten Gillibrand
U.S. Senator Patty Murray
U.S. Senator Maria Cantwell