AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

116TH CONGRESS
1ST SESSION

S. 2754

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

OCTOBER 30, 2019

Mr. KENNEDY (for himself, Mr. CARPER, Mr. CASSIDY, Mr. COONS, Ms. COLLINS, Mr. WHITEHOUSE, Mr. WICKER, Mr. MERKLEY, Mr. GRAHAM, Mr. BOOKER, Mr. YOUNG, Mr. MARKEY, Mr. BOOZMAN, Mr. BLUMENTHAL, Mr. ALEXANDER, and Mr. CARDIN) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

---

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.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''American Innovation and Manufacturing Act of 2019''.

SEC. 2. FINDINGS; SENSE OF CONGRESS.

(a) FINDINGS.—Congress finds that—

(1) industries in the United States that use and produce fluorocarbons—

(A) contribute more than $158,000,000,000 annually in goods and services to the economy of the United States; and

(B) provide employment to more than 700,000 individuals, with an industry-wide payroll of more than $32,000,000,000;

(2) the support and promotion of the technological leadership of the United States in fluorocarbon production and related products, equipment, and other uses provided by this Act is expected—

(A) to create approximately 33,000 new manufacturing jobs in the United States; and

(B) to add approximately $12,500,000,000 per year to the economy of the United States;

(3) supporting and promoting the technological leadership of the United States in fluorocarbon production and related products, equipment, and other uses also creates a significant new export advantage for manufacturers of fluorinated compounds and related products and equipment in the United States;

(4) the new markets for fluorinated products and equipment created by this Act are expected to

increase the share of the United States of the global fluorocarbon product and equipment market by 25 percent (to 9 percent from 7.2 percent); and

(5) this Act incentivizes the investment of approximately $5,000,000,000 in the United States through fiscal year 2025 to exploit the new markets for fluorinated products and equipment created by this Act.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the Administrator should provide for a safe hydrofluorocarbon transition by ensuring that heating, ventilation, air conditioning, and refrigeration practitioners are positioned to comply with safe servicing, repair, disposal, or installation procedures.

SEC. 3. DEFINITIONS.

In this Act:

(1) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the Environmental Protection Agency.

(2) ALLOWANCE.—The term ''allowance'' means a limited authorization for the production or consumption of a regulated substance established under section 6.

(3) CONSUMPTION.—The term ''consumption'', with respect to a regulated substance, means a quantity equal to the difference between—

(A) a quantity equal to the sum of—

(i) the quantity of that regulated substance produced in the United States; and

(ii) the quantity of the regulated substance imported into the United States; and

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

(4) CONSUMPTION BASELINE.—The term ''consumption baseline'' means the baseline established for the consumption of regulated substances under section 6(a)(3).

(5) EXCHANGE VALUE.—The term ''exchange value'' means the value assigned to a regulated substance in accordance with sections 4 and 6, as applicable.

(6) IMPORT.—The term ''import'' means to land on, bring into, or introduce into, or attempt to land on, bring into, or introduce into, any place subject to the jurisdiction of the United States, regardless of whether that landing, bringing, or introduc-

tion constitutes an importation within the meaning of the customs laws of the United States.

(7) PRODUCE.—

(A) IN GENERAL.—The term ''produce'' means the manufacture of a regulated substance from a raw material or feedstock chemical (but not including the destruction of a regulated substance by a technology approved by the Administrator).

(B) EXCLUSIONS.—The term ''produce'' does not include—

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

(ii) the reuse or recycling of a regulated substance.

(8) PRODUCTION BASELINE.—The term ''production baseline'' means the baseline established for the production of regulated substances under section 6(a)(2).

(9) RECLAIM.—The term ''reclaim'' means—

(A) the reprocessing of a recovered regulated substance to at least the purity described in standard 700–2016 of the Air-Conditioning,

Heating, and Refrigeration Institute (or an appropriate successor standard adopted by the Administrator); and

(B) the verification of the purity of that regulated substance using, at a minimum, the analytical methodology described in the standard referred to in subparagraph (A).

(10) RECOVER.—The term ''recover'' means the process by which a regulated substance is—

(A) removed, in any condition, from equipment; and

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

(11) REGULATED SUBSTANCE.—The term ''regulated substance'' means—

(A) a substance listed in the table contained in section 4(a); and

(B) a substance included as a regulated substance by the Administrator under section 4(c).

SEC. 4. LISTING OF REGULATED SUBSTANCES.

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

Chemical Name	Common Name	Exchange Value
CHF_2CHF_2	HFC–134	1100
CH_2FCF_3	HFC–134a	1430
CH_2FCHF_2	HFC–143	353
$CHF_2CH_2CF_3$	HFC–245fa	1030
$CF_3CH_2CF_2CH_3$	HFC–365mfc	794
CF_3CHFCF_3	HFC–227ea	3220
$CH_2FCF_2CF_3$	HFC–236cb	1340
CHF_2CHFCF_3	HFC–236ea	1370
$CF_3CH_2CF_3$	HFC–236fa	9810
$CH_2FCF_2CHF_2$	HFC–245ca	693
$CF_3CHFCHFCF_2CF_3$	HFC–43–10mee	1640
CH_2F_2	HFC–32	675
CHF_2CF_3	HFC–125	3500
CH_3CF_3	HFC–143a	4470
CH_3F	HFC–41	92
CH_2FCH_2F	HFC–152	53
CH_3CHF_2	HFC–152a	124
CHF_3	HFC–23	14800.

(b) REVIEW.—The Administrator may—

(1) review the exchange values listed in the table contained in subsection (a) on a periodic basis; and

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

(A) publicly available, peer-reviewed scientific data; and

(B) other information consistent with widely used or commonly accepted existing exchange values.

(c) OTHER REGULATED SUBSTANCES.—

(1) IN GENERAL.—Subject to notice and opportunity for public comment, the Administrator may designate a substance not included in the table contained in subsection (a) as a regulated substance if—

(A) the substance—

(i) is a chemical substance that is a saturated hydrofluorocarbon; and

(ii) has an exchange value, as determined by the Administrator in accordance with the basis described in subsection (b)(2), of greater than 53; and

(B) the designation of the substance as a regulated substance would be consistent with the purposes of this Act.

(2) SAVINGS PROVISION.—Nothing in this subsection authorizes the Administrator to designate as a regulated substance a blend of substances that includes a saturated hydrofluorocarbon for purposes of phasing down production or consumption of regulated substances under section 6, even if the satu-

rated hydrofluorocarbon is, or may be, designated as a regulated substance.

SEC. 5. MONITORING AND REPORTING REQUIREMENTS.

(a) PRODUCTION, IMPORT, AND EXPORT LEVEL REPORTS.—

(1) IN GENERAL.—On a periodic basis, to be determined by the Administrator, but not less frequently than annually, each person who, within the applicable reporting period, produces, imports, exports, destroys, transforms, uses as a process agent, or reclaims a regulated substance shall submit to the Administrator a report that describes, as applicable, the quantity of the regulated substance that the person—

(A) produced, imported, and exported;

(B) reclaimed;

(C) destroyed by a technology approved by the Administrator;

(D) used and entirely consumed (except for trace quantities) in the manufacture of another chemical; or

(E) used as a process agent.

(2) REQUIREMENTS.—

(A) SIGNED AND ATTESTED.—The report under paragraph (1) shall be signed and at-

tested by a responsible officer (within the meaning of the Clean Air Act (42 U.S.C. 7401 et seq.)).

(B) NO FURTHER REPORTS REQUIRED.—A report under paragraph (1) shall not be required from a person if the person—

(i) permanently ceases production, importation, exportation, destruction, transformation, use as a process agent, or reclamation of all regulated substances; and

(ii) notifies the Administrator in writing that the requirement under clause (i) has been met.

(C) BASELINE PERIOD.—Each report under paragraph (1) shall include, as applicable, the information described in that paragraph for the baseline period of calendar years 2011 through 2013.

(b) COORDINATION.—The Administrator may allow any person subject to the requirements of subsection (a)(1) to combine and include the information required to be reported under that subsection with any other related information that the person is required to report to the Administrator.

SEC. 6. PHASE-DOWN OF PRODUCTION AND CONSUMPTION OF REGULATED SUBSTANCES.

(a) BASELINES.—

(1) IN GENERAL.—Subject to paragraph (4), the Administrator shall establish for the phase-down of regulated substances—

(A) a production baseline for the production of all regulated substances in the United States, as described in paragraph (2); and

(B) a consumption baseline for the consumption of all regulated substances in the United States, as described in paragraph (3).

(2) PRODUCTION BASELINE DESCRIBED.—The production baseline referred to in paragraph (1)(A) is the quantity equal to the sum of—

(A) the average annual quantity of all regulated substances produced in the United States during the period—

(i) beginning on January 1, 2011; and

(ii) ending on December 31, 2013; and

(B) the quantity equal to the sum of—

(i) 15 percent of the production level of hydrochlorofluorocarbons in calendar year 1989; and

(ii) 0.42 percent of the production level of chlorofluorocarbons in calendar year 1989.

(3) CONSUMPTION BASELINE DESCRIBED.—The consumption baseline referred to in paragraph (1)(B) is the quantity equal to the sum of—

(A) the average annual quantity of all regulated substances consumed in the United States during the period—

(i) beginning on January 1, 2011; and

(ii) ending on December 31, 2013; and

(B) the quantity equal to the sum of—

(i) 15 percent of the consumption level of hydrochlorofluorocarbons in calendar year 1989; and

(ii) 0.42 percent of the consumption level of chlorofluorocarbons in calendar year 1989.

(4) EXCHANGE VALUES.—

(A) IN GENERAL.—For purposes of paragraphs (2) and (3), the Administrator shall use the following exchange values for hydrochlorofluorocarbons and chlorofluorocarbons:

Table 2		
Chemical Name	**Common Name**	**Exchange Value**
$CHFC1_2$	HCFC–21	151
CHF_2C1	HCFC–22	1810
$C_2HF_3C1_2$	HCFC–123	77
C_2HF_4C1	HCFC–124	609
CH_3CFC1_2	HCFC–141b	725
CH_3CF_2C1	HCFC–142b	2310
$CF_3CF_2CHC1_2$	HCFC–225ca	122
CF_2C1CF_2CHC1F	HCFC–225cb	595

Table 3		
Chemical Name	**Common Name**	**Exchange Value**
$CFC1_3$	CFC–11	4750
CF_2C1_2	CFC–12	10900
$C_2F_3C1_3$	CFC–113	6130
$C_2F_4C1_2$	CFC–114	10000
C_2F_5C1	CFC–115	7370.

(B) REVIEW.—The Administrator may—

(i) review the exchange values listed in the tables contained in subsection (a) on a periodic basis; and

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

(I) publicly available, peer-reviewed scientific data; and

(II) other information consistent with widely used or commonly accepted existing exchange values.

(b) PRODUCTION AND CONSUMPTION PHASE-DOWN.—

(1) IN GENERAL.—During the period beginning on January 1 of each year listed in the table contained in paragraph (3) and ending on December 31 of the year before the next year listed on that table, except as otherwise permitted under this Act, no person shall—

(A) produce a quantity of a regulated substance without a corresponding quantity of production allowances, except as provided in subsection (e); or

(B) consume a quantity of a regulated substance without a corresponding quantity of consumption allowances.

(2) COMPLIANCE.—For each year listed on the table contained in paragraph (3), the Administrator shall ensure that the annual quantity of all regulated substances produced or consumed in the United States does not exceed the product obtained by multiplying—

(A) the production baseline or consumption baseline, as applicable; and

(B) the applicable percentage listed on the table contained in paragraph (3).

(3) RELATION TO BASELINE.—On January 1 of each year listed in the following table, the Administrator shall apply the applicable percentage, as described in paragraph (1):

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.

(4) ALLOWANCES.—

(A) QUANTITY.—Not later than October 1 of each calendar year, the Administrator shall use the quantity calculated under paragraph (2) to determine the quantity of allowances for the production and consumption of regulated substances that may be used for the following calendar year.

(B) NATURE OF ALLOWANCES.—

(i) IN GENERAL.—An allowance allocated under this Act—

(I) does not constitute a property right; and

(II) is a limited authorization for the production or consumption of a regulated substance under this Act.

(ii) SAVINGS PROVISION.—Nothing in this Act or in any other provision of law limits the authority of the United States to terminate or limit an authorization described in clause (i)(II).

(c) REGULATIONS REGARDING PRODUCTION AND CONSUMPTION OF REGULATED SUBSTANCES.—Not later than 270 days after the date of enactment of this Act, the Administrator shall issue a final rule—

(1) phasing down the production of regulated substances in the United States through an allowance allocation and trading program in accordance with this Act; and

(2) phasing down the consumption of regulated substances in the United States through an allowance allocation and trading program in accordance with the schedule under subsection (b)(3) (subject to the same exceptions and other requirements as are applicable to the phase-down of production of regulated substances under this Act).

(d) EXCEPTIONS.—

(1) FEEDSTOCKS AND PROCESS AGENTS.—Except for the reporting requirements described in section 5(a), this Act does not apply to—

(A) a regulated substance that is used and entirely consumed (except for trace quantities) in the manufacture of another chemical; or

(B) a regulated substance that is used and not entirely consumed in the manufacture of another chemical, if the remaining amounts of the regulated substance are subsequently destroyed.

(2) ESSENTIAL USES.—

(A) IN GENERAL.—Not earlier than January 1, 2034, the Administrator may, after notice and opportunity for public comment, authorize the production or consumption of a regulated substance for a period of not more than 5 years in a quantity in excess of the quantities authorized under subsection (b)(1) for the exclusive use of the regulated substance in an application with respect to which the Administrator determines that—

(i) no substitute will be available during the applicable period for that applica-

tion, considering technological achievability, commercial demands, safety, and other relevant factors; and

(ii) the total supply of the regulated substance authorized under subsection (b)(1), including any quantities of a regulated substance available from reclaiming, prior production, or prior import, is insufficient to accommodate the application.

(B) LIMITATION.—No person receiving an authorization under subparagraph (A) may, on an annual basis, produce or consume a quantity of a regulated substance that is greater than 10 percent of the quantity that the person produced or consumed to contribute to the production baseline or the consumption baseline, as applicable.

(C) REVIEW.—

(i) IN GENERAL.—For each application for which the Administrator has authorized the production or consumption, as applicable, of a regulated substance under subparagraph (A), the Administrator shall review the availability of substitutes, including any quantities of the regulated

substance available from reclaiming or prior production, not less frequently than once every 5 years, considering technological achievability, commercial demands, safety, and other relevant factors.

(ii) EXTENSION.—If the Administrator determines, subject to notice and opportunity for public comment, that no substitute will be available for an application for which the Administrator granted a waiver under subparagraph (A) during a subsequent period, the Administrator may authorize the production or consumption, as applicable, of any regulated substance used in the application for not more than an additional 5 years in a quantity in excess of the quantity authorized under subsection (b)(1) for exclusive use in the application.

(e) DOMESTIC MANUFACTURING.—Notwithstanding subsection (b)(1)(A), the Administrator may authorize a person to produce a regulated substance in excess of the number of production allowances held by that person, subject to the conditions that—

(1) the authorization is—

(A) for a renewable period of not more than 5 years; and

(B) subject to notice and opportunity for public comment; and

(2) the production—

(A) is at a facility located in the United States;

(B) is solely for export to, and use in, a foreign country that is not subject to the prohibition in section 11(a); and

(C) would not violate subsection (b)(2).

SEC. 7. ACCELERATED SCHEDULE.

(a) IN GENERAL.—Subject to subsection (d), the Administrator may, in response to a petition submitted to the Administrator in accordance with subsection (c) and after notice and opportunity for public comment, promulgate regulations that establish a schedule for phasing down the production or consumption of regulated substances that is more stringent than the production and consumption levels of regulated substances required under section 6(b)(3) if, based on the availability of substitutes for regulated substances, the Administrator determines that a more-stringent schedule is practicable, taking into account technological achievability, commercial demands, safety, and other relevant factors, including the quantities

of regulated substances available from reclaiming, prior production, or prior import.

(b) REQUIREMENT.—In making a determination on whether to implement a more-stringent phase-down schedule under subsection (a), the Administrator shall—

(1) consider—

(A) the remaining phase-down period for regulated substances under section 6, if applicable; and

(B) relevant, publicly available, peer-reviewed scientific data;

(2) apply uniformly any regulations promulgated pursuant to subsection (a) to the allocation of production and consumption allowances for regulated substances, in accordance with section 6(c); and

(3) adjust the production and consumption allowances accordingly.

(c) PETITION.—

(1) IN GENERAL.—A person may petition the Administrator to promulgate regulations for an accelerated schedule for the phase-down of production or consumption of regulated substances under subsection (a).

(2) REQUIREMENT.—A petition submitted under paragraph (1) shall—

(A) be made at such time, in such manner, and containing such information as the Administrator shall require; and

(B) include a showing by the petitioner that there are data to support the petition.

(3) TIMELINES.—

(A) PETITIONS.—The Administrator shall grant or deny the petition under paragraph (1) by not later than 270 days after the date on which the Administrator receives the petition.

(B) REGULATIONS.—If the Administrator grants a petition under paragraph (1), the final regulations with respect to the petition shall be promulgated by not later than 1 year after the date on which the Administrator grants the petition.

(4) DENIAL.—If the Administrator denies a petition under paragraph (1), the Administrator shall publish a description of the reason for the denial.

(5) INSUFFICIENT INFORMATION.—If the Administrator determines that the data included under paragraph (2)(B) in a petition are not sufficient to make a determination under this subsection, the Ad-

ministrator shall use any authority available to the Administrator to acquire the necessary data.

(d) APPLICABILITY.—The Administrator may not promulgate under subsection (a) a regulation for the production or consumption of regulated substances that is more stringent than the production or consumption levels required under section 6(b)(3) that takes effect before January 1, 2024.

SEC. 8. EXCHANGE AUTHORITY.

(a) TRANSFERS.—Not later than 270 days after the date of enactment of this Act, the Administrator shall promulgate a final regulation that governs the transfer of allowances for the production of regulated substances under section 6(c)(1) that uses—

(1) the applicable exchange values described in the table contained in section 4(a); or

(2) the exchange value described in the rule designating the substance as a regulated substance under section 4(c).

(b) REQUIREMENTS.—The final rule promulgated pursuant to subsection (a)(1) shall—

(1) ensure that the transfers under this section will result in greater total reductions in the production of regulated substances in each year than would

occur during the year in the absence of the transfers;

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

(A) exceeds the reduction otherwise applicable to the transferor under this Act;

(B) exceeds the quantity of production represented by the production allowances transferred to the transferee; and

(C) would not have occurred in the absence of the transaction; and

(3) provide for the trading of consumption allowances in the same manner as is applicable under this section to the trading of production allowances.

SEC. 9. MANAGEMENT OF REGULATED SUBSTANCES.

(a) IN GENERAL.—For purposes of maximizing reclaiming and minimizing the release of a regulated substance from equipment and ensuring the safety of technicians and consumers, the Administrator shall promulgate regulations to control, where appropriate, any practice, process, or activity regarding the servicing, repair, disposal, or installation of equipment (including requiring,

where appropriate, that any such servicing, repair, disposal, or installation be performed by a trained technician meeting minimum standards, as determined by the Administrator) that involves—

(1) a regulated substance;

(2) a substitute for a regulated substance;

(3) the reclaiming of a regulated substance used as a refrigerant; or

(4) the reclaiming of a substitute for a regulated substance used as a refrigerant.

(b) RECLAIMING.—

(1) IN GENERAL.—In carrying out this Act, the Administrator shall consider the use of authority available to the Administrator under this Act to increase opportunities for the reclaiming of regulated substances used as refrigerants.

(2) RECOVERY.—A regulated substance used as a refrigerant that is recovered shall be reclaimed before the regulated substance is sold or transferred to a new owner, except where the recovered regulated substance is sold or transferred to a new owner solely for the purposes of being reclaimed or destroyed.

(c) COORDINATION.—In promulgating regulations to carry out this section, the Administrator may coordinate

those regulations with any other regulations promulgated by the Administrator that involve—

(1) the same or a similar practice, process, or activity regarding the servicing, repair, disposal, or installation of equipment; or

(2) reclaiming.

SEC. 10. TECHNOLOGY TRANSITIONS.

(a) AUTHORITY.—Subject to the provisions of this section, the Administrator may by rule restrict, fully, partially, or on a graduated schedule, the use of a regulated substance in the sector or subsector in which the regulated substance is used.

(b) NEGOTIATED RULEMAKING.—

(1) CONSIDERATION REQUIRED.—Before proposing a rule for the use of a regulated substance for a sector or subsector under subsection (a), the Administrator shall consider negotiating with stakeholders in the sector or subsector subject to the potential rule in accordance with the negotiated rulemaking procedure provided for under subchapter III of chapter 5 of title 5, United States Code (commonly known as the ''Negotiated Rulemaking Act of 1990'').

(2) NEGOTIATED RULEMAKINGS.—If the Administrator negotiates a rulemaking with stake-

holders using the procedure described in paragraph (1), the Administrator shall, to the extent practicable, give priority to completing that rulemaking over completing rulemakings that were not negotiated using that procedure.

(3) NO NEGOTIATED RULEMAKING.—If the Administrator does not negotiate a rulemaking with stakeholders using the procedure described in paragraph (1), the Administrator shall, before commencement of the rulemaking process for a rule under subsection (a), publish an explanation of the decision of the Administrator to not use that procedure.

(c) TRANSITION.—

(1) PROPOSALS.—Not later than 18 months after the date of enactment of this Act, the Administrator shall publish in the Federal Register a proposal of 1 or more dates after which the use of a regulated substance in a sector or subsector shall be restricted.

(2) FINAL RULES.—Not later than 18 months after the date on which the Administrator publishes a proposed rule under paragraph (1) in the Federal Register, the Administrator shall issue a final rule for that proposed rule.

(d) PETITIONS.—

(1) IN GENERAL.—A person may petition the Administrator to issue a rule under subsection (a) for the restriction on use of a regulated substance in a sector or subsector, which may include a request that the Administrator negotiate with stakeholders in accordance with subsection (b)(1).

(2) RESPONSE.—The Administrator shall grant or deny a petition under paragraph (1) not later than 180 days after the date of receipt of the petition.

(3) REQUIREMENTS.—

(A) EXPLANATION.—If the Administrator denies a petition under paragraph (2), the Administrator shall publish in the Federal Register an explanation of the denial.

(B) FINAL RULE.—If the Administrator grants a petition under paragraph (2), the Administrator shall issue a final rule not later than 2 years after the date on which the Administrator grants the petition.

(C) PUBLICATION OF PETITIONS.—Not later than 30 days after the date on which the Administrator receives a petition under para-

graph (1), the Administrator shall publish in the Federal Register that petition in full.

(e) CRITERIA.—In issuing a rule under subsection (a), the Administrator shall consider the need—

(1) to promote and support domestic economic development;

(2) to maximize protections for human health and the environment;

(3) to minimize costs for the production, use, and reclaiming of regulated substances;

(4) to maximize flexibility for the recovery, reclaiming, and reuse of regulated substances;

(5) to ensure consumer safety;

(6) for the availability of substitutes, taking into account technological achievability, commercial demands, safety, and other relevant factors, including lead times for equipment conversion; and

(7) to minimize any additional costs to consumers.

(f) EVALUATION.—In carrying out this section, the Administrator shall evaluate substitutes for regulated substances in a sector or subsector, taking into account technological achievability, commercial demands, safety, and other relevant factors.

SEC. 11. INTERNATIONAL COOPERATION.

(a) IN GENERAL.—Subject to subsection (b), no person subject to the requirements of this Act shall trade or transfer a production allowance or, after January 1, 2033, export a regulated substance to a person in a foreign country that, as determined by the Administrator, has not enacted or otherwise established within a reasonable timeframe after the date of enactment of this Act the same or similar requirements or otherwise undertaken commitments regarding the production and consumption of regulated substances as are contained in this Act.

(b) TRANSFERS.—Pursuant to subsection (a), a person in the United States may engage in a trade or transfer of a production allowance—

(1) to a person in a foreign country if, at the time of the transfer, the Administrator revises the number of allowances for production under section 6(b), as applicable, for the United States such that the aggregate national production of the regulated substance to be traded under the revised production limits is equal to the least of—

(A) the maximum production level permitted for the applicable regulated substance in the year of the transfer under this Act, less the production allowances transferred;

(B) the maximum production level permitted for the applicable regulated substances in the transfer year under applicable law, less the production allowances transferred; and

(C) the average of the actual national production level of the applicable regulated substances for the 3-year period ending on the date of the transfer, less the production allowances transferred; or

(2) from a person in a foreign country if, at the time of the trade or transfer, the Administrator finds that the foreign country has revised the domestic production limits of the regulated substance in the same manner as provided with respect to transfers by a person in United States under this section.

(c) EFFECT OF TRANSFERS ON PRODUCTION LIMITS.—The Administrator may—

(1) reduce the production limits established under section 6(b)(2) as required as a prerequisite to a transfer described in subsection (b)(1); or

(2) increase the production limits established under section 6(b)(2) to reflect production allowances acquired under a trade or transfer described in subsection (b)(2).

(d) REGULATIONS.—The Administrator shall—

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

(2) not less frequently than annually, review and, if necessary, revise the final rule promulgated pursuant to paragraph (1).

SEC. 12. RELATIONSHIP TO OTHER LAW.

(a) IMPLEMENTATION.—

(1) RULEMAKINGS.—The Administrator may promulgate such regulations as are necessary to carry out the functions of the Administrator under this Act.

(2) DELEGATION.—The Administrator may delegate to any officer or employee of the Environmental Protection Agency such of the powers and duties of the Administrator under this Act as the Administrator determines to be appropriate.

(3) CLEAN AIR ACT.—Sections 113, 114, 304, and 307 of the Clean Air Act (42 U.S.C. 7413, 7414, 7604, 7607) shall apply to this Act and any regulations promulgated by the Administrator pursuant to this Act as though this Act were expressly included in each of those sections, as applicable, and the requirements of this Act were part of that Act (42 U.S.C. 7401 et seq.).

(b) AUTHORITY.—On issuance of a final rule under section 6(c) for the production and consumption of regulated substances, notwithstanding any other provision of law, the Administrator shall have no authority to regulate the production or consumption of regulated substances under section 614(b) of the Clean Air Act (42 U.S.C. 7671m(b)).

○