

January 10, 2020

The Honorable Frank Pallone, Jr.  
Chairman  
House Committee on Energy and Commerce  
U.S. House of Representatives  
Washington, D.C. 20515



The Honorable Greg Walden  
Ranking Member  
House Committee Energy and Commerce  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Chairman Pallone and Ranking Member Walden,

The Environmental Investigation Agency (EIA) is an independent environmental campaigning organization based in Washington, DC, working worldwide to protect the global climate, forests and threatened species with intelligence, for the benefit of people and wildlife. We have undertaken groundbreaking investigations into the illegal trade in fluorinated chemicals/refrigerants since the mid-1990s, and have been closely involved in the international ozone and climate negotiations for more than two decades.<sup>1</sup> In 2018, EIA investigations exposed widespread illegal production and use of a globally banned fluorinated chemical, CFC-11, in China in production of blowing agent and frequently traded polyols used to make polyurethane foams.<sup>2</sup>

EIA submits this letter in support of the American Innovation and Manufacturing Leadership Act of 2020 (H.R. 5544). In addition to supporting American business and innovation, benefitting the environment and global climate, and creating jobs in the United States, H.R. 5544 will improve the U.S. trade balance in chemicals and equipment. By creating an allowance system for production and imports of HFCs that are reduced over time through a reduction schedule consistent with other countries in the global market, H.R. 5544 will provide for an orderly phase-down of HFCs, reduce demand for these substances through end-use bans, and create reporting requirements capable of tracking HFCs and other chemicals entering and circulating the U.S. market. It will also preemptively build a foundational framework that not only limits total imports but enables tracking of any dumping and detecting illegal imports.

U.S. industry estimates that phasing down HFCs will improve the U.S. trade balance in equipment and chemicals by \$12.5 billion USD.<sup>3</sup> HFC imports from China have been the subject of multiple trade disputes and imposition of anti-dumping duties by the Department of Commerce in 2016.<sup>4</sup> Each year, approximately

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<sup>1</sup> See EIA, Preventing Illegal Trade, <https://eia-global.org/initiatives/preventing-illegal-trade>; See also: NYTimes (June 2018), In a High-Stakes Environmental Whodunit, Many Clues Point to China, <https://www.nytimes.com/2018/06/24/world/asia/china-ozone-cfc.html>

<sup>2</sup> See EIA, Blowing it: Illegal Production and Use of Banned CFC-11 in China's Foam Blowing Industry. Available at: <https://eia-global.org/reports/20180709-blowing-it-illegal-production-and-use-of-banned-cfc-11-in-chinas-foam-blowing-industry>

<sup>3</sup> Air Conditioning Heating and Refrigeration Institute (AHRI) Fact Sheet on S. 2754. Available at: [http://ahrinet.org/App\\_Content/ahri/files/Resources/AHRI\\_AIM\\_Act-one\\_pager.pdf](http://ahrinet.org/App_Content/ahri/files/Resources/AHRI_AIM_Act-one_pager.pdf)

<sup>4</sup> U.S. Department of Commerce Fact Sheet (2016), Commerce Finds Dumping of Imports of Hydrofluorocarbon Blends and Components Thereof from the People's Republic of China. Available at:

\$130–\$170 million USD worth of HFCs are imported into the United States, mainly from China.<sup>5</sup> Far more enter the country contained in pre-filled refrigeration and air conditioning equipment. Cheaply manufactured HFC imports from China have continued to grow and undermine U.S. business interests and are fueling an oversupply of cheap refrigerants that undermines the market transition to more environmentally friendly alternatives supported by U.S. businesses.

Decades of EIA experience in this field and accompanying research illustrate that it is imperative to set limits and create requisite reporting requirements for a successful HFC phase-down. Lessons learned from illegal trade in ODS, and currently these very substances in Europe, justify the inclusion of reporting mechanisms in order to ensure strong enforcement and traceability in the future.<sup>6</sup> The HFC trade is closely linked to illegal trade and smuggling in their predecessors – ozone depleting substances (ODS), including chlorofluorocarbons (CFCs) and hydrochlorofluorocarbons (HCFCs) – which are still in the final stages of being phased out in the U.S. and globally.

A rulemaking recently finalized by the U.S. Environmental Protection Agency (EPA) recognized the increasing incentive to illegally import certain ODS into the U.S. The same rulemaking further acknowledged that, “additional tools are needed to address the potential for domestic distribution of illegally imported material...”<sup>7</sup> A critical first step is putting a legal limit on the total imports and creating a licensing system, effectively, by limiting import allowances. This will help prevent and reduce dumping of ODS and HFCs into the United States, legally or illegally. Low risk of punitive measures, absence of close tracking, lack of enforcement capacity to identify illegality, and potential for quick profits will continue to be a threat in the absence of the reporting and allowance mechanisms envisioned in this bill.

EIA supports H.R. 5544, which warrants continued strong bipartisan support and rapid adoption into law in the interest of strengthening enforcement and protecting U.S. economic and environmental benefits.

Thank you for your consideration of our comments.

Sincerely,



**Alexander von Bismarck**  
Executive Director  
Environmental Investigation Agency (EIA),  
Washington D.C.

[www.eia-global.org](http://www.eia-global.org)

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<https://enforcement.trade.gov/download/factsheets/factsheet-prc-hydrofluorocarbon-blends-single-hydrofluorocarbon-components-ad-final-062216.pdf>.

<sup>5</sup> Id.

<sup>6</sup> See EIA, *Doors Wide Open: Europe’s flourishing illegal trade in hydrofluorocarbons* (2019), Available at: <https://eia-international.org/wp-content/uploads/EIA-report-Doors-wide-open.pdf>

<sup>7</sup> EPA Proposed Rulemaking, *Protection of the Stratospheric Ozone: Adjustments to the Allowance System for Controlling HCFC Production and Import, 2020-2029; and Other Updates* (EPA–HQ–OAR–2016–0271; FRL–9997–57– OAR)