

Statement of Ranking Member Tom Carper (D-Del.)
EPW Committee Information-gathering Process Entitled, “S. 2754, American Innovation and Manufacturing Act of 2019: Written Testimony and Questions for the Record”

Mr. Chairman, I strongly support the legislation I have introduced with Senator John Kennedy, S.2754, the American Innovation and Manufacturing Act, known as the AIM Act. The AIM Act authorizes the Environmental Protection Agency (EPA) to implement a 15-year phase down of hydrofluorocarbons (HFCs), which are used as coolants in our refrigerators and air conditioners and are known and potent greenhouse gases. American companies have already invested billions of dollars to produce and sell the next-generation technologies to replace HFCs, and our legislation protects these investments. The carefully crafted AIM Act is good for our economy and our environment and also enjoys broad support from two-thirds of the United States Senate as well as from the business community, states and environmental groups.

Before I begin, I want to be clear about one thing. I believe it is all well and good that the Committee is finally hearing comments on this legislation. However, this process alone does not fully acknowledge or address my years of asking for committee action on legislation to phase down HFCs. Moreover, this process alone does not change the fact that what Senator Kennedy and I want is a Senate floor vote on, and ultimately enactment of, HFC phase-down legislation. At a time when our nation needs bipartisan solutions to encourage economic growth and support our nation’s manufacturers, we cannot afford any more delays on passing the AIM Act.

I often say, find out what works and do more of that, and that is just what Senator Kennedy and I have done with the AIM Act. For three decades, the EPA has used its authorities under Title VI of the Clean Air Act to phase down the production, consumption and usage of chlorofluorocarbons (CFCs) and hydrochlorofluorocarbons (HCFCs). EPA has implemented this phase-down in a way that has been healthy for our global environment and our economy. Senator Kennedy and I have applied the lessons learned from the successful phase-down of CFCs and HCFCs to our legislation to phase down HFCs, and used Title VI of the Clean Air Act as a framework for the AIM Act.

Similar to Title VI of the Clean Air Act, the legislation uses an allocation system to gradually reduce the production and importation of HFCs over the next 15 years. Unlike with CFCs, our legislation is a phase-down, not a phase-out. By 2035, the legislation reduces HFCs by 85 percent, leaving 15 percent available for uses of HFCs where safe or economical alternatives are not available. Special “carve outs” for certain sectors, such as aviation and defense sprays, are not needed because of this 15 percent cushion. However, after hearing from comments from industry, our legislation does include language that gives EPA the ability to deem certain uses of HFCs as “essential uses” which will allow the continued production and importation of HFCs for uses that are designated as essential beyond 2035.

Also similar to Title VI of the Clean Air Act, the AIM Act gives the EPA the authority to regulate the end-uses of HFCs. EPA is given the authority to do so under the bill in order to facilitate a safe and efficient transition away from the use of HFCs, as well as to complement the phase down of production and importation of HFCs. However, unlike with CFCs, EPA is able to

choose whether or not it wants to regulate end-uses of HFCs. If EPA does choose to regulate the certain uses of HFCs, the agency must consider several factors when it regulates them, including whether such regulation would be protective of human health and the environment, and the costs, consumer safety, and availability of substitutes.

The legislation, like with Title VI of the Clean Air Act, also gives the EPA the ability to adapt to an ever changing HFC market. We expect – as happened with CFCs – that the reduction of HFCs will go faster than predicted. The AIM Act mimics what has worked in the Title VI Clean Air Act, by allowing companies to petition EPA for a faster phase-down schedule.

By using a tried and true model for success, and after years of consulting the business community, the environmental community and the states, Senator Kennedy and I have crafted legislation that will be a series of wins for our economy, for consumers and for our environment. Here are just a few wins:

The AIM Act is good for consumers. The AIM Act drives the deployment of more efficient air conditioning and refrigeration products and equipment, reducing energy and upkeep costs. EPA is refusing to release its own economic analysis that shows the legislation would save consumers \$3.7 billion over 15 years.

The AIM Act is good for jobs. The Chamber of Commerce expects the AIM Act will result in the creation of 150,000 additional direct and indirect American jobs through 2035.

The AIM Act is good for our economy. The AIM Act is expected to improve our trade imbalance in chemicals and equipment by \$12.5 billion and increase manufacturing output by close to \$39 billion over the next seven years.

The AIM Act is good for the planet and the people who inhabit it. Joining the rest of the world to phase down HFCs could help avoid up to a half degree Celsius in global warming.

The benefits of the AIM Act have not gone unnoticed. The AIM Act has broad bipartisan support, cosponsored by an additional 32 Senators, 16 Republicans and 16 Democrats. The AIM Act also has broad support from the business community – including the U.S. Chamber of Commerce and the National Association of Manufacturers – the environmental community, and the states. A similar bipartisan bill has also been introduced in the House.

With that said, I know that some of my colleagues, including Chairman Barrasso, have called for adding new preemption authorities that would prevent states from addressing HFCs. There were similar concerns raised in 1990 when Congress wrote Title VI of the Clean Air Act. In 1990, as there are today, states had programs already in place to reduce CFCs. Rather than preempting state actions, Congress preempted the enforcement of state CFC regulations for two years in Title VI of the Clean Air Act. The state programs helped to hold the federal government accountable, but once EPA had a strong CFC program in place, the state programs went away on their own. I believe the same will be true for HFCs. In addition, we have baked in the legislation protections for consumers and industry as stated earlier. All of these reasons are why blanket preemption provisions are not necessary to be included in the AIM Act.

I am open to changes that will make the AIM Act stronger, however, I am not interested in poison pill policies that undermine the intent of the legislation and will make it impossible for the legislation to be passed by Congress. For example, Chairman Barrasso continues to push to include language that would preempt states, as of the day of enactment, from regulating anything related to the production, consumption and usage of HFCs. Such a far-reaching preemption provision would likely prevent states from establishing and modifying building codes and have other unintended consequences. In addition, Chairman Barrasso would like to strike language from the bill that authorizes EPA to regulate end-uses of HFCs. This provision, combined with a provision to preempt state regulation, would mean that no one – neither the states nor the federal government – would be able to regulate the end use of HFCs. Chairman Barrasso also proposes to exempt a significant number of sectors from regulation outright. Senator Kennedy and I have provided other legislative options to Chairman Barrasso to address these concerns that have thus far been rejected, but I do remain open to conversation on these fronts.

Again, while I welcome the opportunity to discuss the bill before the Environment and Public Works Committee, I am wary of any Committee process that may be intended to slow Senate action on this legislation. The AIM Act would save consumers money, create jobs, support economic growth and address climate change. Once the Senate reconvenes, the Senate should take up and pass the AIM Act. Quite simply, we can no longer afford to wait.