

S.L.C.
John Kennedy

AMENDMENT NO. _____ Calendar No. _____

Purpose: To create jobs and drive innovation and economic growth in the United States by supporting and promoting the manufacture of next-generation technologies, including refrigerants, solvents, fire suppressants, foam blowing agents, aerosols, and propellants.

IN THE SENATE OF THE UNITED STATES—116th Cong., 2d Sess.

S. 2657

AMENDMENT N^o 2655	arch and
By <u>Kennedy</u>	_____ and
To:	
<u>S. 2657</u>	l
<u>43</u>	
Page(s)	_____

*Mr. Burrasso
Mr. Carper*

GPO: 2018 33-682 (mac)

1 At the appropriate place, insert the following:

2 **SEC. ____ . AMERICAN INNOVATION AND MANUFAC-**

3 **TURING.**

4 (a) **SHORT TITLE.**—This section may be cited as the

5 “American Innovation and Manufacturing Act of 2020”.

6 (b) **DEFINITIONS.**—In this section:

7 (1) **ADMINISTRATOR.**—The term “Adminis-

8 trator” means the Administrator of the Environ-

9 mental Protection Agency.

1 (2) ALLOWANCE.—The term “allowance”
2 means a limited authorization for the production or
3 consumption of a regulated substance established
4 under subsection (e).

5 (3) CONSUMPTION.—The term “consumption”,
6 with respect to a regulated substance, means a
7 quantity equal to the difference between—

8 (A) a quantity equal to the sum of—

9 (i) the quantity of that regulated sub-
10 stance produced in the United States; and

11 (ii) the quantity of the regulated sub-
12 stance imported into the United States;

13 and

14 (B) the quantity of the regulated substance
15 exported from the United States.

16 (4) CONSUMPTION BASELINE.—The term “con-
17 sumption baseline” means the baseline established
18 for the consumption of regulated substances under
19 subsection (e)(1)(C).

20 (5) EXCHANGE VALUE.—The term “exchange
21 value” means the value assigned to a regulated sub-
22 stance in accordance with subsections (c) and (e), as
23 applicable.

24 (6) IMPORT.—The term “import” means to
25 land on, bring into, or introduce into, or attempt to

1 land on, bring into, or introduce into, any place sub-
2 ject to the jurisdiction of the United States, regard-
3 less of whether that landing, bringing, or introduc-
4 tion constitutes an importation within the meaning
5 of the customs laws of the United States.

6 (7) PRODUCE.—

7 (A) IN GENERAL.—The term “produce”
8 means the manufacture of a regulated sub-
9 stance from a raw material or feedstock chem-
10 ical (but not including the destruction of a reg-
11 ulated substance by a technology approved by
12 the Administrator).

13 (B) EXCLUSIONS.—The term “produce”
14 does not include—

15 (i) the manufacture of a regulated
16 substance that is used and entirely con-
17 sumed (except for trace quantities) in the
18 manufacture of another chemical; or

19 (ii) the reclamation, reuse, or recy-
20 cling of a regulated substance.

21 (8) PRODUCTION BASELINE.—The term “pro-
22 duction baseline” means the baseline established for
23 the production of regulated substances under sub-
24 section (e)(1)(B).

1 (9) RECLAIM; RECLAMATION.—The terms “re-
2 claim” and “reclamation” mean—

3 (A) the reprocessing of a recovered regu-
4 lated substance to at least the purity described
5 in standard 700–2016 of the Air-Conditioning,
6 Heating, and Refrigeration Institute (or an ap-
7 propriate successor standard adopted by the
8 Administrator); and

9 (B) the verification of the purity of that
10 regulated substance using, at a minimum, the
11 analytical methodology described in the stand-
12 ard referred to in subparagraph (A).

13 (10) RECOVER.—The term “recover” means the
14 process by which a regulated substance is—

15 (A) removed, in any condition, from equip-
16 ment; and

17 (B) stored in an external container, with
18 or without testing or processing the regulated
19 substance.

20 (11) REGULATED SUBSTANCE.—The term “reg-
21 ulated substance” means—

22 (A) a substance listed in the table con-
23 tained in subsection (c)(1); and

1 (B) a substance included as a regulated
 2 substance by the Administrator under sub-
 3 section (c)(3).

4 (c) LISTING OF REGULATED SUBSTANCES.—

5 (1) LIST OF REGULATED SUBSTANCES.—Each
 6 of the following substances, and any isomers of such
 7 a substance, shall be a regulated substance:

Chemical Name	Common Name	Exchange Value
CHF ₂ CHF ₂	HFC-134	1100
CH ₂ FCF ₃	HFC-134a	1430
CH ₂ FCHF ₂	HFC-143	353
CHF ₂ CH ₂ CF ₃	HFC-245fa	1030
CF ₃ CH ₂ CF ₂ CH ₃	HFC-365mfc	794
CF ₃ CHF ₂ CF ₃	HFC-227ea	3220
CH ₂ FCF ₂ CF ₃	HFC-236cb	1340
CHF ₂ CHF ₂ CF ₃	HFC-236ea	1370
CF ₃ CH ₂ CF ₃	HFC-236fa	9810
CH ₂ FCF ₂ CHF ₂	HFC-245ca	693
CF ₃ CHF ₂ CHF ₂ CF ₃	HFC-43-10mee	1640
CH ₂ F ₂	HFC-32	675
CHF ₂ CF ₃	HFC-125	3500
CH ₃ CF ₃	HFC-143a	4470
CH ₃ F	HFC-41	92
CH ₂ FCH ₂ F	HFC-152	53
CH ₃ CHF ₂	HFC-152a	124
CHF ₃	HFC-23	14800.

8 (2) REVIEW.—The Administrator may—

1 (A) review the exchange values listed in
2 the table contained in paragraph (1) on a peri-
3 odic basis; and

4 (B) subject to notice and opportunity for
5 public comment, adjust the exchange values
6 solely on the basis of—

7 (i) publicly available, peer-reviewed
8 scientific data; and

9 (ii) other information consistent with
10 widely used or commonly accepted existing
11 exchange values.

12 (3) OTHER REGULATED SUBSTANCES.—

13 (A) IN GENERAL.—Subject to notice and
14 opportunity for public comment, the Adminis-
15 trator may designate a substance not included
16 in the table contained in paragraph (1) as a
17 regulated substance if—

18 (i) the substance—

19 (I) is a chemical substance that
20 is a saturated hydrofluorocarbon; and

21 (II) has an exchange value, as
22 determined by the Administrator in
23 accordance with the basis described in
24 paragraph (2)(B), of greater than 53;
25 and

1 (ii) the designation of the substance
2 as a regulated substance would be con-
3 sistent with the purposes of this section.

4 (B) SAVINGS PROVISION.—Nothing in this
5 paragraph authorizes the Administrator to des-
6 ignate as a regulated substance a blend of sub-
7 stances that includes a saturated
8 hydrofluorocarbon for purposes of phasing down
9 production or consumption of regulated sub-
10 stances under subsection (e), even if the satu-
11 rated hydrofluorocarbon is, or may be, des-
12 ignated as a regulated substance.

13 (d) MONITORING AND REPORTING REQUIRE-
14 MENTS.—

15 (1) PRODUCTION, IMPORT, AND EXPORT LEVEL
16 REPORTS.—

17 (A) IN GENERAL.—On a periodic basis, to
18 be determined by the Administrator, but not
19 less frequently than annually, each person who,
20 within the applicable reporting period, produces,
21 imports, exports, destroys, transforms, uses as
22 a process agent, or reclaims a regulated sub-
23 stance shall submit to the Administrator a re-
24 port that describes, as applicable, the quantity
25 of the regulated substance that the person—

- 1 (i) produced, imported, and exported;
2 (ii) reclaimed;
3 (iii) destroyed by a technology ap-
4 proved by the Administrator;
5 (iv) used and entirely consumed (ex-
6 cept for trace quantities) in the manufac-
7 ture of another chemical; or
8 (v) used as a process agent.

9 (B) REQUIREMENTS.—

10 (i) SIGNED AND ATTESTED.—The re-
11 port under subparagraph (A) shall be
12 signed and attested by a responsible officer
13 (within the meaning of the Clean Air Act
14 (42 U.S.C. 7401 et seq.)).

15 (ii) NO FURTHER REPORTS RE-
16 QUIRED.—A report under subparagraph
17 (A) shall not be required from a person if
18 the person—

19 (I) permanently ceases produc-
20 tion, importation, exportation, de-
21 struction, transformation, use as a
22 process agent, or reclamation of all
23 regulated substances; and

1 (II) notifies the Administrator in
2 writing that the requirement under
3 subclause (I) has been met.

4 (iii) BASELINE PERIOD.—Each report
5 under subparagraph (A) shall include, as
6 applicable, the information described in
7 that subparagraph for the baseline period
8 of calendar years 2011 through 2013.

9 (2) COORDINATION.—The Administrator may
10 allow any person subject to the requirements of
11 paragraph (1)(A) to combine and include the infor-
12 mation required to be reported under that paragraph
13 with any other related information that the person
14 is required to report to the Administrator.

15 (e) PHASE-DOWN OF PRODUCTION AND CONSUMP-
16 TION OF REGULATED SUBSTANCES.—

17 (1) BASELINES.—

18 (A) IN GENERAL.—Subject to subpara-
19 graph (D), the Administrator shall establish for
20 the phase-down of regulated substances—

21 (i) a production baseline for the pro-
22 duction of all regulated substances in the
23 United States, as described in subpara-
24 graph (B); and

1 (ii) a consumption baseline for the
2 consumption of all regulated substances in
3 the United States, as described in subpara-
4 graph (C).

5 (B) PRODUCTION BASELINE DESCRIBED.—

6 The production baseline referred to in subpara-
7 graph (A)(i) is the quantity equal to the sum
8 of—

9 (i) the average annual quantity of all
10 regulated substances produced in the
11 United States during the period—

12 (I) beginning on January 1,
13 2011; and

14 (II) ending on December 31,
15 2013; and

16 (ii) the quantity equal to the sum of—

17 (I) 15 percent of the production
18 level of hydrochlorofluorocarbons in
19 calendar year 1989; and

20 (II) 0.42 percent of the produc-
21 tion level of chlorofluorocarbons in
22 calendar year 1989.

23 (C) CONSUMPTION BASELINE DE-

24 SCRIBED.—The consumption baseline referred

1 to in subparagraph (A)(ii) is the quantity equal
 2 to the sum of—

3 (i) the average annual quantity of all
 4 regulated substances consumed in the
 5 United States during the period—

6 (I) beginning on January 1,
 7 2011; and

8 (II) ending on December 31,
 9 2013; and

10 (ii) the quantity equal to the sum of—

11 (I) 15 percent of the consump-
 12 tion level of hydrochlorofluorocarbons
 13 in calendar year 1989; and

14 (II) 0.42 percent of the consump-
 15 tion level of chlorofluorocarbons in
 16 calendar year 1989.

17 (D) EXCHANGE VALUES.—

18 (i) IN GENERAL.—For purposes of
 19 subparagraphs (B) and (C), the Adminis-
 20 trator shall use the following exchange val-
 21 ues for hydrochlorofluorocarbons and
 22 chlorofluorocarbons:

Table 2		
Chemical Name	Common Name	Exchange Value
CHFC1 ₂	HCFC-21	151

Table 2		
Chemical Name	Common Name	Exchange Value
CHF ₂ Cl	HCFC-22	1810
C ₂ HF ₃ Cl ₂	HCFC-123	77
C ₂ HF ₄ Cl	HCFC-124	609
CH ₃ CFC1 ₂	HCFC-141b	725
CH ₃ CF ₂ Cl	HCFC-142b	2310
CF ₃ CF ₂ CHCl ₂	HCFC-225ea	122
CF ₂ ClCF ₂ CHClF	HCFC-225eb	595

Table 3		
Chemical Name	Common Name	Exchange Value
CFC1 ₃	CFC-11	4750
CF ₂ Cl ₂	CFC-12	10900
C ₂ F ₃ Cl ₃	CFC-113	6130
C ₂ F ₄ Cl ₂	CFC-114	10000
C ₂ F ₅ Cl	CFC-115	7370

- 1 (ii) REVIEW.—The Administrator
 2 may—
 3 (I) review the exchange values
 4 listed in the tables contained in clause
 5 (i) on a periodic basis; and
 6 (II) subject to notice and oppor-
 7 tunity for public comment, adjust the
 8 exchange values solely on the basis
 9 of—
 10 (aa) publicly available, peer-
 11 reviewed scientific data; and

1 (bb) other information con-
2 sistent with widely used or com-
3 monly accepted existing exchange
4 values.

5 (2) PRODUCTION AND CONSUMPTION PHASE-
6 DOWN.—

7 (A) IN GENERAL.—During the period be-
8 ginning on January 1 of each year listed in the
9 table contained in subparagraph (C) and ending
10 on December 31 of the year before the next
11 year listed on that table, except as otherwise
12 permitted under this section, no person shall—

13 (i) produce a quantity of a regulated
14 substance without a corresponding quan-
15 tity of production allowances, except as
16 provided in paragraph (5); or

17 (ii) consume a quantity of a regulated
18 substance without a corresponding quan-
19 tity of consumption allowances.

20 (B) COMPLIANCE.—For each year listed on
21 the table contained in subparagraph (C), the
22 Administrator shall ensure that the annual
23 quantity of all regulated substances produced or
24 consumed in the United States does not exceed
25 the product obtained by multiplying—

1 (i) the production baseline or con-
2 sumption baseline, as applicable; and

3 (ii) the applicable percentage listed on
4 the table contained in subparagraph (C).

5 (C) RELATION TO BASELINE.—On Janu-
6 ary 1 of each year listed in the following table,
7 the Administrator shall apply the applicable
8 percentage, as described in subparagraph (A):

Date	Percentage of Production Baseline	Percentage of Consumption Baseline
2020–2023	90 percent	90 percent
2024–2028	60 percent	60 percent
2029–2033	30 percent	30 percent
2034–2035	20 percent	20 percent
2036 and thereafter	15 percent	15 percent

9 (D) ALLOWANCES.—

10 (i) QUANTITY.—Not later than Octo-
11 ber 1 of each calendar year, the Adminis-
12 trator shall use the quantity calculated
13 under subparagraph (B) to determine the
14 quantity of allowances for the production
15 and consumption of regulated substances
16 that may be used for the following cal-
17 endar year.

18 (ii) NATURE OF ALLOWANCES.—

1 (I) IN GENERAL.—An allowance
2 allocated under this section—

3 (aa) does not constitute a
4 property right; and

5 (bb) is a limited authoriza-
6 tion for the production or con-
7 sumption of a regulated sub-
8 stance under this section.

9 (II) SAVINGS PROVISION.—Noth-
10 ing in this section or in any other pro-
11 vision of law limits the authority of
12 the United States to terminate or
13 limit an authorization described in
14 subclause (I)(bb).

15 (3) REGULATIONS REGARDING PRODUCTION
16 AND CONSUMPTION OF REGULATED SUBSTANCES.—
17 Not later than 270 days after the date of enactment
18 of this Act, which shall include a period of notice
19 and opportunity for public comment, the Adminis-
20 trator shall issue a final rule—

21 (A) phasing down the production of regu-
22 lated substances in the United States through
23 an allowance allocation and trading program in
24 accordance with this section; and

1 (B) phasing down the consumption of reg-
2 ulated substances in the United States through
3 an allowance allocation and trading program in
4 accordance with the schedule under paragraph
5 (2)(C) (subject to the same exceptions and
6 other requirements as are applicable to the
7 phase-down of production of regulated sub-
8 stances under this section).

9 (4) EXCEPTIONS; ESSENTIAL USES.—

10 (A) FEEDSTOCKS AND PROCESS
11 AGENTS.—Except for the reporting require-
12 ments described in subsection (d)(1), this sec-
13 tion does not apply to—

14 (i) a regulated substance that is used
15 and entirely consumed (except for trace
16 quantities) in the manufacture of another
17 chemical; or

18 (ii) a regulated substance that is used
19 and not entirely consumed in the manufac-
20 ture of another chemical, if the remaining
21 amounts of the regulated substance are
22 subsequently destroyed.

23 (B) ESSENTIAL USES.—

24 (i) IN GENERAL.—Beginning on the
25 date of enactment of this Act and subject

1 to paragraphs (2) and (3) and clauses (ii)
2 and (iii), the Administrator may, after con-
3 sidering technical achievability, commercial
4 demands, safety, and other relevant fac-
5 tors, including overall economic costs and
6 environmental impacts compared to histor-
7 ical trends, allocate a quantity of allow-
8 ances for a period of not more than 5
9 years for the production and consumption
10 of a regulated substance exclusively for the
11 use of the regulated substance in an appli-
12 cation, if—

13 (I) no safe or technically achiev-
14 able substitute will be available during
15 the applicable period for that applica-
16 tion; and

17 (II) the supply of the regulated
18 substance that manufacturers or users
19 of the regulated substance for that
20 application are capable of securing
21 from chemical manufacturers, as au-
22 thorized under paragraph (2)(A), in-
23 cluding any quantities of a regulated
24 substance available from reclaiming,
25 prior production, or prior import, is

1 insufficient to accommodate the appli-
2 cation.

3 (ii) PETITION.—If the Administrator
4 receives a petition requesting the designa-
5 tion of an application as an essential use
6 under clause (i), the Administrator shall—

7 (I) not later than 180 days after
8 the date on which the Administrator
9 receives the petition—

10 (aa) make the complete peti-
11 tion available to the public; and

12 (bb) when making the peti-
13 tion available to the public under
14 item (aa), propose and seek pub-
15 lic comment on—

16 (AA) a determination of
17 whether to designate the ap-
18 plication as an essential use;
19 and

20 (BB) if the Adminis-
21 trator proposes to designate
22 the application as an essen-
23 tial use, making the req-
24 uisite allocation of allow-
25 ances; and

1 (II) not later than 270 days after
2 the date on which the Administrator
3 receives the petition, take final action
4 on the petition.

5 (iii) LIMITATION.—A person receiving
6 an allocation under clause (i) or (iv) or as
7 a result of a petition granted under clause
8 (ii) may not produce or consume a quan-
9 tity of regulated substances that, consid-
10 ering the respective exchange values of the
11 regulated substances, exceeds the number
12 of allowances issued under paragraphs (2)
13 and (3) that are held by that person.

14 (iv) MANDATORY ALLOCATIONS.—

15 (I) IN GENERAL.—Notwith-
16 standing clause (i) and subject to
17 clause (iii) and paragraphs (2) and
18 (3), for the 5-year period beginning
19 on the date of enactment of this Act,
20 the Administrator shall allocate the
21 full quantity of allowances necessary,
22 based on projected, current, and his-
23 torical trends, for the production or
24 consumption of a regulated substance
25 for the exclusive use of the regulated

1 substance in an application solely
2 for—

3 (aa) a propellant in metered-
4 dose inhalers;

5 (bb) defense sprays;

6 (cc) structural composite
7 preformed polyurethane foam for
8 marine use and trailer use;

9 (dd) the etching of semicon-
10 ductor material or wafers and the
11 cleaning of chemical vapor depo-
12 sition chambers within the semi-
13 conductor manufacturing sector;

14 (ee) mission-critical military
15 end uses, such as armored vehicle
16 engine and shipboard fire sup-
17 pression systems and systems
18 used in deployable and expedi-
19 tionary applications; and

20 (ff) onboard aerospace fire
21 suppression.

22 (II) REQUIREMENT.—The alloca-
23 tion of allowances under subclause (I)
24 shall be determined through a rule-
25 making.

1 (v) REVIEW.—

2 (I) IN GENERAL.—For each es-
3 sential use application receiving an al-
4 location of allowances under clause (i)
5 or (iv), the Administrator shall review
6 the availability of substitutes, includ-
7 ing any quantities of the regulated
8 substance available from reclaiming or
9 prior production, not less frequently
10 than once every 5 years.

11 (II) EXTENSION.—If, pursuant
12 to a review under subclause (I), the
13 Administrator determines, subject to
14 notice and opportunity for public com-
15 ment, that the requirements described
16 in subclauses (I) and (II) of clause (i)
17 are met, the Administrator shall au-
18 thorize the production or consump-
19 tion, as applicable, of any regulated
20 substance used in the application for
21 renewable periods of not more than 5
22 years for exclusive use in the applica-
23 tion.

24 (5) DOMESTIC MANUFACTURING.—Notwith-
25 standing paragraph (2)(A)(i), the Administrator

1 may authorize a person to produce a regulated sub-
2 stance in excess of the number of production allow-
3 ances held by that person, subject to the conditions
4 that—

5 (A) the authorization is—

6 (i) for a renewable period of not more
7 than 5 years; and

8 (ii) subject to notice and opportunity
9 for public comment; and

10 (B) the production—

11 (i) is at a facility located in the
12 United States;

13 (ii) is solely for export to, and use in,
14 a foreign country that is not subject to the
15 prohibition in subsection (j)(1); and

16 (iii) would not violate paragraph
17 (2)(B).

18 (f) ACCELERATED SCHEDULE.—

19 (1) IN GENERAL.—Subject to paragraph (4),
20 the Administrator may, only in response to a peti-
21 tion submitted to the Administrator in accordance
22 with paragraph (3) and after notice and opportunity
23 for public comment, promulgate regulations that es-
24 tablish a schedule for phasing down the production
25 or consumption of regulated substances that is more

1 stringent than the production and consumption lev-
2 els of regulated substances required under sub-
3 section (e)(2)(C).

4 (2) REQUIREMENTS.—Any regulations promul-
5 gated under this subsection—

6 (A) shall—

7 (i) apply uniformly to the allocation of
8 production and consumption allowances for
9 regulated substances, in accordance with
10 subsection (e)(3);

11 (ii) ensure that there will be sufficient
12 quantities of regulated substances, includ-
13 ing substances available from reclaiming,
14 prior production, or prior import, to meet
15 the needs for—

16 (I) applications that receive an
17 allocation under clause (i) of sub-
18 section (e)(4)(B); and

19 (II) all applications that receive a
20 mandatory allocation under items (aa)
21 through (ff) of clause (iv)(I) of that
22 subsection; and

23 (iii) foster continued reclamation of
24 and transition from regulated substances;
25 and

1 (B) shall not set the level of production al-
2 lowances or consumption allowances below the
3 percentage of the consumption baseline that is
4 actually consumed during the calendar year
5 prior to the year during which the Adminis-
6 trator makes a final determination with respect
7 to the applicable proposal described in para-
8 graph (3)(C)(iii)(I).

9 (3) PETITION.—

10 (A) IN GENERAL.—A person may petition
11 the Administrator to promulgate regulations for
12 an accelerated schedule for the phase-down of
13 production or consumption of regulated sub-
14 stances under paragraph (1).

15 (B) REQUIREMENT.—A petition submitted
16 under subparagraph (A) shall—

17 (i) be made at such time, in such
18 manner, and containing such information
19 as the Administrator shall require; and

20 (ii) include a showing by the peti-
21 tioner that there are data to support the
22 petition.

23 (C) TIMELINES.—

1 (i) IN GENERAL.—If the Adminis-
2 trator receives a petition under subpara-
3 graph (A), the Administrator shall—

4 (I) not later than 180 days after
5 the date on which the Administrator
6 receives the petition—

7 (aa) make the complete peti-
8 tion available to the public; and

9 (bb) when making the peti-
10 tion available to the public under
11 item (aa), propose and seek pub-
12 lic comment on the proposal of
13 the Administrator to grant or
14 deny the petition; and

15 (II) not later than 270 days after
16 the date on which the Administrator
17 receives the petition, take final action
18 on the petition.

19 (ii) FACTORS FOR DETERMINATION.—
20 In making a determination to grant or
21 deny a petition submitted under subpara-
22 graph (A), the Administrator shall, to the
23 extent practicable, factor in—

1 (I) the best available data, in-
2 cluding relevant publicly available and
3 peer-reviewed scientific data;

4 (II) the availability of substitutes
5 for uses of the regulated substance
6 that is the subject of the petition, tak-
7 ing into account technological
8 achievability, commercial demands,
9 safety, consumer costs, building codes,
10 appliance efficiency standards, con-
11 tractor training costs, and other rel-
12 evant factors, including the quantities
13 of regulated substances available from
14 reclaiming, prior production, or prior
15 import;

16 (III) overall economic costs and
17 environmental impacts, as compared
18 to historical trends; and

19 (IV) the remaining phase-down
20 period for regulated substances under
21 the final rule issued under subsection
22 (e)(3), if applicable.

23 (iii) REGULATIONS.—After receiving
24 public comment with respect to the pro-
25 posal under clause (i)(I)(bb), if the Admin-

1 istrator makes a final determination to
2 grant a petition under subparagraph (A),
3 the final regulations with respect to the pe-
4 tition shall—

5 (I) be promulgated by not later
6 than 1 year after the date on which
7 the Administrator makes the proposal
8 to grant the petition under that
9 clause; and

10 (II) meet the requirements of
11 paragraph (2).

12 (D) PUBLICATION.—When the Adminis-
13 trator makes a final determination to grant or
14 deny a petition under subparagraph (A), the
15 Administrator shall publish a description of the
16 reasons for that grant or denial, including a de-
17 scription of the information considered under
18 subclauses (I) through (IV) of subparagraph
19 (C)(ii).

20 (E) INSUFFICIENT INFORMATION.—If the
21 Administrator determines that the data in-
22 cluded under subparagraph (B)(ii) in a petition
23 are not sufficient to make a determination
24 under this paragraph, the Administrator shall

1 use any authority available to the Administrator
2 to acquire the necessary data.

3 (4) DATE OF EFFECTIVENESS.—The Adminis-
4 trator may not promulgate under paragraph (1) a
5 regulation for the production or consumption of reg-
6 ulated substances that is more stringent than the
7 production or consumption levels required under
8 subsection (e)(2)(C) that takes effect before January
9 1, 2025.

10 (5) REVIEW.—

11 (A) IN GENERAL.—The Administrator
12 shall review the availability of substitutes for
13 regulated substances subject to an accelerated
14 schedule established under paragraph (1) in
15 each sector and subsector in which the regu-
16 lated substance is used, taking into account
17 technological achievability, commercial de-
18 mands, safety, and other relevant factors, in-
19 cluding the quantities of regulated substances
20 available from reclaiming, prior production, or
21 prior import, by January 1, 2025 (for the first
22 review), by January 1, 2030 (for the second re-
23 view), and at least once every 5 years there-
24 after.

1 (B) PUBLIC AVAILABILITY.—The Adminis-
2 trator shall make the results of a review con-
3 ducted under subparagraph (A) publicly avail-
4 able.

5 (6) SAVINGS PROVISION.—Nothing in this sub-
6 section authorizes the Administrator to promulgate
7 regulations pursuant to this subsection that estab-
8 lish a schedule for phasing down the production or
9 consumption of regulated substances that is less
10 stringent than the production and consumption lev-
11 els of regulated substances required under sub-
12 section (e)(2)(C).

13 (g) EXCHANGE AUTHORITY.—

14 (1) TRANSFERS.—Not later than 270 days
15 after the date of enactment of this Act, which shall
16 include a period of notice and opportunity for public
17 comment, the Administrator shall promulgate a final
18 regulation that governs the transfer of allowances
19 for the production of regulated substances under
20 subsection (e)(3)(A) that uses—

21 (A) the applicable exchange values de-
22 scribed in the table contained in subsection
23 (c)(1); or

1 (B) the exchange value described in the
2 rule designating the substance as a regulated
3 substance under subsection (c)(3).

4 (2) REQUIREMENTS.—The final rule promul-
5 gated pursuant to paragraph (1) shall—

6 (A) ensure that the transfers under this
7 subsection will result in greater total reductions
8 in the production of regulated substances in
9 each year than would occur during the year in
10 the absence of the transfers;

11 (B) permit 2 or more persons to transfer
12 production allowances if the transferor of the
13 allowances will be subject, under the final rule,
14 to an enforceable and quantifiable reduction in
15 annual production that—

16 (i) exceeds the reduction otherwise ap-
17 plicable to the transferor under this sec-
18 tion;

19 (ii) exceeds the quantity of production
20 represented by the production allowances
21 transferred to the transferee; and

22 (iii) would not have occurred in the
23 absence of the transaction; and

24 (C) provide for the trading of consumption
25 allowances in the same manner as is applicable

1 under this subsection to the trading of produc-
2 tion allowances.

3 (h) MANAGEMENT OF REGULATED SUBSTANCES.—

4 (1) IN GENERAL.—For purposes of maximizing
5 reclaiming and minimizing the release of a regulated
6 substance from equipment and ensuring the safety
7 of technicians and consumers, the Administrator
8 shall promulgate regulations to control, where appro-
9 priate, any practice, process, or activity regarding
10 the servicing, repair, disposal, or installation of
11 equipment (including requiring, where appropriate,
12 that any such servicing, repair, disposal, or installa-
13 tion be performed by a trained technician meeting
14 minimum standards, as determined by the Adminis-
15 trator) that involves—

16 (A) a regulated substance;

17 (B) a substitute for a regulated substance;

18 (C) the reclaiming of a regulated substance
19 used as a refrigerant; or

20 (D) the reclaiming of a substitute for a
21 regulated substance used as a refrigerant.

22 (2) RECLAIMING.—

23 (A) IN GENERAL.—In carrying out this
24 section, the Administrator shall consider the
25 use of authority available to the Administrator

1 under this section to increase opportunities for
2 the reclaiming of regulated substances used as
3 refrigerants.

4 (B) RECOVERY.—A regulated substance
5 used as a refrigerant that is recovered shall be
6 reclaimed before the regulated substance is sold
7 or transferred to a new owner, except where the
8 recovered regulated substance is sold or trans-
9 ferred to a new owner solely for the purposes of
10 being reclaimed or destroyed.

11 (3) COORDINATION.—In promulgating regula-
12 tions to carry out this subsection, the Administrator
13 may coordinate those regulations with any other reg-
14 ulations promulgated by the Administrator that in-
15 volve—

16 (A) the same or a similar practice, process,
17 or activity regarding the servicing, repair, dis-
18 posal, or installation of equipment; or

19 (B) reclaiming.

20 (4) INAPPLICABILITY.—No regulation promul-
21 gated pursuant to this subsection shall apply to a
22 regulated substance or a substitute for a regulated
23 substance that is contained in a foam.

24 (5) SMALL BUSINESS GRANTS.—

1 (A) DEFINITION OF SMALL BUSINESS CON-
2 CERN.—In this paragraph, the term “small
3 business concern” has the same meaning as in
4 section 3 of the Small Business Act (15 U.S.C.
5 632).

6 (B) ESTABLISHMENT.—Subject to the
7 availability of appropriations, the Administrator
8 shall establish a grant program to award grants
9 to small business concerns for the purchase of
10 new specialized equipment for the recycling, re-
11 covery, or reclamation of a substitute for a reg-
12 ulated substance, including the purchase of ap-
13 proved refrigerant recycling equipment (as de-
14 fined in section 609(b) of the Clean Air Act (42
15 U.S.C. 7671h(b))) for recycling, recovery, or
16 reclamation in the service or repair of motor ve-
17 hicle air conditioning systems.

18 (C) MATCHING FUNDS.—The non-Federal
19 share of a project carried out with a grant
20 under this paragraph shall be not less than 25
21 percent.

22 (D) AUTHORIZATION OF APPROPRIA-
23 TIONS.—There is authorized to be appropriated
24 to carry out this paragraph \$5,000,000 for each
25 of fiscal years 2021 through 2023.

1 (i) TECHNOLOGY TRANSITIONS.—

2 (1) AUTHORITY.—Subject to the provisions of
3 this subsection, the Administrator may by rule re-
4 strict, fully, partially, or on a graduated schedule,
5 the use of a regulated substance in the sector or
6 subsector in which the regulated substance is used.

7 (2) NEGOTIATED RULEMAKING.—

8 (A) CONSIDERATION REQUIRED.—Before
9 proposing a rule for the use of a regulated sub-
10 stance for a sector or subsector under para-
11 graph (1), the Administrator shall consider ne-
12 gotiating with stakeholders in the sector or sub-
13 sector subject to the potential rule in accord-
14 ance with the negotiated rulemaking procedure
15 provided for under subchapter III of chapter 5
16 of title 5, United States Code (commonly known
17 as the “Negotiated Rulemaking Act of 1990”).

18 (B) NEGOTIATED RULEMAKINGS.—If the
19 Administrator negotiates a rulemaking with
20 stakeholders using the procedure described in
21 subparagraph (A), the Administrator shall, to
22 the extent practicable, give priority to com-
23 pleting that rulemaking over completing
24 rulemakings that were not negotiated using
25 that procedure.

1 (C) NO NEGOTIATED RULEMAKING.—If
2 the Administrator does not negotiate a rule-
3 making with stakeholders using the procedure
4 described in subparagraph (A), the Adminis-
5 trator shall, before commencement of the rule-
6 making process for a rule under paragraph (1),
7 publish an explanation of the decision of the
8 Administrator to not use that procedure.

9 (3) PETITIONS.—

10 (A) IN GENERAL.—A person may petition
11 the Administrator to promulgate a rule under
12 paragraph (1) for the restriction on use of a
13 regulated substance in a sector or subsector,
14 which may include a request that the Adminis-
15 trator negotiate with stakeholders in accordance
16 with paragraph (2)(A).

17 (B) RESPONSE.—The Administrator shall
18 grant or deny a petition under subparagraph
19 (A) not later than 180 days after the date of
20 receipt of the petition.

21 (C) REQUIREMENTS.—

22 (i) EXPLANATION.—If the Adminis-
23 trator denies a petition under subpara-
24 graph (B), the Administrator shall publish

1 in the Federal Register an explanation of
2 the denial.

3 (ii) FINAL RULE.—If the Adminis-
4 trator grants a petition under subpara-
5 graph (B), the Administrator shall promul-
6 gate a final rule not later than 2 years
7 after the date on which the Administrator
8 grants the petition.

9 (iii) PUBLICATION OF PETITIONS.—
10 Not later than 30 days after the date on
11 which the Administrator receives a petition
12 under subparagraph (A), the Adminis-
13 trator shall make that petition available to
14 the public in full.

15 (4) FACTORS FOR DETERMINATION.—In car-
16 rying out a rulemaking using the procedure de-
17 scribed in paragraph (2) or making a determination
18 to grant or deny a petition submitted under para-
19 graph (3), the Administrator shall, to the extent
20 practicable, factor in—

21 (A) the best available data, including rel-
22 evant publicly available and peer-reviewed sci-
23 entific data;

24 (B) the availability of substitutes for use of
25 the regulated substance that is the subject of

1 the rulemaking or petition, as applicable, in a
2 sector or subsector, taking into account techno-
3 logical achievability, commercial demands, safe-
4 ty, consumer costs, building codes, appliance ef-
5 ficiency standards, contractor training costs,
6 and other relevant factors, including the quan-
7 tities of regulated substances available from re-
8 claiming, prior production, or prior import;

9 (C) overall economic costs and environ-
10 mental impacts, as compared to historical
11 trends; and

12 (D) the remaining phase-down period for
13 regulated substances under the final rule issued
14 under subsection (e)(3), if applicable.

15 (5) EVALUATION.—In carrying out this sub-
16 section, the Administrator shall—

17 (A) evaluate substitutes for regulated sub-
18 stances in a sector or subsector, taking into ac-
19 count technological achievability, commercial
20 demands, safety, overall economic costs and en-
21 vironmental impacts, and other relevant factors;
22 and

23 (B) make the evaluation under subpara-
24 graph (A) available to the public.

1 (6) EFFECTIVE DATE OF RULES.—No rule
2 under this subsection may take effect before the date
3 that is 1 year after the date on which the Adminis-
4 trator promulgates the applicable rule under this
5 subsection.

6 (7) APPLICABILITY.—

7 (A) DEFINITION OF RETROFIT.—In this
8 paragraph, the term “retrofit” means to up-
9 grade existing equipment where the regulated
10 substance is changed, which—

11 (i) includes the conversion of equip-
12 ment to achieve system compatibility; and

13 (ii) may include changes in lubricants,
14 gaskets, filters, driers, valves, o-rings, or
15 equipment components for that purpose.

16 (B) APPLICABILITY OF RULES.—A rule
17 promulgated under this subsection shall not
18 apply to—

19 (i) an essential use under clause (i) or
20 (iv) of subsection (e)(4)(B), including any
21 use for which the production or consump-
22 tion of the regulated substance is extended
23 under clause (v)(II) of that subsection; or

24 (ii) except for a retrofit application,
25 equipment in existence in a sector or sub-

1 sector before the date of enactment of this
2 Act.

3 (j) INTERNATIONAL COOPERATION.—

4 (1) IN GENERAL.—Subject to paragraph (2), no
5 person subject to the requirements of this section
6 shall trade or transfer a production allowance or,
7 after January 1, 2033, export a regulated substance
8 to a person in a foreign country that, as determined
9 by the Administrator, has not enacted or otherwise
10 established within a reasonable timeframe after the
11 date of enactment of this Act the same or similar re-
12 quirements or otherwise undertaken commitments
13 regarding the production and consumption of regu-
14 lated substances as are contained in this section.

15 (2) TRANSFERS.—Pursuant to paragraph (1), a
16 person in the United States may engage in a trade
17 or transfer of a production allowance—

18 (A) to a person in a foreign country if, at
19 the time of the transfer, the Administrator re-
20 vises the number of allowances for production
21 under subsection (e)(2), as applicable, for the
22 United States such that the aggregate national
23 production of the regulated substance to be
24 traded under the revised production limits is
25 equal to the least of—

1 (i) the maximum production level per-
2 mitted for the applicable regulated sub-
3 stance in the year of the transfer under
4 this section, less the production allowances
5 transferred;

6 (ii) the maximum production level per-
7 mitted for the applicable regulated sub-
8 stances in the transfer year under applica-
9 ble law, less the production allowances
10 transferred; and

11 (iii) the average of the actual national
12 production level of the applicable regulated
13 substances for the 3-year period ending on
14 the date of the transfer, less the produc-
15 tion allowances transferred; or

16 (B) from a person in a foreign country if,
17 at the time of the trade or transfer, the Admin-
18 istrator finds that the foreign country has re-
19 vised the domestic production limits of the reg-
20 ulated substance in the same manner as pro-
21 vided with respect to transfers by a person in
22 United States under this subsection.

23 (3) EFFECT OF TRANSFERS ON PRODUCTION
24 LIMITS.—The Administrator may—

1 (A) reduce the production limits estab-
2 lished under subsection (e)(2)(B) as required as
3 a prerequisite to a transfer described in para-
4 graph (2)(A); or

5 (B) increase the production limits estab-
6 lished under subsection (e)(2)(B) to reflect pro-
7 duction allowances acquired under a trade or
8 transfer described in paragraph (2)(B).

9 (4) REGULATIONS.—The Administrator shall—

10 (A) not later than 1 year after the date of
11 enactment of this Act, promulgate a final rule
12 to carry out this subsection; and

13 (B) not less frequently than annually, re-
14 view and, if necessary, revise the final rule pro-
15 mulgated pursuant to subparagraph (A).

16 (k) RELATIONSHIP TO OTHER LAW.—

17 (1) IMPLEMENTATION.—

18 (A) RULEMAKINGS.—The Administrator
19 may promulgate such regulations as are nec-
20 essary to carry out the functions of the Admin-
21 istrator under this section.

22 (B) DELEGATION.—The Administrator
23 may delegate to any officer or employee of the
24 Environmental Protection Agency such of the
25 powers and duties of the Administrator under

1 this section as the Administrator determines to
2 be appropriate.

3 (C) CLEAN AIR ACT.—Sections 113, 114,
4 304, and 307 of the Clean Air Act (42 U.S.C.
5 7413, 7414, 7604, 7607) shall apply to this
6 section and any rule, rulemaking, or regulation
7 promulgated by the Administrator pursuant to
8 this section as though this section were ex-
9 pressly included in each of those sections, as
10 applicable, and the requirements of this section
11 were part of that Act (42 U.S.C. 7401 et seq.).

12 (2) PREEMPTION.—

13 (A) IN GENERAL.—Subject to subpara-
14 graph (B), during the 5-year period beginning
15 on the date of enactment of this Act, and with
16 respect to an exclusive use for which a manda-
17 tory allocation of allowances is provided under
18 subsection (e)(4)(B)(iv)(I), no State or political
19 subdivision of a State may enforce a statute or
20 administrative action restricting the manage-
21 ment or use of a regulated substance within
22 that exclusive use.

23 (B) EXTENSION.—

24 (i) IN GENERAL.—Subject to clause
25 (ii), if, pursuant to subclause (I) of sub-

1 section (e)(4)(B)(v), the Administrator au-
2 thORIZES an additional period under sub-
3 clause (II) of that subsection for the pro-
4 duction or consumption of a regulated sub-
5 stance for an exclusive use described in
6 subparagraph (A), no State or political
7 subdivision of a State may enforce a stat-
8 ute or administrative action restricting the
9 management or use of the regulated sub-
10 stance within that exclusive use for the du-
11 ration of that additional period.

12 (ii) LIMITATION.—The period for
13 which the limitation under clause (i) ap-
14 plies shall not exceed 5 years from the date
15 on which the period described in subpara-
16 graph (A) ends.