

**Opening Statement of Republican Leader John Shimkus
Subcommittee on Environment and Climate Change Hearing
“Promoting American Innovation and Jobs: Legislation to Phase Down the
Use of Hydrofluorocarbons”**

As Prepared for Delivery

Thank you, Mr. Chairman for recognizing me for this opening statement.

Today’s legislative hearing demands a certain baseline amount of knowledge about this subject. Particularly to review a bill on this multi-layered subject and whose text itself belies the many issues it is trying to address.

If I didn’t know better, I would think – as we are going to hear today – that this is a simple subject that certain parts of the industry have worked with a few environmental advocacy organizations to solve. I want to believe that tidy story, but the more I look into this issue, the more my eyes notice a story much different from the one my ears are hearing.

The issues we’re discussing in the bill before us today go back five decades. In fact, the last time this Committee addressed ozone depleting substances and the Montreal Protocol, only one-third of the members of both this subcommittee and the full committee were on this panel. This issue is far too big and has far too many implications on the American consumer for our Committee to put members in the position of asking questions about legislation for which they have very little background.

Moreover, Mr. Chairman, after the Minority outlined the need for a comprehensive and fair look at both the issue and the bill – since the Committee had not done anything to put them in context for us – the Majority denied the

Minority a second witness for this hearing. This was not because that perspective was already covered, this was not because there were time pressures, or the panel was already unwieldy. No, this rejected request was done to suppress dissenting voices – it is unseemly and sours the desire some might have to get to “yes” on this bill.

Speaking of the bill, I do have some questions about it that I want to explore based upon what I do know about this subject.

This bill seeks to phase out the production and use of HFCs or hydro-fluorocarbons. I question how much a bill like this is needed.

Why?

The Illinois-based North American Association of Food Equipment Manufacturers (NAFEM) is THE lead trade association for commercial foodservice refrigeration products. It not only has not taken a position on the legislation, but since 2015, has proactively undertaken transitioning away from HFCs to meet customer demands. How many other parts of the impacted universe are also making this transition without a government mandate?

If it is necessary, I understand the bill’s industry advocates want a law because states, like California, are acting in a way that is creating an uneven national marketplace. Yet, this legislation contains NO PREEMPTION provisions. Perhaps the States didn’t engage much after Montreal almost four decades ago, but as TSCA and CAFÉ debates have recently shown, increasingly Federal action is NO barrier to additional State action and sometimes serves as an incentive.

The accelerated phase-out and technology transition provisions in the legislation also give me pause. I worry that, just as Justice Kavanaugh found with certain SNAP rules, these provisions can be gamed by market actors for

competitive advantage at the expense of consumers. Likewise, these provisions could be used by non-market actors to drive technology that is infeasible and without EPA needing much of a basis to make that leap.

Finally, I think it bears mentioning that we should be exploring the constitutional precedent of this proposal – an effort to implement requirements necessary for participation in the Kigali Amendment to the Montreal Protocol. This Amendment has not been submitted to the Senate for ratification by either the Obama or Trump Administrations. While I understand the attractiveness of a proposal like this to some; I wonder whether a Federal court would see this as a durable solution.

Mr. Chairman, although I wish we had a legitimate small business or other sector perspective represented, I want to welcome our witnesses here this morning. I especially welcome Energy and Commerce Committee staff alumnus, Ben Lieberman, to our second panel. Ben served our Committee with honor for nearly 10 years on these issues and it's good to have his friendly face back here.