

116TH CONGRESS
2D SESSION

H. R. 5544

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, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 7, 2020

Mr. TONKO (for himself, Mr. OLSON, Mr. PETERS, and Ms. STEFANIK) introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

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, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “American Innovation
5 and Manufacturing Leadership Act of 2020”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

1 (1) ADMINISTRATOR.—The term “Adminis-
2 trator” means the Administrator of the Environ-
3 mental Protection Agency.

4 (2) ALLOWANCE.—The term “allowance”
5 means a limited authorization for the production or
6 the consumption, as applicable, of a regulated sub-
7 stance in accordance with this Act.

8 (3) CONSUMPTION.—The term “consumption”
9 means, with respect to any regulated substance, the
10 amount of that regulated substance produced in the
11 United States, plus the amount imported, minus the
12 amount exported.

13 (4) CONSUMPTION BASELINE.—The term “con-
14 sumption baseline” means the baseline established
15 for consumption of regulated substances under sec-
16 tion 5(a)(2).

17 (5) DESTROY.—The term “destroy” means de-
18 struction by process or technology as defined by reg-
19 ulation by the Administrator.

20 (6) EXCHANGE VALUE.—The term “exchange
21 value” means, for each regulated substance and each
22 substance referenced in paragraph (1)(B), (1)(C),
23 (2)(B), or (2)(C) of section 5(a), the value by which
24 the mass of such substance shall be multiplied for
25 purposes of calculations under this Act.

1 (7) EXPORT.—The term “export” means the
2 transport of a regulated substance from any place
3 subject to the jurisdiction of the United States to
4 any place not subject to the jurisdiction of the
5 United States.

6 (8) IMPORT.—The term “import” means to
7 land on, bring into, or introduce into, or attempt to
8 land on, bring into, or introduce into, any place sub-
9 ject to the jurisdiction of the United States, whether
10 or not such landing, bringing, or introduction con-
11 stitutes an importation within the meaning of the
12 customs laws of the United States.

13 (9) PERSON.—The term “person” has the
14 meaning given to such term in section 302 of the
15 Clean Air Act (42 U.S.C. 7602).

16 (10) PRODUCE, PRODUCED, AND PRODUCTION.—The terms “produce”, “produced”, and
17 “production” refer to the manufacture in the United
18 States of a regulated substance from any raw mate-
19 rial or feedstock chemical, but such terms do not in-
20 clude—
21 include—

22 (A) the manufacture of a regulated sub-
23 stance that is used and entirely consumed (ex-
24 cept for trace quantities) in the manufacture of
25 other chemicals; or

1 (B) the reuse or recycling of a regulated
2 substance.

3 (11) PRODUCTION BASELINE.—The term “pro-
4 duction baseline” means the baseline established for
5 production of regulated substances under section
6 5(a)(1).

7 (12) RECLAIM, RECLAIMED, AND RECLAIM-
8 ING.—The terms “reclaim”, “reclaimed”, and “re-
9 claiming” mean the reprocessing of a recovered reg-
10 ulated substance to, at a minimum, the purity speci-
11 fied by and verified in accordance with the Air-Con-
12 ditioning, Heating, and Refrigeration Institute
13 (AHRI) Standard 700–2016 (or an appropriate suc-
14 cessor standard adopted by the Administrator).

15 (13) RECOVER AND RECOVERED.—The terms
16 “recover” and “recovered” mean the removal of a
17 regulated substance in any condition from equipment
18 and the storage of such regulated substance in an
19 external container without necessarily testing or
20 processing such regulated substance in any way.

21 (14) REGULATED SUBSTANCE.—The term “reg-
22 ulated substance” means a substance on the list
23 published pursuant to section 3.

(15) UNITED STATES.—The term “United States” means any place subject to the jurisdiction of the United States.

SEC. 3. LISTING OF REGULATED SUBSTANCES.

(a) LIST OF REGULATED SUBSTANCES.—The Administrator shall publish in the Federal Register a list of regulated substances, listed by chemical name and common name. Not later than 90 days after the date of enactment of this Act, the Administrator shall publish in the Federal Register the initial such list. The initial list under this subsection shall contain the following:

Table 1

Chemical Name	Common Name	Exchange Value
CHF ₂ CHF ₂	HFC-134	1100
CH ₂ FCF ₃	HFC-134a	1430
CH ₂ FCHF ₂	HFC143	353
CHF ₂ CH ₂ CF ₃	HFC-245fa	1030
CF ₃ CH ₂ CF ₂ CH ₃	HFC-365mfc	794
CF ₃ CHFCF ₃	HFC-227ea	3220
CH ₂ FCF ₂ CF ₃	HFC-236cb	1340
CHF ₂ CHFCF ₃	HFC-236ea	1370
CF ₃ CH ₂ CF ₃	HFC-236fa	9810
CH ₂ FCF ₂ CHF ₂	HFC-245ca	693
CF ₃ CHFCHFCF 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

Table 1—Continued

Chemical Name	Common Name	Exchange Value
CH ₃ CHF ₂	HFC-152a	124
CHF ₃	HFC-23	14800

(b) REQUIREMENTS.—The list required under subsection (a) shall include—

(1) any isomer of any such regulated substance; and

(2) the exchange value of each regulated substance, as set forth in table 1 of this section or, for additional regulated substances listed pursuant to subsection (c), as determined by the Administrator pursuant to the requirements of that subsection.

(c) ADDITIONAL REGULATED SUBSTANCES.—The Administrator may, by regulation, add a substance to the list published under subsection (a) if such substance—

(1) is a saturated hydrofluorocarbon; and

(2) has an exchange value, as determined by the Administrator on the basis of widely used or commonly accepted credible current scientific information relating to infrared absorption and kinetic rate constants, of not less than 53.

(d) SAVINGS PROVISION.—Nothing in this section authorizes the Administrator to add to the list under subsection (a) as a regulated substance a blend of substances

1 even if such blend includes a saturated hydrofluorocarbon
2 that is or may be itself a regulated substance.

3 **SEC. 4. MONITORING AND REPORTING REQUIREMENTS.**

4 (a) REPORTS.—

5 (1) IN GENERAL.—On a periodic basis to be de-
6 termined by the Administrator, but which shall be
7 not less than annually, each person who produced,
8 imported, exported, reclaimed, destroyed, used and
9 entirely consumed (except for trace quantities) in
10 the manufacture of other chemicals, or used as a
11 process agent a regulated substance shall submit a
12 report to the Administrator setting forth the amount
13 of each such substance that such person during the
14 preceding reporting period—

15 (A) produced;

16 (B) imported;

17 (C) exported;

18 (D) reclaimed;

19 (E) destroyed;

20 (F) used and entirely consumed (except for
21 trace quantities) in the manufacture of other
22 chemicals; or

23 (G) used as a process agent.

24 (2) ATTESTATION.—Each report submitted
25 under subsection (a) shall be signed and attested by

1 a responsible officer (as such term is used in section
2 603(b) of the Clean Air Act (42 U.S.C. 7671b(b)).

3 (b) CESSATION OF REPORTING REQUIREMENT.—If a
4 person subject to subsection (a)(1) permanently ceases
5 production, importation, exportation, reclaiming, destruc-
6 tion, use and entire consumption (except for trace quan-
7 tities), or process agent use of a regulated substance, such
8 person shall—

9 (1) submit a report under such subsection for
10 the reporting period in which such cessation occurs;

11 (2) notify the Administrator of such cessation
12 prior to the end of such reporting period; and

13 (3) not be subject to such subsection with re-
14 spect to such regulated substance for subsequent re-
15 porting periods.

16 (c) BASELINE REPORTS.—

17 (1) INITIAL REPORT.—Each person reporting
18 pursuant to subsection (a)(1) shall include in the
19 first required such report, in addition to the infor-
20 mation required by subsection (a)(1) to be reported
21 for the applicable reporting period—

22 (A) the amount of each regulated sub-
23 stance, in each of calendar years 2011 through
24 2013, produced, imported, exported, reclaimed,
25 destroyed, used and entirely consumed (except

1 for trace quantities) in the manufacture of
2 other chemicals, or used as a process agent;

3 (B) the amount of hydrochlorofluorocar-
4 bons that such person produced, imported, and
5 exported in 1989; and

6 (C) the amount of chlorofluorocarbons that
7 such person produced, imported, and exported
8 in 1989.

9 (2) ADDITIONAL SUBSTANCES.—In the case of
10 a substance added to the list of regulated substances
11 pursuant to section 3(c), each person who produced,
12 imported, exported, reclaimed, destroyed, used and
13 entirely consumed (except for trace quantities) in
14 the manufacture of other chemicals, or used as a
15 process agent, such regulated substance, shall sub-
16 mit to the Administrator, not later than 180 days
17 after the date on which such substance is added to
18 the list, a report setting forth the amount of the
19 substance that such person produced, imported, ex-
20 ported, reclaimed, destroyed, used and entirely con-
21 sumed (except for trace quantities) in the manufac-
22 ture of other chemicals, or used as a process agent
23 in—

24 (A) each of calendar years 2011 through
25 2013; and

1 (B) the calendar year in which this Act is
2 enacted and each subsequent calendar year, if
3 required by the Administrator in a regulation
4 adding a substance to the list of regulated sub-
5 stances.

6 (d) COORDINATION.—To the extent consistent with
7 subsections (a) through (c), the Administrator may, by
8 regulation, allow any person subject to the requirements
9 of subsection (a)(1) to combine and include the informa-
10 tion required to be reported under that subsection with
11 any other related information that the person is required
12 to report to the Administrator.

13 (e) REGULATIONS.—The Administrator shall promul-
14 gate regulations to implement this section. Not later than
15 270 days after the date of enactment of this Act, the Ad-
16 ministrator shall promulgate such final regulations as may
17 be necessary pursuant to the preceding sentence.

18 **SEC. 5. PHASEDOWN OF REGULATED SUBSTANCES.**

19 (a) BASELINES.—

20 (1) PRODUCTION BASELINE.—The baseline for
21 the phasedown of the production of regulated sub-
22 stances shall be the sum of—

23 (A) the sum of the products of—

24 (i) the average annual production in
25 the United States of each regulated sub-

1 stance during the 3-year period of calendar
2 years 2011, 2012, and 2013; multiplied by

3 (ii) the respective exchange value of
4 each regulated substance;

5 (B) an amount equal to 15 percent of the
6 sum of the products of—

7 (i) the average production in the
8 United States of each hydrochlorofluoro-
9 carbon in 1989; multiplied by

10 (ii) the respective exchange value of
11 each such hydrochlorofluorocarbon; and

12 (C) an amount equal to 0.42 percent of the
13 sum of the products of—

14 (i) the average production in the
15 United States of each chlorofluorocarbon
16 in 1989; multiplied by

17 (ii) the respective exchange value of
18 each such chlorofluorocarbon.

19 (2) CONSUMPTION BASELINE.—The baseline for
20 the phasedown of the consumption of regulated sub-
21 stances shall be the sum of—

22 (A) an amount equal to the sum of the
23 products of—

24 (i) the average annual consumption in
25 the United States of each regulated sub-

1 stance during the 3-year period of calendar
 2 years 2011, 2012, and 2013; multiplied by

3 (ii) the respective exchange value of
 4 each such regulated substance;

5 (B) an amount equal to 15 percent of the
 6 sum of the products of—

7 (i) the average consumption in the
 8 United States of each hydrochlorofluoro-
 9 carbon in 1989; multiplied by

10 (ii) the respective exchange value of
 11 each such hydrochlorofluorocarbon; and

12 (C) an amount equal to 0.42 percent of the
 13 sum of the products of—

14 (i) the average consumption in the
 15 United States of each chlorofluorocarbon
 16 in 1989; multiplied by

17 (ii) the respective exchange value of
 18 each such chlorofluorocarbon.

19 (3) EXCHANGE VALUES.—For purposes of
 20 paragraphs (1) and (2), the following exchange val-
 21 ues for hydrochlorofluorocarbons and chlorofluoro-
 22 carbons respectively shall apply:

Table 2

Chemical Name	Common Name	Exchange Value
CHFC ₂	HCFC-21	151

Table 2—Continued

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 CFCl ₂	HCFC-141b	725
CH ₃ CF ₂ Cl	HCFC-142b	2310
CF ₃ CF ₂ CHCl ₂	HCFC-225ca	122
CF ₂ ClCF ₂ CHClF	HCFC-225cb	595

Table 3

Chemical Name	Common Name	Exchange Value
CFCl 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 (b) ALLOWANCES.—

2 (1) FRAMEWORK REGULATIONS.—The Adminis-
3 trator shall, by regulation, establish an allowance al-
4 location and trading program to phase down the
5 production and the consumption of regulated sub-
6 stances in accordance with this section. Not later
7 than 270 days after the date of enactment of this
8 Act, the Administrator shall promulgate such final
9 regulations as may be necessary to establish the pro-
10 gram required by the preceding sentence.

(2) ALLOCATIONS.—Not later than October 1 of each calendar year following the promulgation of final regulations pursuant to the second sentence of paragraph (1):

(A) The Administrator shall establish a quantity of production allowances and a quantity of consumption allowances. The quantities established pursuant to this paragraph shall not exceed the applicable percentages of the production baseline and of the consumption baseline for the calendar year involved as specified in the following table 4:

Table 4

Calendar year	Percentage of Production Baseline	Percentage of Consumption Baseline
through 2023	90%	90%
2024 through 2028	60%	60%
2029 through 2033	30%	30%
2034 through 2035	20%	20%
2036 and subsequent years	15%	15%

(B) The Administrator shall, by regulation, allocate such production allowances and consumption allowances up to the quantities of such allowances established pursuant to this paragraph for the succeeding calendar year. The Administrator may, at the Administrator's

1 discretion, so allocate allowances through a sin-
2 gle rulemaking for multiple succeeding calendar
3 years.

4 (3) PROHIBITION.—Effective January 1 of the
5 calendar year immediately following the issuance of
6 a final regulation pursuant to the second sentence of
7 paragraph (1), it shall be unlawful for a person to
8 do any of the following:

9 (A) Production of a regulated substance
10 without holding a production allowance that au-
11 thorizes such production.

12 (B) Consumption of a regulated substance
13 without holding a consumption allowance that
14 authorizes such consumption.

15 (C) Holding, using, or transferring any
16 production allowance or consumption allowance
17 allocated under this section, except in accord-
18 ance with regulations promulgated by the Ad-
19 ministrator pursuant to paragraphs (1) and (2).

20 (4) NATURE OF ALLOWANCES.—An allowance
21 does not constitute a property right. Nothing in this
22 Act or in any other provision of law shall be con-
23 strued to limit the authority of the United States to
24 terminate or limit the authorization for the produc-

1 tion or consumption of a regulated substance, as ap-
2 plicable, granted by the allowance.

3 (5) COMPLIANCE.—For each year listed in table
4 4, the Administrator shall ensure that the annual
5 quantity of production or consumption in the United
6 States of all regulated substances does not exceed
7 the product obtained by multiplying the production
8 baseline or consumption baseline, as applicable, and
9 the applicable percentage listed in Table 4.

10 (c) TRANSFERS.—The regulations required by sub-
11 section (b)(1) shall—

12 (1) utilize the exchange values for each regu-
13 lated substance by or pursuant to section 3;

14 (2) ensure that transfers of production allow-
15 ances and consumption allowances will result in
16 greater total reductions in the annual production or
17 consumption, as applicable, of regulated substances
18 than would occur in that year in the absence of such
19 transfers; and

20 (3) authorize the transfer of production allow-
21 ances or consumption allowances among two or more
22 persons only if the transferor and transferee are
23 subject to an enforceable and quantifiable reduction
24 in, respectively, annual production or consumption.

25 (d) SCHEDULE.—

1 (1) IN GENERAL.—

2 (A) REGULATIONS.—Subject to paragraph
3 (3), the Administrator may, in response to a pe-
4 tition submitted to the Administrator in accord-
5 ance with paragraph (2), promulgate regula-
6 tions which establish a schedule for phasing
7 down the production and the consumption of
8 regulated substances that is more stringent
9 than set forth in table 4 in subsection (b), if,
10 based on the availability of substitutes for regu-
11 lated substances, the Administrator determines
12 that such more stringent schedule is prac-
13 ticable, taking into account technological
14 achievability, commercial demands, safety, and
15 other relevant factors, including the quantities
16 of regulated substances available from reclaim-
17 ing or from prior production or prior import.

18 (B) UNIFORM APPLICATION.—In any regu-
19 lations under subparagraph (A), the Adminis-
20 trator shall apply any more stringent phase-
21 down schedule uniformly to the allocation of
22 production allowances and consumption allow-
23 ances as provided under subsection (b).

24 (2) PETITION.—

1 (A) SUBMISSION.—Any person may peti-
2 tion the Administrator to promulgate regula-
3 tions under this subsection.

4 (B) DISPOSITION.—The Administrator
5 shall grant or deny any petition under subpara-
6 graph (A) within 270 days after receipt of any
7 such petition.

8 (C) DENIAL.—If the Administrator denies
9 any such petition, the Administrator shall pub-
10 lish in the Federal Register an explanation of
11 why the petition was denied.

12 (D) GRANTING.—If the Administrator
13 grants any such petition, the Administrator
14 shall promulgate regulations implementing a
15 more stringent phasedown schedule within 365
16 days of granting the petition.

17 (E) REQUIRED SHOWING.—Any petition
18 under subparagraph (A) shall include a showing
19 by the petitioner that there are adequate data
20 to support the petition.

21 (F) INSUFFICIENT INFORMATION.—If the
22 Administrator determines that data are not
23 adequate to grant or deny the petition, the Ad-
24 ministrator shall use any authority available to

1 the Administrator, under any applicable law, to
2 acquire such data.

3 (3) LIMITATION.—The Administrator may not
4 promulgate a more stringent phasedown schedule
5 under this subsection applicable to any calendar year
6 prior to calendar year 2024.

7 (e) ESSENTIAL USES.—

8 (1) PETITION; AUTHORIZATION.—The Adminis-
9 trator may, by regulation, allocate to a person addi-
10 tional production allowances or consumption allow-
11 ances to authorize the production or consumption,
12 respectively, beginning with calendar year 2034, for
13 a period of up to 5 years, of a regulated substance
14 in an amount up to 10 percent of the quantity of
15 production or consumption of such regulated sub-
16 stance contributed by such person to the production
17 baseline or the consumption baseline, as applicable,
18 if the Administrator finds, based on a petition by
19 such person, that—

20 (A) such excess production or consumption
21 is exclusively for an application with respect to
22 which no substitute is available during such pe-
23 riod, considering technological achievability,
24 commercial demands, safety, and other relevant
25 factors; and

1 (B) the available supply of such regulated
2 substance, including any quantities of such reg-
3 ulated substance available from reclaiming,
4 prior production, or prior import, and allow-
5 ances for such regulated substance, are insuffi-
6 cient to accommodate such application.

7 (2) EXTENSION.—The Administrator may, by
8 regulation, allocate additional production allowances
9 or consumption allowances, for additional periods of
10 up to 5 years, in an amount up to 10 percent of the
11 quantity of production or consumption of the regu-
12 lated substance contributed by the person involved to
13 the production baseline or the consumption baseline,
14 as applicable, if the Administrator finds, based on a
15 petition by such person, that the criteria described
16 in subparagraphs (A) and (B) of paragraph (1) con-
17 tinue to be satisfied.

18 (3) EXCEPTION.—The Administrator may allo-
19 cate production allowances or consumption allow-
20 ances pursuant to this subsection in amounts that
21 cause the total quantity of production allowances or
22 consumption allowances in a year to exceed the max-
23 imum quantity permissible under subsection (b) for
24 that year.

25 (f) EXPORTS.—

1 (1) EXPORTS OF EXCESS AMOUNTS.—

2 (A) IN GENERAL.—Subject to subpara-
3 graphs (B) and (C) and paragraph (2), the Ad-
4 ministrator may, by regulation, issue additional
5 production allowances for renewable periods of
6 up to 5 years to a person to produce a regu-
7 lated substance at a facility located in the
8 United States in excess of the amount author-
9 ized by the production allowances otherwise
10 held by that person solely for export to, and use
11 in, a foreign country.

12 (B) PETITION REQUIRED.—Prior to
13 issuing any additional production allowances to
14 a person pursuant to subparagraph (A), the
15 Administrator shall require the person to sub-
16 mit a petition in such manner and containing
17 such information as the Administration may by
18 regulation require.

19 (C) LIMITATION.—The Administrator shall
20 not issue any production allowances pursuant to
21 subparagraph (A) in amounts that would cause
22 the total quantity of production allowances in a
23 year to exceed the maximum quantity of pro-
24 duction allowances permissible under subsection
25 (b) for that year.

1 (2) PROHIBITED EXPORT FOR CERTAIN COUN-
2 TRIES.—Beginning on January 1, 2033, no person
3 subject to the requirements of this Act shall export
4 a regulated substance to a foreign country that is
5 not identified by the Administrator as having en-
6 acted or otherwise established the same or similar
7 requirements or otherwise undertaken commitments
8 regarding the production and the consumption of
9 regulated substances as are contained in this Act.

10 **SEC. 6. MANAGEMENT OF REGULATED SUBSTANCES.**

11 (a) SENSE OF CONGRESS.—It is the sense of Con-
12 gress that the Administrator should provide for a safe
13 hydrofluorocarbon transition by ensuring that heating,
14 ventilation, air conditioning, and refrigeration practi-
15 tioners are positioned to comply with safe servicing, re-
16 pair, disposal, or installation procedures.

17 (b) REGULATIONS.—

18 (1) IN GENERAL.—Not later than 24 months
19 after the date of enactment of this Act, the Adminis-
20 trator shall, for purposes of maximizing reclaiming,
21 minimizing the release of a regulated substance from
22 equipment, and ensuring the safety of technicians
23 and consumers, promulgate regulations to control,
24 where appropriate, any practice, process, or activity
25 regarding the servicing, repair, disposal, or installa-

1 tion of equipment that involves a regulated sub-
2 stance or a substitute for a regulated substance, in-
3 cluding the reclaiming of a regulated substance or a
4 substitute for a regulated substance.

5 (2) MINIMUM STANDARDS.—The regulations
6 promulgated under paragraph (1) may include,
7 where appropriate, that any such servicing, repair,
8 disposal, or installation be performed by a trained
9 technician meeting minimum standards, as deter-
10 mined by the Administrator.

11 (c) RECLAIM.—

12 (1) CONSIDERATION.—The Administrator shall
13 consider the use of any authority available to the
14 Administrator under this Act to increase opportuni-
15 ties for the reclaiming of regulated substances.

16 (2) REQUIREMENT.—Any regulated substance
17 that is recovered shall be reclaimed before such reg-
18 ulated substance is sold or transferred to a new
19 owner, except where such recovered regulated sub-
20 stance is sold or transferred to a new owner solely
21 for the purposes of being reclaimed or destroyed.

22 (d) COORDINATION.—In promulgating regulations to
23 implement this section, the Administrator may coordinate
24 such regulations with any other regulations promulgated
25 by the Administrator that involve—

1 (1) the same or similar practice, process, or ac-
2 tivity regarding the servicing, repair, disposal, or in-
3 stallation of equipment; or

4 (2) reclaiming.

5 (e) INAPPLICABILITY.—Subsections (a) through (d)
6 do not apply with respect to a regulated substance or a
7 substitute for a regulated substance that is contained in
8 a foam.

9 **SEC. 7. TECHNOLOGY TRANSITIONS.**

10 (a) AUTHORITY.—The Administrator may, by regula-
11 tion and in accordance with this section, prohibit or re-
12 strict, including through a graduated schedule, the use of
13 a regulated substance in a sector or subsector in which
14 such regulated substance is used.

15 (b) NEGOTIATED RULEMAKING.—The Administrator
16 shall consider negotiating and developing a proposed regu-
17 lation under this section in accordance with the negotiated
18 rulemaking procedure under subchapter III of chapter 5
19 of title 5, United States Code (commonly referred to as
20 the “Negotiated Rulemaking Act of 1990”). If the Admin-
21 istrator decides to proceed with a negotiated rulemaking,
22 the Administrator shall, to the extent the Administrator
23 deems practicable, give priority to completing that rule-
24 making over completing concurrent non-negotiated rule-
25 makings pursuant to this section. If the Administrator de-

1 cides not to proceed with a negotiated rulemaking, the Ad-
2 ministrator shall include an explanation of such decision
3 in any proposed regulation published pursuant to this sec-
4 tion.

5 (c) PETITION.—

6 (1) Any person may petition the Administrator
7 to promulgate regulations under this section to pro-
8 hibit or restrict the use of a regulated substance in
9 a sector or subsector.

10 (2) The Administrator shall grant or deny a pe-
11 tition received pursuant to paragraph (1) not later
12 than 180 days after receipt of such petition.

13 (3) If the Administrator denies a petition re-
14 ceived pursuant to paragraph (1), the Administrator
15 shall publish in the Federal Register an explanation
16 of the Administrator's decision.

17 (4) If the Administrator grants a petition re-
18 ceived pursuant to paragraph (1), the Administrator
19 shall promulgate regulations prohibiting or restrict-
20 ing the use of the regulated substance in the sector
21 or subsector under subsection (a) not later than 24
22 months after granting such petition.

23 (5) The Administrator shall publish in full any
24 petition received pursuant to this subsection not
25 later than 30 days after receipt of such petition.

1 (d) CRITERIA.—In promulgating regulations pursu-
2 ant to subsection (a), the Administrator shall consider—

3 (1) promoting and supporting domestic eco-
4 nomic development;

5 (2) maximizing protections for human health
6 and the environment;

7 (3) minimizing costs for the production, use,
8 and reclaiming of regulated substances;

9 (4) maximizing flexibility for the recovery, re-
10 claiming, and re-use of regulated substances;

11 (5) ensuring consumer safety;

12 (6) the availability of substitutes for regulated
13 substances, taking into account technological
14 achievability, commercial demands, safety, and other
15 relevant factors, including lead times for equipment
16 conversion; and

17 (7) minimizing any costs to consumers.

18 (e) EVALUATION.—For purposes of this Act, the Ad-
19 ministrator shall, on an ongoing basis, evaluate the avail-
20 ability of substitutes to regulated substances in a sector
21 or subsector, taking into account technological
22 achievability, commercial demands, safety, and other rel-
23 evant factors, including lead times for equipment conver-
24 sion.

1 **SEC. 8. RULEMAKING AUTHORITY.**

2 (a) RULEMAKINGS.—The Administrator may promul-
3 gate such regulations as are necessary to carry out the
4 functions of the Administrator under this Act.

5 (b) DELEGATION.—The Administrator may delegate
6 to any officer or employee of the Environmental Protection
7 Agency such of the powers and duties of the Administrator
8 under this Act as the Administrator determines to be ap-
9 propriate.

10 (c) REQUIREMENTS.—In exercising any requirement
11 or authority in this Act to act by regulation or to promul-
12 gate regulations, the Administrator shall comply with the
13 requirements of section 307(d) of the Clean Air Act (42
14 U.S.C. 7607(d)).

15 **SEC. 9. RELATIONSHIP TO OTHER LAWS.**

16 Sections 113, 114, 304, and 307 of the Clean Air
17 Act (42 U.S.C. 7413, 7414, 7604, 7607) shall apply to
18 this Act and any regulations promulgated by the Adminis-
19 trator pursuant to this Act as though this Act were in-
20 cluded in title VI of the Clean Air Act (42 U.S.C. 7671
21 et seq.).

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