

116TH CONGRESS
1ST SESSION

S. _____

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

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 _____

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.

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 Act of 2019”.

1 **SEC. 2. FINDINGS; SENSE OF CONGRESS.**

2 (a) FINDINGS.—Congress finds that—

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

5 (A) contribute more than
6 \$158,000,000,000 annually in goods and serv-
7 ices to the economy of the United States; and

8 (B) provide employment to more than
9 700,000 individuals, with an industry-wide pay-
10 roll of more than \$32,000,000,000;

11 (2) the support and promotion of the techno-
12 logical leadership of the United States in fluoro-
13 carbon production and related products, equipment,
14 and other uses provided by this Act is expected—

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

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

19 (3) supporting and promoting the technological
20 leadership of the United States in fluorocarbon pro-
21 duction and related products, equipment, and other
22 uses also creates a significant new export advantage
23 for manufacturers of fluorinated compounds and re-
24 lated products and equipment in the United States;

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

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

4 (5) this Act incentivizes the investment of ap-
5 proximately \$5,000,000,000 in the United States
6 through fiscal year 2025 to exploit the new markets
7 for fluorinated products and equipment created by
8 this Act.

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

15 **SEC. 3. DEFINITIONS.**

16 In this Act:

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

20 (2) ALLOWANCE.—The term “allowance”
21 means a limited authorization for the production or
22 consumption of a regulated substance established
23 under section 6.

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

4 (A) a quantity equal to the sum of—

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

7 (ii) the quantity of the regulated sub-
8 stance imported into the United States;
9 and

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

12 (4) CONSUMPTION BASELINE.—The term “con-
13 sumption baseline” means the baseline established
14 for the consumption of regulated substances under
15 section 6(a)(3).

16 (5) EXCHANGE VALUE.—The term “exchange
17 value” means the value assigned to a regulated sub-
18 stance in accordance with sections 4 and 6, as appli-
19 cable.

20 (6) IMPORT.—The term “import” means to
21 land on, bring into, or introduce into, or attempt to
22 land on, bring into, or introduce into, any place sub-
23 ject to the jurisdiction of the United States, regard-
24 less of whether that landing, bringing, or introduc-

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

3 (7) PRODUCE.—

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

10 (B) EXCLUSIONS.—The term “produce”
11 does not include—

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

16 (ii) the reuse or recycling of a regu-
17 lated substance.

18 (8) PRODUCTION BASELINE.—The term “pro-
19 duction baseline” means the baseline established for
20 the production of regulated substances under section
21 6(a)(2).

22 (9) RECLAIM.—The term “reclaim” means—

23 (A) the reprocessing of a recovered regu-
24 lated substance to at least the purity described
25 in standard 700–2016 of the Air-Conditioning,

1 Heating, and Refrigeration Institute (or an ap-
2 propriate successor standard adopted by the
3 Administrator); and

4 (B) the verification of the purity of that
5 regulated substance using, at a minimum, the
6 analytical methodology described in the stand-
7 ard referred to in subparagraph (A).

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

10 (A) removed, in any condition, from equip-
11 ment; and

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

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

17 (A) a substance listed in the table con-
18 tained in section 4(a); and

19 (B) a substance included as a regulated
20 substance by the Administrator under section
21 4(c).

22 **SEC. 4. LISTING OF REGULATED SUBSTANCES.**

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

Chemical Name	Common Name	Exchange Value
CHF ₂ CHF ₂	HFC-134	1100
CH ₂ FCF ₃	HFC-134a	1430
CH ₂ FCHF ₂	HFC-143	353
CHF ₂ CH ₂ CF ₃	HFC-245fa	1030
CF ₃ CH ₂ CF ₂ CH ₃	HFC-365mfc	794
CF ₃ CHFCF ₃	HFC-227ea	3220
CH ₂ FCF ₂ CF ₃	HFC-236eb	1340
CHF ₂ CHFCF ₃	HFC-236ea	1370
CF ₃ CH ₂ CF ₃	HFC-236fa	9810
CH ₂ FCF ₂ CHF ₂	HFC-245ea	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
CH ₃ CHF ₂	HFC-152a	124
CHF ₃	HFC-23	14800.

1 (b) REVIEW.—The Administrator may—

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

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

8 (A) publicly available, peer-reviewed sci-
9 entific data; and

1 (B) other information consistent with wide-
2 ly used or commonly accepted existing exchange
3 values.

4 (c) OTHER REGULATED SUBSTANCES.—

5 (1) IN GENERAL.—Subject to notice and oppor-
6 tunity for public comment, the Administrator may
7 designate a substance not included in the table con-
8 tained in subsection (a) as a regulated substance
9 if—

10 (A) the substance—

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

13 (ii) has an exchange value, as deter-
14 mined by the Administrator in accordance
15 with the basis described in subsection
16 (b)(2), of greater than 53; and

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

20 (2) SAVINGS PROVISION.—Nothing in this sub-
21 section authorizes the Administrator to designate as
22 a regulated substance a blend of substances that in-
23 cludes a saturated hydrofluorocarbon for purposes of
24 phasing down production or consumption of regu-
25 lated substances under section 6, even if the satu-

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

3 **SEC. 5. MONITORING AND REPORTING REQUIREMENTS.**

4 (a) PRODUCTION, IMPORT, AND EXPORT LEVEL RE-
5 PORTS.—

6 (1) IN GENERAL.—On a periodic basis, to be
7 determined by the Administrator, but not less fre-
8 quently than annually, each person who, within the
9 applicable reporting period, produces, imports, ex-
10 ports, destroys, transforms, uses as a process agent,
11 or reclaims a regulated substance shall submit to the
12 Administrator a report that describes, as applicable,
13 the quantity of the regulated substance that the per-
14 son—

15 (A) produced, imported, and exported;

16 (B) reclaimed;

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

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

22 (E) used as a process agent.

23 (2) REQUIREMENTS.—

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

1 tested by a responsible officer (within the mean-
2 ing of the Clean Air Act (42 U.S.C. 7401 et
3 seq.)).

4 (B) NO FURTHER REPORTS REQUIRED.—A
5 report under paragraph (1) shall not be re-
6 quired from a person if the person—

7 (i) permanently ceases production, im-
8 portation, exportation, destruction, trans-
9 formation, use as a process agent, or rec-
10 lamation of all regulated substances; and

11 (ii) notifies the Administrator in writ-
12 ing that the requirement under clause (i)
13 has been met.

14 (C) BASELINE PERIOD.—Each report
15 under paragraph (1) shall include, as applica-
16 ble, the information described in that paragraph
17 for the baseline period of calendar years 2011
18 through 2013.

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

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

3 (a) BASELINES.—

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

7 (A) a production baseline for the produc-
8 tion of all regulated substances in the United
9 States, as described in paragraph (2); and

10 (B) a consumption baseline for the con-
11 sumption of all regulated substances in the
12 United States, as described in paragraph (3).

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

16 (A) the average annual quantity of all reg-
17 ulated substances produced in the United
18 States during the period—

19 (i) beginning on January 1, 2011; and

20 (ii) ending on December 31, 2013;

21 and

22 (B) the quantity equal to the sum of—

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

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

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

7 (A) the average annual quantity of all reg-
8 ulated substances consumed in the United
9 States during the period—

10 (i) beginning on January 1, 2011; and

11 (ii) ending on December 31, 2013;

12 and

13 (B) the quantity equal to the sum of—

14 (i) 15 percent of the consumption
15 level of hydrochlorofluorocarbons in cal-
16 endar year 1989; and

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

20 (4) EXCHANGE VALUES.—

21 (A) IN GENERAL.—For purposes of para-
22 graphs (2) and (3), the Administrator shall use
23 the following exchange values for
24 hydrochlorofluorocarbons and chlorofluoro-
25 carbons:

Table 2		
Chemical Name	Common Name	Exchange Value
CHFC1 ₂	HCFC-21	151
CHF ₂ C1	HCFC-22	1810
C ₂ HF ₃ C1 ₂	HCFC-123	77
C ₂ HF ₄ C1	HCFC-124	609
CH ₃ CFC1 ₂	HCFC-141b	725
CH ₃ CF ₂ C1	HCFC-142b	2310
CF ₃ CF ₂ CHC1 ₂	HCFC-225ca	122
CF ₂ C1CF ₂ CHC1F	HCFC-225cb	595

Table 3		
Chemical Name	Common Name	Exchange Value
CFC1 ₃	CFC-11	4750
CF ₂ C1 ₂	CFC-12	10900
C ₂ F ₃ C1 ₃	CFC-113	6130
C ₂ F ₄ C1 ₂	CFC-114	10000
C ₂ F ₅ C1	CFC-115	7370

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

1 (II) other information consistent
2 with widely used or commonly accept-
3 ed existing exchange values.

4 (b) PRODUCTION AND CONSUMPTION PHASE-
5 DOWN.—

6 (1) IN GENERAL.—During the period beginning
7 on January 1 of each year listed in the table con-
8 tained in paragraph (3) and ending on December 31
9 of the year before the next year listed on that table,
10 except as otherwise permitted under this Act, no
11 person shall—

12 (A) produce a quantity of a regulated sub-
13 stance without a corresponding quantity of pro-
14 duction allowances, except as provided in sub-
15 section (e); or

16 (B) consume a quantity of a regulated sub-
17 stance without a corresponding quantity of con-
18 sumption allowances.

19 (2) COMPLIANCE.—For each year listed on the
20 table contained in paragraph (3), the Administrator
21 shall ensure that the annual quantity of all regulated
22 substances produced or consumed in the United
23 States does not exceed the product obtained by mul-
24 tiplying—

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

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

5 (3) RELATION TO BASELINE.—On January 1 of
6 each year listed in the following table, the Adminis-
7 trator shall apply the applicable percentage, as de-
8 scribed 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

9 (4) ALLOWANCES.—

10 (A) QUANTITY.—Not later than October 1
11 of each calendar year, the Administrator shall
12 use the quantity calculated under paragraph (2)
13 to determine the quantity of allowances for the
14 production and consumption of regulated sub-
15 stances that may be used for the following cal-
16 endar year.

17 (B) NATURE OF ALLOWANCES.—

18 (i) IN GENERAL.—An allowance allo-
19 cated under this Act—

1 (I) does not constitute a property
2 right; and

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

6 (ii) SAVINGS PROVISION.—Nothing in
7 this Act or in any other provision of law
8 limits the authority of the United States to
9 terminate or limit an authorization de-
10 scribed in clause (i)(II).

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

15 (1) phasing down the production of regulated
16 substances in the United States through an allow-
17 ance allocation and trading program in accordance
18 with this Act; and

19 (2) phasing down the consumption of regulated
20 substances in the United States through an allow-
21 ance allocation and trading program in accordance
22 with the schedule under subsection (b)(3) (subject to
23 the same exceptions and other requirements as are
24 applicable to the phase-down of production of regu-
25 lated substances under this Act).

1 (d) EXCEPTIONS.—

2 (1) FEEDSTOCKS AND PROCESS AGENTS.—Ex-
3 cept for the reporting requirements described in sec-
4 tion 5(a), this Act does not apply to—

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

8 (B) a regulated substance that is used and
9 not entirely consumed in the manufacture of
10 another chemical, if the remaining amounts of
11 the regulated substance are subsequently de-
12 stroyed.

13 (2) ESSENTIAL USES.—

14 (A) IN GENERAL.—Not earlier than Janu-
15 ary 1, 2034, the Administrator may, after no-
16 tice and opportunity for public comment, au-
17 thorize the production or consumption of a reg-
18 ulated substance for a period of not more than
19 5 years in a quantity in excess of the quantities
20 authorized under subsection (b)(1) for the ex-
21 clusive use of the regulated substance in an ap-
22 plication with respect to which the Adminis-
23 trator determines that—

24 (i) no substitute will be available dur-
25 ing the applicable period for that applica-

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

4 (ii) the total supply of the regulated
5 substance authorized under subsection
6 (b)(1), including any quantities of a regu-
7 lated substance available from reclaiming,
8 prior production, or prior import, is insuf-
9 ficient to accommodate the application.

10 (B) LIMITATION.—No person receiving an
11 authorization under subparagraph (A) may, on
12 an annual basis, produce or consume a quantity
13 of a regulated substance that is greater than 10
14 percent of the quantity that the person pro-
15 duced or consumed to contribute to the produc-
16 tion baseline or the consumption baseline, as
17 applicable.

18 (C) REVIEW.—

19 (i) IN GENERAL.—For each applica-
20 tion for which the Administrator has au-
21 thorized the production or consumption, as
22 applicable, of a regulated substance under
23 subparagraph (A), the Administrator shall
24 review the availability of substitutes, in-
25 cluding any quantities of the regulated

1 substance available from reclaiming or
2 prior production, not less frequently than
3 once every 5 years, considering techno-
4 logical achievability, commercial demands,
5 safety, and other relevant factors.

6 (ii) EXTENSION.—If the Adminis-
7 trator determines, subject to notice and op-
8 portunity for public comment, that no sub-
9 stitute will be available for an application
10 for which the Administrator granted a
11 waiver under subparagraph (A) during a
12 subsequent period, the Administrator may
13 authorize the production or consumption,
14 as applicable, of any regulated substance
15 used in the application for not more than
16 an additional 5 years in a quantity in ex-
17 cess of the quantity authorized under sub-
18 section (b)(1) for exclusive use in the ap-
19 plication.

20 (e) DOMESTIC MANUFACTURING.—Notwithstanding
21 subsection (b)(1)(A), the Administrator may authorize a
22 person to produce a regulated substance in excess of the
23 number of production allowances held by that person, sub-
24 ject to the conditions that—

25 (1) the authorization is—

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

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

5 (2) the production—

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

8 (B) is solely for export to, and use in, a
9 foreign country that is not subject to the prohi-
10 bition in section 11(a); and

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

12 **SEC. 7. ACCELERATED SCHEDULE.**

13 (a) IN GENERAL.—Subject to subsection (d), the Ad-
14 ministrator may, in response to a petition submitted to
15 the Administrator in accordance with subsection (c) and
16 after notice and opportunity for public comment, promul-
17 gate regulations that establish a schedule for phasing
18 down the production or consumption of regulated sub-
19 stances that is more stringent than the production and
20 consumption levels of regulated substances required under
21 section 6(b)(3) if, based on the availability of substitutes
22 for regulated substances, the Administrator determines
23 that a more-stringent schedule is practicable, taking into
24 account technological achievability, commercial demands,
25 safety, and other relevant factors, including the quantities

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

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

6 (1) consider—

7 (A) the remaining phase-down period for
8 regulated substances under section 6, if applica-
9 ble; and

10 (B) relevant, publicly available, peer-re-
11 viewed scientific data;

12 (2) apply uniformly any regulations promul-
13 gated pursuant to subsection (a) to the allocation of
14 production and consumption allowances for regu-
15 lated substances, in accordance with section 6(e);
16 and

17 (3) adjust the production and consumption al-
18 lowances accordingly.

19 (c) PETITION.—

20 (1) IN GENERAL.—A person may petition the
21 Administrator to promulgate regulations for an ac-
22 celerated schedule for the phase-down of production
23 or consumption of regulated substances under sub-
24 section (a).

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

3 (A) be made at such time, in such manner,
4 and containing such information as the Admin-
5 istrator shall require; and

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

8 (3) TIMELINES.—

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

13 (B) REGULATIONS.—If the Administrator
14 grants a petition under paragraph (1), the final
15 regulations with respect to the petition shall be
16 promulgated by not later than 1 year after the
17 date on which the Administrator grants the pe-
18 tition.

19 (4) DENIAL.—If the Administrator denies a pe-
20 tition under paragraph (1), the Administrator shall
21 publish a description of the reason for the denial.

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

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

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

9 **SEC. 8. EXCHANGE AUTHORITY.**

10 (a) TRANSFERS.—Not later than 270 days after the
11 date of enactment of this Act, the Administrator shall pro-
12 mulgate a final regulation that governs the transfer of al-
13 lowances for the production of regulated substances under
14 section 6(c)(1) that uses—

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

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

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

22 (1) ensure that the transfers under this section
23 will result in greater total reductions in the produc-
24 tion of regulated substances in each year than would

1 occur during the year in the absence of the trans-
2 fers;

3 (2) permit 2 or more persons to transfer pro-
4 duction allowances if the transferor of the allow-
5 ances will be subject, under the final rule, to an en-
6 forceable and quantifiable reduction in annual pro-
7 duction that—

8 (A) exceeds the reduction otherwise appli-
9 cable to the transferor under this Act;

10 (B) exceeds the quantity of production rep-
11 resented by the production allowances trans-
12 ferred to the transferee; and

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

15 (3) provide for the trading of consumption al-
16 lowances in the same manner as is applicable under
17 this section to the trading of production allowances.

18 **SEC. 9. MANAGEMENT OF REGULATED SUBSTANCES.**

19 (a) IN GENERAL.—For purposes of maximizing re-
20 claiming and minimizing the release of a regulated sub-
21 stance from equipment and ensuring the safety of techni-
22 cians and consumers, the Administrator shall promulgate
23 regulations to control, where appropriate, any practice,
24 process, or activity regarding the servicing, repair, dis-
25 posal, or installation of equipment (including requiring,

1 where appropriate, that any such servicing, repair, dis-
2 posal, or installation be performed by a trained technician
3 meeting minimum standards, as determined by the Ad-
4 ministrator) that involves—

5 (1) a regulated substance;

6 (2) a substitute for a regulated substance;

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

9 (4) the reclaiming of a substitute for a regu-
10 lated substance used as a refrigerant.

11 (b) RECLAIMING.—

12 (1) IN GENERAL.—In carrying out this Act, the
13 Administrator shall consider the use of authority
14 available to the Administrator under this Act to in-
15 crease opportunities for the reclaiming of regulated
16 substances used as refrigerants.

17 (2) RECOVERY.—A regulated substance used as
18 a refrigerant that is recovered shall be reclaimed be-
19 fore the regulated substance is sold or transferred to
20 a new owner, except where the recovered regulated
21 substance is sold or transferred to a new owner sole-
22 ly for the purposes of being reclaimed or destroyed.

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

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

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

6 (2) reclaiming.

7 **SEC. 10. TECHNOLOGY TRANSITIONS.**

8 (a) **AUTHORITY.**—Subject to the provisions of this
9 section, the Administrator may by rule restrict, fully, par-
10 tially, or on a graduated schedule, the use of a regulated
11 substance in the sector or subsector in which the regulated
12 substance is used.

13 (b) **NEGOTIATED RULEMAKING.**—

14 (1) **CONSIDERATION REQUIRED.**—Before pro-
15 posing a rule for the use of a regulated substance
16 for a sector or subsector under subsection (a), the
17 Administrator shall consider negotiating with stake-
18 holders in the sector or subsector subject to the po-
19 tential rule in accordance with the negotiated rule-
20 making procedure provided for under subchapter III
21 of chapter 5 of title 5, United States Code (com-
22 monly known as the “Negotiated Rulemaking Act of
23 1990”).

24 (2) **NEGOTIATED RULEMAKINGS.**—If the Ad-
25 ministrator negotiates a rulemaking with stake-

1 holders using the procedure described in paragraph
2 (1), the Administrator shall, to the extent prac-
3 ticable, give priority to completing that rulemaking
4 over completing rulemakings that were not nego-
5 tiated using that procedure.

6 (3) NO NEGOTIATED RULEMAKING.—If the Ad-
7 ministrator does not negotiate a rulemaking with
8 stakeholders using the procedure described in para-
9 graph (1), the Administrator shall, before com-
10 mencement of the rulemaking process for a rule
11 under subsection (a), publish an explanation of the
12 decision of the Administrator to not use that proce-
13 dure.

14 (c) TRANSITION.—

15 (1) PROPOSALS.—Not later than 18 months
16 after the date of enactment of this Act, the Adminis-
17 trator shall publish in the Federal Register a pro-
18 posal of 1 or more dates after which the use of a
19 regulated substance in a sector or subsector shall be
20 restricted.

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

1 (d) PETITIONS.—

2 (1) IN GENERAL.—A person may petition the
3 Administrator to issue a rule under subsection (a)
4 for the restriction on use of a regulated substance
5 in a sector or subsector, which may include a re-
6 quest that the Administrator negotiate with stake-
7 holders in accordance with subsection (b)(1).

8 (2) RESPONSE.—The Administrator shall grant
9 or deny a petition under paragraph (1) not later
10 than 180 days after the date of receipt of the peti-
11 tion.

12 (3) REQUIREMENTS.—

13 (A) EXPLANATION.—If the Administrator
14 denies a petition under paragraph (2), the Ad-
15 ministrator shall publish in the Federal Reg-
16 ister an explanation of the denial.

17 (B) FINAL RULE.—If the Administrator
18 grants a petition under paragraph (2), the Ad-
19 ministrator shall issue a final rule not later
20 than 2 years after the date on which the Ad-
21 ministrator grants the petition.

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

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

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

5 (1) to promote and support domestic economic
6 development;

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

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

11 (4) to maximize flexibility for the recovery, re-
12 claiming, and reuse of regulated substances;

13 (5) to ensure consumer safety;

14 (6) for the availability of substitutes, taking
15 into account technological achievability, commercial
16 demands, safety, and other relevant factors, includ-
17 ing lead times for equipment conversion; and

18 (7) to minimize any additional costs to con-
19 sumers.

20 (f) EVALUATION.—In carrying out this section, the
21 Administrator shall evaluate substitutes for regulated sub-
22 stances in a sector or subsector, taking into account tech-
23 nological achievability, commercial demands, safety, and
24 other relevant factors.

1 **SEC. 11. INTERNATIONAL COOPERATION.**

2 (a) IN GENERAL.—Subject to subsection (b), no per-
3 son subject to the requirements of this Act shall trade or
4 transfer a production allowance or, after January 1, 2033,
5 export a regulated substance to a person in a foreign coun-
6 try that, as determined by the Administrator, has not en-
7 acted or otherwise established within a reasonable time-
8 frame after the date of enactment of this Act the same
9 or similar requirements or otherwise undertaken commit-
10 ments regarding the production and consumption of regu-
11 lated substances as are contained in this Act.

12 (b) TRANSFERS.—Pursuant to subsection (a), a per-
13 son in the United States may engage in a trade or transfer
14 of a production allowance—

15 (1) to a person in a foreign country if, at the
16 time of the transfer, the Administrator revises the
17 number of allowances for production under section
18 6(b), as applicable, for the United States such that
19 the aggregate national production of the regulated
20 substance to be traded under the revised production
21 limits is equal to the least of—

22 (A) the maximum production level per-
23 mitted for the applicable regulated substance in
24 the year of the transfer under this Act, less the
25 production allowances transferred;

1 (B) the maximum production level per-
2 mitted for the applicable regulated substances
3 in the transfer year under applicable law, less
4 the production allowances transferred; and

5 (C) the average of the actual national pro-
6 duction level of the applicable regulated sub-
7 stances for the 3-year period ending on the date
8 of the transfer, less the production allowances
9 transferred; or

10 (2) from a person in a foreign country if, at the
11 time of the trade or transfer, the Administrator
12 finds that the foreign country has revised the domes-
13 tic production limits of the regulated substance in
14 the same manner as provided with respect to trans-
15 fers by a person in United States under this section.

16 (c) EFFECT OF TRANSFERS ON PRODUCTION LIM-
17 ITS.—The Administrator may—

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

21 (2) increase the production limits established
22 under section 6(b)(2) to reflect production allow-
23 ances acquired under a trade or transfer described
24 in subsection (b)(2).

25 (d) REGULATIONS.—The Administrator shall—

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

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

7 **SEC. 12. RELATIONSHIP TO OTHER LAW.**

8 (a) IMPLEMENTATION.—

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

13 (2) DELEGATION.—The Administrator may del-
14 egate to any officer or employee of the Environ-
15 mental Protection Agency such of the powers and
16 duties of the Administrator under this Act as the
17 Administrator determines to be appropriate.

18 (3) CLEAN AIR ACT.—Sections 113, 114, 304,
19 and 307 of the Clean Air Act (42 U.S.C. 7413,
20 7414, 7604, 7607) shall apply to this Act and any
21 regulations promulgated by the Administrator pur-
22 suant to this Act as though this Act were expressly
23 included in each of those sections, as applicable, and
24 the requirements of this Act were part of that Act
25 (42 U.S.C. 7401 et seq.).

1 (b) AUTHORITY.—On issuance of a final rule under
2 section 6(c) for the production and consumption of regu-
3 lated substances, notwithstanding any other provision of
4 law, the Administrator shall have no authority to regulate
5 the production or consumption of regulated substances
6 under section 614(b) of the Clean Air Act (42 U.S.C.
7 7671m(b)).