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.


S. 2657

AMENDMENT NO. 2655

By: Kennedy

To: S. 2657

1 At the appropriate place, insert the following:

2 SEC. _____. AMERICAN INNOVATION AND MANUFACTURING.

3 (a) SHORT TITLE.—This section may be cited as the “American Innovation and Manufacturing Act of 2020”.

4 (b) DEFINITIONS.—In this section:

5 (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 subsection (e).

(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 subsection (e)(1)(C).

(5) EXCHANGE VALUE.—The term "exchange value" means the value assigned to a regulated substance in accordance with subsections (e) and (e), 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 introduction 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 reclamation, 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 subsection (e)(1)(B).
(9) RECLAIM; RECLAMATION.—The terms “reclaim” and “reclamation” mean—

(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 subsection (c)(1); and
(B) a substance included as a regulated substance by the Administrator under subsection (c)(3).

(c) Listing of Regulated Substances.—

(1) List of regulated substances.—Each of the following substances, and any isomers of such a substance, shall be a regulated substance:

<table>
<thead>
<tr>
<th>Chemical Name</th>
<th>Common Name</th>
<th>Exchange Value</th>
</tr>
</thead>
<tbody>
<tr>
<td>CHF₂CHF₂</td>
<td>HFC–134</td>
<td>1100</td>
</tr>
<tr>
<td>CH₂FCF₃</td>
<td>HFC–134a</td>
<td>1430</td>
</tr>
<tr>
<td>CH₂FCH₂F₂</td>
<td>HFC–143</td>
<td>353</td>
</tr>
<tr>
<td>CHF₂CH₂CF₃</td>
<td>HFC–245fa</td>
<td>1030</td>
</tr>
<tr>
<td>CF₃CH₂CF₂CH₃</td>
<td>HFC–365mfc</td>
<td>794</td>
</tr>
<tr>
<td>CF₃CHFCF₃</td>
<td>HFC–227ea</td>
<td>3220</td>
</tr>
<tr>
<td>CH₂FCF₂CF₃</td>
<td>HFC–236eb</td>
<td>1340</td>
</tr>
<tr>
<td>CHF₂CHF₂CF₃</td>
<td>HFC–236ea</td>
<td>1370</td>
</tr>
<tr>
<td>CF₃CH₂CF₃</td>
<td>HFC–236fa</td>
<td>9810</td>
</tr>
<tr>
<td>CH₂FCF₂CHF₂</td>
<td>HFC–245ea</td>
<td>693</td>
</tr>
<tr>
<td>CF₃CHFCHF₂CF₃</td>
<td>HFC–43–10mee</td>
<td>1640</td>
</tr>
<tr>
<td>CH₂F₂</td>
<td>HFC–32</td>
<td>675</td>
</tr>
<tr>
<td>CHF₂CF₃</td>
<td>HFC–125</td>
<td>3500</td>
</tr>
<tr>
<td>CH₂CF₃</td>
<td>HFC–143a</td>
<td>4470</td>
</tr>
<tr>
<td>CH₃F</td>
<td>HFC–41</td>
<td>92</td>
</tr>
<tr>
<td>CH₃FCH₂F</td>
<td>HFC–152</td>
<td>53</td>
</tr>
<tr>
<td>CH₃CHF₂</td>
<td>HFC–152a</td>
<td>124</td>
</tr>
<tr>
<td>CHF₃</td>
<td>HFC–23</td>
<td>14800</td>
</tr>
</tbody>
</table>

(2) Review.—The Administrator may—
(A) review the exchange values listed in
the table contained in paragraph (1) on a peri-
odic basis; and

(B) 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.

(3) OTHER REGULATED SUBSTANCES.—

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

(i) 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
paragraph (2)(B), of greater than 53;

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

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

(d) MONITORING AND REPORTING REQUIRE-
MENTS.—

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

(A) 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 sub-
stance shall submit to the Administrator a re-
port that describes, as applicable, the quantity
of the regulated substance that the person—
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(i) produced, imported, and exported;

(ii) reclaimed;

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

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

(v) used as a process agent.

(B) REQUIREMENTS.—

(i) SIGNED AND ATTESTED.—The report under subparagraph (A) shall be signed and attested by a responsible officer (within the meaning of the Clean Air Act (42 U.S.C. 7401 et seq.)).

(ii) NO FURTHER REPORTS REQUIRED.—A report under subparagraph (A) 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 subclause (I) has been met.

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

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

(e) PHASE-DOWN OF PRODUCTION AND CONSUMPTION OF REGULATED SUBSTANCES.—

(1) BASELINES.—

(A) IN GENERAL.—Subject to subparagraph (D), the Administrator shall establish for the phase-down of regulated substances—

(i) a production baseline for the production of all regulated substances in the United States, as described in subparagraph (B); and
(ii) a consumption baseline for the consumption of all regulated substances in the United States, as described in subpara-
graph (C).

(B) PRODUCTION BASELINE DESCRIBED.—The production baseline referred to in subpara-
graph (A)(i) is the quantity equal to the sum of—

(i) 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

(ii) 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.

(C) CONSUMPTION BASELINE DES-
cribed.—The consumption baseline referred
to in subparagraph (A)(ii) is the quantity equal to the sum of—

(i) 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

(ii) 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.

(D) EXCHANGE VALUES.—

(i) IN GENERAL.—For purposes of subparagraphs (B) and (C), the Administrator shall use the following exchange values for hydrochlorofluorocarbons and chlorofluorocarbons:

<table>
<thead>
<tr>
<th>Chemical Name</th>
<th>Common Name</th>
<th>Exchange Value</th>
</tr>
</thead>
<tbody>
<tr>
<td>CHFCl_2</td>
<td>HCFC-21</td>
<td>151</td>
</tr>
</tbody>
</table>
(ii) Review.—The Administrator may—

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

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

(aa) publicly available, peer-reviewed scientific data; and
(bb) other information consistent with widely used or commonly accepted existing exchange values.

(2) PRODUCTION AND CONSUMPTION PHASE-DOWN.—

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

(i) produce a quantity of a regulated substance without a corresponding quantity of production allowances, except as provided in paragraph (5); or

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

(B) COMPLIANCE.—For each year listed on the table contained in subparagraph (C), 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—
(i) the production baseline or consumption baseline, as applicable; and

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

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

<table>
<thead>
<tr>
<th>Date</th>
<th>Percentage of Production Baseline</th>
<th>Percentage of Consumption Baseline</th>
</tr>
</thead>
<tbody>
<tr>
<td>2020–2023</td>
<td>90 percent</td>
<td>90 percent</td>
</tr>
<tr>
<td>2024–2028</td>
<td>60 percent</td>
<td>60 percent</td>
</tr>
<tr>
<td>2029–2033</td>
<td>30 percent</td>
<td>30 percent</td>
</tr>
<tr>
<td>2034–2035</td>
<td>20 percent</td>
<td>20 percent</td>
</tr>
<tr>
<td>2036 and thereafter</td>
<td>15 percent</td>
<td>15 percent</td>
</tr>
</tbody>
</table>

(D) ALLOWANCES.—

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

(ii) NATURE OF ALLOWANCES.—
(I) IN GENERAL.—An allowance allocated under this section—

(aa) does not constitute a property right; and

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

(II) SAVINGS PROVISION.—Nothing in this section or in any other provision of law limits the authority of the United States to terminate or limit an authorization described in subclause (I)(bb).

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

(A) phasing down the production of regulated substances in the United States through an allowance allocation and trading program in accordance with this section; and
(B) phasing down the consumption of regulated substances in the United States through an allowance allocation and trading program in accordance with the schedule under paragraph (2)(C) (subject to the same exceptions and other requirements as are applicable to the phase-down of production of regulated substances under this section).

(4) EXCEPTIONS; ESSENTIAL USES.—

(A) FEEDSTOCKS AND PROCESS AGENTS.—Except for the reporting requirements described in subsection (d)(1), this section does not apply to—

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

(ii) 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.

(B) ESSENTIAL USES.—

(i) IN GENERAL.—Beginning on the date of enactment of this Act and subject
to paragraphs (2) and (3) and clauses (ii) and (iii), the Administrator may, after considering technical achievability, commercial demands, safety, and other relevant factors, including overall economic costs and environmental impacts compared to historical trends, allocate a quantity of allowances for a period of not more than 5 years for the production and consumption of a regulated substance exclusively for the use of the regulated substance in an application, if—

(I) no safe or technically achievable substitute will be available during the applicable period for that application; and

(II) the supply of the regulated substance that manufacturers or users of the regulated substance for that application are capable of securing from chemical manufacturers, as authorized under paragraph (2)(A), including any quantities of a regulated substance available from reclaiming, prior production, or prior import, is
insufficient to accommodate the application.

(ii) PETITION.—If the Administrator
receives a petition requesting the designation of an application as an essential use
under clause (i), the Administrator shall—

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

   (aa) make the complete petition available to the public; and

   (bb) when making the petition available to the public under
item (aa), propose and seek public comment on—

   (AA) a determination of
whether to designate the application as an essential use;
and

   (BB) if the Administrator proposes to designate
the application as an essential use, making the requisite allocation of allowances; and
(II) not later than 270 days after
the date on which the Administrator
receives the petition, take final action
on the petition.

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

(iv) MANDATORY ALLOCATIONS.—

(I) IN GENERAL.—Notwith-
standing clause (i) and subject to
clause (iii) and paragraphs (2) and
(3), for the 5-year period beginning
on the date of enactment of this Act,
the Administrator shall allocate the
full quantity of allowances necessary,
based on projected, current, and his-
torical trends, for the production or
consumption of a regulated substance
for the exclusive use of the regulated
substance in an application solely for—

(aa) a propellant in metered-dose inhalers;

(bb) defense sprays;

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

(dd) the etching of semiconductor material or wafers and the cleaning of chemical vapor deposition chambers within the semiconductor manufacturing sector;

(ee) mission-critical military end uses, such as armored vehicle engine and shipboard fire suppression systems and systems used in deployable and expeditionary applications; and

(ff) onboard aerospace fire suppression.

(II) REQUIREMENT.—The allocation of allowances under subclause (I) shall be determined through a rule-making.
(v) Review.—

(I) In general.—For each essential use application receiving an allocation of allowances under clause (i) or (iv), 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.

(II) Extension.—If, pursuant to a review under subclause (I), the Administrator determines, subject to notice and opportunity for public comment, that the requirements described in subclauses (I) and (II) of clause (i) are met, the Administrator shall authorize the production or consumption, as applicable, of any regulated substance used in the application for renewable periods of not more than 5 years for exclusive use in the application.

(5) Domestic Manufacturing.—Notwithstanding paragraph (2)(A)(i), 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—

(A) the authorization is—

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

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

(B) the production—

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

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

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

(f) ACCELERATED SCHEDULE.—

(1) IN GENERAL.—Subject to paragraph (4), the Administrator may, only in response to a petition submitted to the Administrator in accordance with paragraph (3) 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
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stringent than the production and consumption levels of regulated substances required under subsection (e)(2)(C).

(2) REQUIREMENTS.—Any regulations promulgated under this subsection—

(A) shall—

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

(ii) ensure that there will be sufficient quantities of regulated substances, including substances available from reclaiming, prior production, or prior import, to meet the needs for—

(I) applications that receive an allocation under clause (i) of subsection (e)(4)(B); and

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

(iii) foster continued reclamation of and transition from regulated substances; and
(B) shall not set the level of production allowances or consumption allowances below the percentage of the consumption baseline that is actually consumed during the calendar year prior to the year during which the Administrator makes a final determination with respect to the applicable proposal described in paragraph (3)(C)(iii)(I).

(3) PETITION.—

(A) 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 paragraph (1).

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

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

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

(C) TIMELINES.—
(i) IN GENERAL.—If the Administrator receives a petition under subparagraph (A), the Administrator shall—

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

(aa) make the complete petition available to the public; and

(bb) when making the petition available to the public under item (aa), propose and seek public comment on the proposal of the Administrator to grant or deny the petition; and

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

(ii) FACTORS FOR DETERMINATION.—

In making a determination to grant or deny a petition submitted under subparagraph (A), the Administrator shall, to the extent practicable, factor in—
(I) the best available data, including relevant publicly available and peer-reviewed scientific data;

(II) the availability of substitutes for uses of the regulated substance that is the subject of the petition, taking into account technological achievability, commercial demands, safety, consumer costs, building codes, appliance efficiency standards, contractor training costs, and other relevant factors, including the quantities of regulated substances available from reclaiming, prior production, or prior import;

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

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

(iii) REGULATIONS.—After receiving public comment with respect to the proposal under clause (i)(I)(bb), if the Admin-
istrator makes a final determination to
grant a petition under subparagraph (A),
the final regulations with respect to the pe-
tition shall—

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

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

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

(E) INSUFFICIENT INFORMATION.—If the
Administrator determines that the data in-
cluded under subparagraph (B)(ii) in a petition
are not sufficient to make a determination
under this paragraph, the Administrator shall
use any authority available to the Administrator
to acquire the necessary data.

(4) DATE OF EFFECTIVENESS.—The Administrator may not promulgate under paragraph (1) a regulation for the production or consumption of regulated substances that is more stringent than the production or consumption levels required under subsection (e)(2)(C) that takes effect before January 1, 2025.

(5) REVIEW.—

(A) IN GENERAL.—The Administrator shall review the availability of substitutes for regulated substances subject to an accelerated schedule established under paragraph (1) in each sector and subsector in which the regulated substance is used, 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, by January 1, 2025 (for the first review), by January 1, 2030 (for the second review), and at least once every 5 years thereafter.
(B) PUBLIC AVAILABILITY.—The Administrator shall make the results of a review conducted under subparagraph (A) publicly available.

(6) SAVINGS PROVISION.—Nothing in this subsection authorizes the Administrator to promulgate regulations pursuant to this subsection that establish a schedule for phasing down the production or consumption of regulated substances that is less stringent than the production and consumption levels of regulated substances required under subsection (e)(2)(C).

(g) EXCHANGE AUTHORITY.—

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

(A) the applicable exchange values described in the table contained in subsection (c)(1); or
(B) the exchange value described in the
rule designating the substance as a regulated
substance under subsection (e)(3).

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

(A) ensure that the transfers under this
subsection 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;

(B) 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—

(i) exceeds the reduction otherwise ap-
pllicable to the transferor under this sec-
tion;

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

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

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

(h) MANAGEMENT OF REGULATED SUBSTANCES.—

(1) 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—

(A) a regulated substance;

(B) a substitute for a regulated substance;

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

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

(2) RECLAIMING.—

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

(B) 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 trans-
ferred to a new owner solely for the purposes of
being reclaimed or destroyed.

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

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

(B) reclaiming.

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

(5) SMALL BUSINESS GRANTS.—
(A) Definition of Small Business Concern.—In this paragraph, the term "small business concern" has the same meaning as in section 3 of the Small Business Act (15 U.S.C. 632).

(B) Establishment.—Subject to the availability of appropriations, the Administrator shall establish a grant program to award grants to small business concerns for the purchase of new specialized equipment for the recycling, recovery, or reclamation of a substitute for a regulated substance, including the purchase of approved refrigerant recycling equipment (as defined in section 609(b) of the Clean Air Act (42 U.S.C. 7671h(b))) for recycling, recovery, or reclamation in the service or repair of motor vehicle air conditioning systems.

(C) Matching Funds.—The non-Federal share of a project carried out with a grant under this paragraph shall be not less than 25 percent.

(D) Authorization of Appropriations.—There is authorized to be appropriated to carry out this paragraph $5,000,000 for each of fiscal years 2021 through 2023.
(i) **Technology Transitions.**—

(1) **Authority.**—Subject to the provisions of this subsection, 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.

(2) **Negotiated Rulemaking.**—

   (A) **Consideration Required.**—Before proposing a rule for the use of a regulated substance for a sector or subsector under paragraph (1), 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").

   (B) **Negotiated Rulemakings.**—If the Administrator negotiates a rulemaking with stakeholders using the procedure described in subparagraph (A), the Administrator shall, to the extent practicable, give priority to completing that rulemaking over completing rulemakings that were not negotiated using that procedure.
(C) **No negotiated rulemaking.**—If the Administrator does not negotiate a rule-making with stakeholders using the procedure described in subparagraph (A), the Administrator shall, before commencement of the rule-making process for a rule under paragraph (1), publish an explanation of the decision of the Administrator to not use that procedure.

(3) **Petitions.—**

(A) **In general.**—A person may petition the Administrator to promulgate a rule under paragraph (1) 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 paragraph (2)(A).

(B) **Response.**—The Administrator shall grant or deny a petition under subparagraph (A) not later than 180 days after the date of receipt of the petition.

(C) **Requirements.**—

(i) **Explanation.**—If the Administrator denies a petition under subparagraph (B), the Administrator shall publish
in the Federal Register an explanation of
the denial.

(ii) Final rule.—If the Administrator grants a petition under subpara-
graph (B), the Administrator shall promul-
gate a final rule not later than 2 years
after the date on which the Administrator
grants the petition.

(iii) Publication of petitions.—
Not later than 30 days after the date on
which the Administrator receives a petition
under subparagraph (A), the Adminis-
trator shall make that petition available to
the public in full.

(4) Factors for determination.—In car-
rying out a rulemaking using the procedure de-
scribed in paragraph (2) or making a determination
to grant or deny a petition submitted under para-
graph (3), the Administrator shall, to the extent
practicable, factor in—

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

(B) the availability of substitutes for use of
the regulated substance that is the subject of
the rulemaking or petition, as applicable, in a sector or subsector, taking into account technological achievability, commercial demands, safety, consumer costs, building codes, appliance efficiency standards, contractor training costs, and other relevant factors, including the quantities of regulated substances available from reclamation, prior production, or prior import;

(C) overall economic costs and environmental impacts, as compared to historical trends; and

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

(5) EVALUATION.—In carrying out this subsection, the Administrator shall—

(A) evaluate substitutes for regulated substances in a sector or subsector, taking into account technological achievability, commercial demands, safety, overall economic costs and environmental impacts, and other relevant factors; and

(B) make the evaluation under subparagraph (A) available to the public.
(6) **Effective Date of Rules.—** No rule under this subsection may take effect before the date that is 1 year after the date on which the Administrator promulgates the applicable rule under this subsection.

(7) **Applicability.—**

(A) Definition of Retrofit.—In this paragraph, the term "retrofit" means to upgrade existing equipment where the regulated substance is changed, which—

(i) includes the conversion of equipment to achieve system compatibility; and

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

(B) Applicability of Rules.—A rule promulgated under this subsection shall not apply to—

(i) an essential use under clause (i) or (iv) of subsection (e)(4)(B), including any use for which the production or consumption of the regulated substance is extended under clause (v)(II) of that subsection; or

(ii) except for a retrofit application, equipment in existence in a sector or sub-
sector before the date of enactment of this
Act.

(j) INTERNATIONAL COOPERATION.—

(1) IN GENERAL.—Subject to paragraph (2), no
person subject to the requirements of this section
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 re-
quirements or otherwise undertaken commitments
regarding the production and consumption of regu-
lated substances as are contained in this section.

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

(A) to a person in a foreign country if, at
the time of the transfer, the Administrator re-
vises the number of allowances for production
under subsection (e)(2), 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—
(i) the maximum production level permitted for the applicable regulated substance in the year of the transfer under this section, less the production allowances transferred;

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

(iii) 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

(B) 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 subsection.

(3) EFFECT OF TRANSFERS ON PRODUCTION LIMITS.—The Administrator may—
(A) reduce the production limits established under subsection (e)(2)(B) as required as a prerequisite to a transfer described in paragraph (2)(A); or

(B) increase the production limits established under subsection (e)(2)(B) to reflect production allowances acquired under a trade or transfer described in paragraph (2)(B).

(4) Regulations.—The Administrator shall—

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

(B) not less frequently than annually, review and, if necessary, revise the final rule promulgated pursuant to subparagraph (A).

(k) Relationship to Other Law.—

(1) Implementation.—

(A) Rulemakings.—The Administrator may promulgate such regulations as are necessary to carry out the functions of the Administrator under this section.

(B) 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 section as the Administrator determines to be appropriate.

(C) 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 section and any rule, rulemaking, or regulation promulgated by the Administrator pursuant to this section as though this section were expressly included in each of those sections, as applicable, and the requirements of this section were part of that Act (42 U.S.C. 7401 et seq.).

(2) PREEMPTION.—

(A) IN GENERAL.—Subject to subparagraph (B), during the 5-year period beginning on the date of enactment of this Act, and with respect to an exclusive use for which a mandatory allocation of allowances is provided under subsection (e)(4)(B)(iv)(I), no State or political subdivision of a State may enforce a statute or administrative action restricting the management or use of a regulated substance within that exclusive use.

(B) EXTENSION.—

(i) IN GENERAL.—Subject to clause

(ii), if, pursuant to subclause (I) of sub-
section (e)(4)(B)(v), the Administrator au-
thonizes an additional period under sub-
clause (II) of that subsection for the pro-
duction or consumption of a regulated sub-
stance for an exclusive use described in
subparagraph (A), no State or political
subdivision of a State may enforce a stat-
ute or administrative action restricting the
management or use of the regulated sub-
stance within that exclusive use for the du-
ration of that additional period.

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