Testimony

April 3, 2020

The Honorable John Barrasso
Chairman
Environment and Public Works Committee
410 Dirksen Senate Office Building
Washington, DC 20510-6175

The Honorable Thomas Carper
Ranking Member
Environment and Public Works Committee
410 Dirksen Senate Office Building
Washington, DC 20510-6175

Re: American Innovation and Manufacturing Act (S. 2754)

Dear Chairman Barrasso and Ranking Member Carper:

The New Era Group and the small business concerns it represents, thank you for allowing a record to be created on the American Innovation and Manufacturing Act S 2754. We believe this bill, as written, sidelines this critical stakeholder group and denies it the benefits of its intended legislation.

As written, Senate Bill 2754 will prevent small and minority-owned businesses from economic development and growth in the refrigerant industry. It should be amended to require, at least, a minimal 25% set-aside of government allowances for HFC production and consumption, and should include all regulated substances that fall under this provision in the future.

The Chairman makes an excellent point as to the reality that the Bill as written, would establish, "Under the AIM Act, the EPA would implement the phasedown through allowances assigned to, and traded between, companies." In reality, we would add large companies and wealthy individuals are recipients of these allowances, as well. Advocates of the AIM Act fail to address this inequitable and discriminatory fact.

On January 14, 2020, the House Committee on Energy and Commerce held a hearing on H.R. 5544 in which the Honorable John Shimkus, Ranking Member, reminded us that Congress last visited the issue of the Montreal Protocol more than ten years ago. Much has changed since then. He reminded us of the US Constitution's Article VI, the Supremacy Clause which raised a significant question for the states. While not stated, it would appear that proposed actions were abounded, as they would have to give way to this bill, if passed.

In his testimony to the House Natural Resources Committee hearing on February 6, 2019, Governor Charlie Baker of Massachusetts said, "there's doin' the right thing and then doin' the thing right." To his point, the American Innovation and Manufacturing Act, as written, ignores critical industry developments and new data. Proposing that prior phase-outs should form the foundation for the phase-down, production, and consumption of HFCs (hyrdofluorocarbons) doesn't at all reflect the significant changes in US market conditions. On top of this, giving away allowances to the most profitable segments of the industry without any US taxpayer compensation promotes income inequality.

Companies were willing to speculate on what was to be the Kigali Amendment. Looking back at the level of imports as assembled by the United States International Trade Commission (ITC), the data shows tremendous growth of imports of HFCs, primarily from China. The unchecked growth of imports was a calculated move by importers, which led to the HFC Coalition and its independent members to file no less than three anti-dumping petitions.

The following table illustrate three events:

- The stark increase in imports anticipating Kigali 2011 through 2013
  2011 increase 22% over 2010
  2012 increase 29% over 2010
  2013 increase 49% over 2010
- Anticipation of the final control period for the phase-out of HCFCs (HCFC-22) and the
- The Impact of Anti-dumping Petitions, cause and effect, decrease in finished HFCs while the individual components rose significantly.

Year of Import	HTSUS 2903.39.00 Imports From All Countries (Kgs)	HTSUS 2903.39.00 Imports From the Peoples Republic of China (Kgs)	% of Imports From the Peoples Republic of China	HTSUS 3824.78.00 Imports From all Countries (Kgs)	HTSUS 3824.78.00 Imports From the Peoples Republic of China (Kgs)	% of Imports From the Peoples Republ of China
2009	21,053,364	17,348,881	82%	227,038	59,356	26%
2010	40,148,371	34,198,346	85%	922,052	153,903	16%
2011	48,886,250	43,438,720	89%	1,113,250	426,105	38%
2012	49,322,588	44,477,385	90%	3,893,459	3,092,456	79%
2013	55,489,810	51,099,265	92%	5,817,298	5,362,443	92%
2014	52,567,253	45,631,267	87%	4,238,803	3,710,170	88%
2015	76,214,335	70,040,654	92%	10,514,341	9,013,944	86%
2016	66,234,936	56,547,312	85%	12,161,730	11,229,888	92%
2017	72,726,852	59,387,355	82%	9,342,624	6,222,964	67%
2018	80,302,564	67,043,152	83%	7,556,627	4,926,765	65%
Total Annual	562,946,323	489,212,337	87%	55,787,222	44,197,994	79%

There are two primary chapters of the Harmonized Tariff System of the United States (HTSUS) that cover the products associated with refrigerant known as hydrofluorocarbons (HFC). The United States imports single components from 43 separate countries. These imports can be reviewed under 2903.39.2005, 2903.39.2015, 2903.30.2020, 2903.39.2030, 2903.39.2035, 2903.39.2045, 2903.39.2050. The finished blended HFC Refrigerants are imported from 22 countries. The blended, finished refrigerants are correctly imported under 3824.78.0000, 3824.78.0020, 3824.78.0050.

Data has been compiled from the International Trade Commission (ITC) https://dataweb.usitc.gov.

Factually, the bill does not consider that the very supporters of this legislation don't produce at least two key HFCs covered by the bill. The committee needs only to review the record created by the International Trade Commission (ITC) on this matter.[1] To adhere to the Kigali Amendment without evaluating current US stockpiles is a mistake. These bills should reflect current US market conditions, which are vastly different from those of the other signatories of Kigali. Congress's failure to ask for important basic facts will certainly lead to a future accelerated phase-down as has happened in prior phase-outs. Please consider the disruption and uncertainty that has befallen the industry over the past four years.

The Greenhouse Gas Reporting Program (GHGRP) is not addressed in the bill. In a 5 to 4 vote, in Massachusetts v. EPA, 549 U.S. 497 (2007) the US Supreme Court ruled that EPA had the authority under the CAA to regulate greenhouse gas, and as a result, EPA implemented mandatory greenhouse gas reporting under the regulation "Importers and Exporters of Fluorinated Greenhouse Gases Contained in Pre-Charged Equipment or Closed-Cell Foams (§§ 98.430 - 98.438). Legislation must account for the tremendous levels of equipment imported into the US that is not accounted for in either the Senate or House Version[2] This is a failing to achieve the stated purpose and intent of the Bill.

The bill does not provide guidance to agency action, as it relates to United States Mandatory Green House Gas Reporting. There are two sections that are not reflected in the bill: Subpart "OO" and Subpart "QQ".

On Subpart "OO" there has been considerable non-compliance with reporting under this existing regulation. To not mention blatant failures to comply will provide a loophole for violators to be rewarded for filing to report imports that are critical to the establishment of the system suggested in this bill.

It might be beneficial to include a "compliance enforcement" clause in the bill, which would grant the EPA administrator the authority to bar any person/entity from participation in the allowance system for failure to comply with the Greenhouse Gas Reporting Program, as determined by the agency

---

[1] https://www.usitc.gov/publications/701_731/pub4629.pdf

[2] Subpart QQ - Importers and Exporters of Fluorinated Greenhouse Gases Contained in Pre-Charged
[2] Subpart QQ - Importers and Exporters of Fluorinated Greenhouse Gases Contained in Pre-Charged
Equipment or Closed-Cell Foams (§§ 98.430 - 98.438)

The other element that is not addressed is Subpart "QQ". This section requires the reporting of imported equipment that contains fluorinated gas. There is a significant amount of equipment manufactured outside the United States that is "pre-charged" with HFC Blends. This bill will rely on agency action to place some type weighted average of these imports. Here too, is a concern that reporting has not been done and that non-compliance should not be overlooked.
In requesting the bill include the issue of Green House Gas reporting, consider the request made to the Honorable Robert Lighthizer, United States Trade Representative on June 17,2019.[3] The request that air-conditioning equipment be excluded from the 25% 301 tariffs should be carefully considered.
In light of the on-going investigations associated with HFC imports, the bill should consider the EPA's Mandatory Green House Gas Reporting. EPA is aware of gaps in reporting and without this becoming an element of the bill, companies that have violated the GHGR may be granted allowances, which should be granted to those companies that have complied with US Regulations.

1. In light of all the anti-dumping issues being investigated, as well as other actions that have inadvertently damaged the US industry, the bill should broaden the use of the "quality standard commonly referred to as AHRI 700". The bill merely refers to this for the purpose of "reclaimed refrigerants" in support of 40 U.S.C. Subchapter VI § 7671g. national recycling and emission reduction program. As written, this section places a huge burden on the re-use of refrigerant which is not applied to virgin refrigerant. And the failure to broaden the requirement to include "virgin produced HFCs and HFC blends" has created and maintained a loophole for foreign products to flood the US market at less than fair market value (LTFV).

Sec. 3 Definitions

In this Act:

(9) Reclaim. --The term ``reclaim'' means--

(A) the reprocessing of a recovered regulated substance to at least the purity described in standard 700-2016 of the Air-Conditioning, Heating, and Refrigeration Institute (or an appropriate successor standard adopted by the Administrator); and

(9) Reclaim--The term "reclaim" means--

[3] https://www.regulations.gov/document?D=USTR-2019-0004-2328

(A) the reprocessing of recovered regulated substances to at least the purity described in the standard 700-2017[4] of the Air-conditioning, Heating, and Refrigeration Institute (or an appropriate successor standard adopted by the Administrator); The standard shall also apply to virgin repackaged or blend regulated substances. and

Calculation of the baseline should not include substances that were previously banned from production. Consideration of the prior two classes of "ozone depleting substances" is unwarranted because the bill does not "phase-out" HFCs it simply phases down their production and consumption—an example of the bill not being informed by present day stockpiles.

There are also important economic factors not represented in the bill. The Section 2 findings; Sense of Congress 5(b) fails to consider that the reclaim/re-use of all regulated substances has declined consistently since 2016.[5] As written, the bill, with its large allowance give-away, will only continue to depress the market segment that Congress intends to support.

This bill, and its House version, follow the two prior allowance frameworks which provide significant financial windfalls to large corporations and wealthy individuals. When analyzed closely, it's clear that the allowance system is a "cash back card" for a select few[6]. Senate Bill 2754, through a generous allowance system for production and consumption, promotes continued imports of HFCs from countries that have been identified as sellers of HFCs in the United States at LTFV.[7] The unintended consequence of this allowance system, as in the past two phase-outs, allows a fortunate few to sell these allowances for significant financial gains.

The Senate and House versions of this bill effectively place barriers on small business concerns, and as written, do not provide opportunities for small, woman-owned, or minority-owned businesses that could greatly benefit from

[4] http://www.ahrinet.org/App_Content/ahri/files/STANDARDS/AHRI/AHRI_Standard_700_2017_Add_1.pdf
[5] https://www.epa.gov/sites/production/files/2019-05/documents/reclamation_activity_2000-2018.pdf
[6] https://www.orevac.com/export/shared/.content/media/downloads/news-attachments/global/en/press-release/2015/20150226-arkema-inc-reassures-customers-epas-final-r-22-refrigerant-allowances.pdf
[7] https://enforcement.trade.gov/download/factsheets/factsheet-prc-hydrofluorocarbon-blends-single-hydrofluorocarbon-components-ad-final-062216.pdf

these allowances. The Senate has the chance to support and improve small business in the chemical industry by including provision in the bill.

As written, the bill will continue to suppress the text of CAA §7671(g). The companies targeted to perform safe handling of HFCs and other regulated products will not have access to allowance of HFCs to achieve the mandate Congress wrote into the Clean Air Act, "The National Recycling and Emission Reduction Program".

In 1993, EPA created the "worst-first" phase-out framework which focused first on HCFC-22, HCFC-141b, and HCFC-142b due to their highest ozone depletion levels. Yet, 27 years later, after two phase-outs, this bill seeks to give allowance holders a reward for past production of these ozone depleting substances. Why?

Sec. 6. Phase-down of Production and Consumption of Regulated Substances.[8]

(B) the quantity equal to the sum of--

~~(i) 15 percent of the production level of hydrochlorofluorocarbons in calendar year 1989; and~~

~~(ii) 0.42 percent of the production level of chlorofluorocarbons in calendar year 1989.~~
~~(3) Consumption baseline described.--The consumption baseline referred to in paragraph (1)(B) is the quantity equal to the sum of--~~
~~(A) the average annual quantity of all regulated substances consumed in the United States during the period--~~
~~(i) beginning on January 1, 2011; and~~
~~(ii) ending on December 31, 2013; and (B) the quantity equal to the sum of--~~
~~(i) 15 percent of the consumption level of hydrochlorofluorocarbons in calendar year 1989; and~~
~~(ii) 0.42 percent of the consumption level of chlorofluorocarbons in calendar year 1989.~~

In addition, as previously discussed, this bill does not reflect what the industry is experiencing with China placing its finger on the scale of commerce.

[8] https://www.epa.gov/clean-air-act-overview/clean-air-act-title-vi-stratospheric-ozone-protection

We hope that the Environment and Public Works Committee will consider our recommendations to the American Innovation and Manufacturing Act S 2754. There are so many loopholes in it, as written, that the chemical industry's small businesses will be barred from any of the benefits of such legislation. Thank you for your time.

Sincerely,

Peter Williams

The New Era Group

Making the Voice of Small Business Heard

Spring 2020

Refrigerant Issue Overview for 2020

Since 2013 there have been significant events that have affected the Refrigerant Industry. Unfortunately the rapid and unpredictable actions have caused significant instability.

- 2013 DC Court Rules that EPA action on inter-pollutant transfers was incorrect. **Decided January 22, 2013**
- EPA struggles to find the proper balance for the final control period for HCFC phase-out. Over supply of HCFCs identified Letter from Gina McCarthy July 1, 2013
- HFC Coalition files significant petition on dumping of HFCs from the Peoples Republic of China (PRC) **Filed June 25, 2015**
    - International trade Commission fails to agree with the US Department of Commerce (ITA) on HFC components, semi-finished good and third country assembling of HFC Blends.
- Petition filed against EPA Refrigerant Management Rule. **Petition for Reconsideration Filed January 17, 2017 (NEDA/CAP v EPA)**
- United States announces intent to withdraw from the Paris Agreements. **June 1, 2017**
- United States Climate Alliance formed on **June 1, 2017**
- US producer files challenge on EPA SNAP Rule 20 and 21 **Decided August 8, 2017**
- Kigali Amendment adopted by the United Nations, modifying the Montreal Protocol to phase-down HFC production and consumption beginning in 2019. **Adopted November 17, 2017 (During MOP 28)**
- First Anti-dumping petition filed on HFC-134a. **Filed October 12, 2018**
- California suggests the control of High-GWP refrigerants **November 29. 2018**
- US Climate Alliance moves to control HFC use on the State level **States wide actions begin 2019**
- US fails to ratify Kigali Amendment **2019**
- US industry lobbies for Congress to pass the American Innovation and Manufacturing Act. (AIM) **Senate Bill S 2754 Introduced October 30, 2019**
- United States Trade Representation (USTR) places high tariffs on billions of dollars in Chinese Imports**. USTR List 3, 200 billion 2019**
- Senate Bill S 2754 and House Resolution H.R. 5544**, Introduced 10/30/2019**
- California and other members of the US Climate Alliance pull back from immediate action on restricting the use of High-GWP refrigerants in the installed base as a result of introduction of Senate Bill S 2754 and House Resolution H.R. 5544,
- New Anti-Dumping case filed on HFC-32**. January 23, 2020**
- The Office of Management and Budget (OMB) is asking for comments on the North American Industry Classification System (NAICS) OMB Review of NAICS. February 26, 2020

The sheer number of actions has had a negative impact on the segments of the industry that sell refrigerant.

Stockpiles have likely grown. Low cost providers go unchecked and speculation about the future continues.

What You Need to Know

The approval process for introducing a new refrigerant into commerce in the United States starts at The American Society of Heating, Refrigerating and Air-conditioning Engineers (ASHRAE). Within this organization there is section referred to as the ANSI/ASHRAE 34 Committee. As stated this Committee names and assigns safety classifications based on toxicity and flammability data. This approval process is relied on by the United States Environmental Protection Agency's SNAP Program to approve any refrigerant for use and sale in the United States. At the same time EPA's Stratospheric Ozone Protection, applies the AHRI 700 Standard to the re-use of refrigerants (reclaim).

Did we miss a step? Nope, EPA did. Unfortunately, neither EPA nor any of the refrigerant company associations or lobbying groups had the presence of mind to have these purity standards codified in regulations for virgin refrigerants.

As a result of the failure to codify this standard, the industry now faces several significant issues.

Most troubling is that refrigerants approved by, EPA, ASHRAE and AHRI, are not required to meet the composition standards that were approved prior to being released into commerce.

As a consequence, a blender/packager/bottler can make available for commerce, a refrigerant that has the constituent components of many common blends, such as R-32 and R-125, but it also may have high levels of moisture and non-condensables (such as air or other known or unknown components). More over, this has opened the door to add such things as "proprietary products" that were not part of the original approval.

EPA could enforce regulation of unapproved refrigerants if they chose to consider the tolerance of any approved blend. Let's use R-410A as an example.

The composition is in the range of 48.5% to 50.5% R-32 and 49.5 to 51.5% R-125. The argument might be made that if by composition a product labeled R-410A is tested and found to have 48% R-32 and 52% R-125 it should be deemed to be an unapproved refrigerant for use or sale in the US. This is not the case as the standard does not have the force of law.

Unfortunately, because there is no regulatory standard in place, this same unapproved blend could also have large amounts of air and moisture well above the industry standards. Currently there is no viable remedy, unless AHRI 700 standard is included in regulation.

Currently, only reclaimed refrigerants must meet the AHRI 700 Standard of Purity for sale as a refrigerant.

A Look Back

A fundamental mandate of the Environmental Protection Agency is to defend the environment. As a global leader the United States participates in one of the most successful environmental treaties, the Montreal Protocol. EPA conducted an assessment of the use of HCFCs, the second class of ozone depleting substances, and concluded that there could be an acceleration of the phase-out.

The actions of EPA began a series of legal challenges. The DC Circuit consider as the second most influential Court in the US handed down rulings that are still being felt throughout the refrigerant industry.

The EPA’s administrators acknowledged an oversupply of HCFCs. The economics and market instability created in 2014, as a result of EPA’s action after the Arkema/Solvay v EPA of 2013, should be taken into consideration when deciding the management of HFC’s.

Continued

EPA's action allotted the majority of HCFC allocations to one company. Three companies controlled the majority of HCFC allocations. This allowed those companies to inflate the price of HCFC's. In fact, price tripled which opened the door for greater acceptance and use of the large class of refrigerants called alternatives (largely HFC's). Companies built their fortunes on importing under market value alternative refrigerant blends, and components from overseas. Well informed companies were aware of a future phase-down/out and hedged their business fortunes with imports of various HFCs both finished and un-finished.

Meanwhile, The Peoples Republic of China (PRC) had a plan in place to influence US and Global use of HFC production and consumption. The business environment in the PRC made imports of HFC in the US far more attractive from a price standpoint compared to US product.

US Producers Respond with Anti-Dumping Petitions

On June 25, 2015 the first of several complicated and hard-fought petitions were filed by a Coalition of US manufactures alleging that HFC Blends from the PRC were being sold (dumped) on the US markets, at less than fair value (LTFV). The initial petition covered 5 commercially accepted blends, the components that made the blends, semi-finished blends and the blending of 5 specified blends in a third country.

In the assessment of anti-dumping duties (ADD) the International Trade Administration (ITA) and the International Trade Commission (ITC) of the United States Department of Commerce must both agree on the findings of fact. In this case (A-570-028) they did not.

The result; the 5 specified blends remained under an Order for significant duties.

The battle continued as the petitioners appealed, filed additional allegations of circumvention and attempted to show that the original findings were rendered in error. In order to be effective the scope of the Order needed to include also the components that made the blends, semi-finished blends and the blending of 5 specified blends in a third country. Without these inclusions the Order is easily circumvented and violated. Which is exactly what is going on now.

At the same, time the blend case is being reviewed and re-litigated, the same group of US manufactures filed another petition on the stand-alone product R-134a (A-570-044) from the PRC.

The only good news on this effort is that an agreement of the facts by ITA and ITC resulted in affirmative findings of dumping. But wait, not so fast. The Chinese manufactures, in conjunction with a few feral "US" companies are alleged to be circumventing the ADD Order by hiding shipments of Chinese products through other countries, which is an illegal act, of trans-shipping.

Let's finish the ADD matters with the most recent attempt, to regain US production of HFCs with the R-32 ADD A-570-121 petition filed by Arkema on January 23, 2020. Here again this petition alleges that the PRC is dumping R-32 on the US Markets at less LFV.

According to the data that is compiled by the US Department of the Census:

Unresolved Issues

HFC Anti-Dumping Blend Case A-570-028

- Preliminary Finding of Circumvention Covering R-32 and R-125
- Scope Finding on EAPA Case 7212
- Transshipments
- Enforce and Protect Act (EAPA) Determinations
- R-32 Anti-dumping Case A-570-121
  Case still in Preliminary phase
- As in the HFC-134a case the scope filed is extremely important to read.

EPA Stratospheric Ozone

In 2016 EPA promulgated the Refrigerant Management Rule. A petition for reconsideration was filed January 17, 2017, resulting in the Administrator requiring the program to adjust the rule to eliminate certain elements that were directed at HFC leak rates.

What was rescinded:

- Repairing appliances that leak above a certain level and conducting verification tests on repairs;
- Periodically inspecting for leaks;
- Reporting chronically leaking appliances to the EPA;
- Retrofitting or retiring appliances that are not repaired; and
- Maintaining related records.

What was not rescinded:

- Anyone purchasing refrigerant for use in a stationary appliance or handling refrigerants (such as air-conditioning and refrigeration service technicians) must be section 608-certified;
- Anyone removing refrigerant from a refrigeration or air-conditioning appliance must evacuate refrigerant to a set level using certified refrigerant recovery equipment before servicing or disposing of the appliance;
- The final disposer (such as scrap recyclers or landfills) of small appliances, like refrigerators and window air conditioners, must ensure and document that refrigerant is recovered; and
- All used refrigerant must be reclaimed to industry purity standards before it can be sold to another appliance owner.

August 8, 2017 the DC Circuit rules in favor of a US producer's challenge to the 2015 SNAP 21 Rule with its Majority Opinion written by now Supreme Court Justice, Brett Kavanaugh.. **As a result of this decision, EPA vacates these Rule.** There has been no action on the part of EPA to replace either SNAP 20 or 21 leaving the matter in the hand of the States.

Did EPA kick the can down the road on the DC Circuit's negative finding on SNAP 20 and 21?

In response to EPA's lack of direction on a federal level, The United States Climate Alliance and California Air Resources Board (CARB) make efforts to regulate HFCs on the state level.

January 14, 2020 Hearing Held by Committee on Energy & Commerce on Senate Bill S 2754

What was notable here, the bill has the Federal Government preempting States on the matter of HFC Phase-down. Our sources tell us that Honeywell and AHRI have been spearheading a lobbying effort to establish an HFC Phase-out. As a result of this Senate Bill S 2754 and House Resolution H.R. 5544,

Senate Bill 2754 has 38 sponsors at this time. According to the Environmental and Public Works Committee interested parties are asked to comment on the proposed bill.

Detailed Action on the Bill

As a result, of the introduction of these bills California's progressive approach to limit High GWP has now gone by the way side. Disappointing environmental groups who were hoping that California's efforts would be the path forward to fill the void left by the Federal Government.

CARB backed away from what they had previously stated as a goal to reduce the use of High GWP Refrigerants. CARB has not made any public statement on this matter, other than to say it is being held in abeyance for future action.

Also on hold: 24 States are members of the US Climate Alliance. While this group came together to combat climate change, no action is being taken to restrict the use or sale of High GWP Refrigerants. All the members are adopting the SNAP 20 & 21 Rules, which were abandoned by EPA.

There will be no short-term quick result even if these Bills are passed. 2020 is an election year which always slows things down. EPA will need to promulgate a rule which, at the very minimum will take 18 months. Most likely longer because in this case EPA will need to perform a data collection to determine the proper baselines for HFC Phase-down.

Looking Ahead

There are many unsettled legal issues. The United States Department of Commerce has 3 ongoing circumvention investigations and there is new R-32 Anti-Dumping matter. These cases will take several months and possibly years to resolve.

All these factors continue to have an impact on buying habits as well as price instability.

Consider that both Senate Bill S. 2754 and the House Bill H.R. 5544 mirror the un-ratified Kigali Amendment of the Montreal Protocol. The fundamentals of both pieces of legislation are based on imported quantities of HFCs in the years 2011 - 2013. This is not an accurate representation of the US Refrigerant Industry Neither piece of legislation takes into consideration, Kigali began to operate in 2019. Neither piece of legislation makes provision for a phasedown schedule to catch up with Kigali. This lag in the US phasedown will be exacerbated by the 2020 election year and the 18 months to 2 years it will take EPA to collect data and promulgate a final rule.

Why is this important? As a consequence of the US not ratifying the Kigali Amendment, the US has become a dumping ground for Chinese chemicals that were previously sold to countries that are now phasing down. If we do not catch up with this global phasedown the US market will continue to be a target for cheap Chinese greenhouse gases. How will HFC demand give way to the HFOs and Natural Refrigerants if cheap HFCs continue to flood the US? How can EPA's Refrigerant Reclaim Industry prosper from these actions (as the proponents of this legislation suggest) if it is continuously undercut by undermark new product? As written, there is nothing in the legislation to support the more than 68 companies struggling to process a dwindling amount of CFC, HCFC and oversupplied and under recovered HFC. (EPA Reclaim Results)

With the level of imports coupled with price instability it is questionable as to how this reclaim can continue? More over only California considers destruction of these chemicals at end of life. Provisions for destruction funding would also help stabilize the reclaim industry and promote environmentally responsible disposal.

North America Industry Classification System

The Office of Management and Budget (OMB) is asking for comments on the North American Industry Classification System (NAICS) OMB Review of NAICS.

Comments Due April 27, 2020 11:59 PM ET

Currently small reclamation and refrigerant companies are classified in 321520 Industrial Gas Manufacturing. This NAICS code does not represent our industry. As a result of this inappropriate classification we are forced to compete with much larger companies for government bids and we are disregarded as significant stakeholders in EPA rulemakings. Please consider joining our effort to establish a more representative and equitable NAICS code for our industry.

The latest United States Company to feel the bite of Chinese exports to the US is Worthington Industries. Worthington a publicly traded company manufactures steel non-refillable cylinders that are used in the refrigerant industry and steel refillable cylinders for propane and other hydrocarbons.

Petitioner Worthington's scope is very expansive and encompasses both A-570-028 HFC Blends and A-570-044 R-134a from the PRC.

The merchandise covered by these petitions is certain non-refillable steel cylinders meeting the requirements of, or produced to meet the requirements of, U.S. Department of Transportation ("USDOT") Specifications 39, Transport Canada Specification 39M, or United Nations pressure receptacle standard ISO 11118 and otherwise meeting the description provided below ("non-refillable steel cylinders"). The subject non-refillable steel cylinders are portable and range from 300-cubic inch (4.9 liter) water capacity to 1,526-cubic inch (25 liter) water capacity. Subject non-refillable steel cylinders may be imported with or without a valve and/or

This new Anti-dumping Petition A-570-126 asks for Countervailing Duty (CVD) as well.

Schedule of this Investigation:

- ✓ March 27, 2020 - Petition filed
- ➢ May 11, 2020 - ITC preliminary inquiry determination
- ➢ May 31, 2020 - DOC preliminary CVD determination, if not postponed
- ➢ August 4, 2020 - DOC preliminary CVD determination, if fully postponed
- ➢ August 14, 2020 - DOC preliminary AD determination, if not postponed
- ➢ October 3, 2020 - DOC preliminary CVD determination, if fully postponed
- ➢ February 22, 2021 - DOC final AD & CVD determination, if both preliminary and final determinations are full postponed
- ➢ April 15, 2021 - ITC final injury determination, if DOC's determinations are fully postponed
- ➢ April 22, 2021 - AD/CVD Order Published

This is not Worthington's first AD/CV petition. Previous to this most recent Worthington Industries and Manchester Tank filed joint petitions on steel propane cylinders A-570-086, A-583-864, A-549- 839, C-570-087

We hope this provides insight into the issues that will effect your outlook on refrigerant for 2020 and beyond. If you have questions please feel free to contact us a ask about becoming a client of the New Era Group,

info@neweragroupinc.com