

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 5544
OFFERED BY MR. PETERS OF CALIFORNIA**

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE.

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

4 SEC. 2. DEFINITIONS.

5 In this Act:

6 (1) **ADMINISTRATOR.**—The term “Adminis-
7 trator” means the Administrator of the Environ-
8 mental Protection Agency.

9 (2) **ALLOWANCE.**—The term “allowance”
10 means a limited authorization for the production or
11 the consumption, as applicable, of a regulated sub-
12 stance in accordance with this Act.

13 (3) **CONSUMPTION.**—The term “consumption”
14 means, with respect to any regulated substance, the
15 amount of that regulated substance produced in the
16 United States, plus the amount imported, minus the
17 amount exported.

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

5 (5) DESTROY.—The term “destroy” means de-
6 struction by process or technology as approved by
7 regulation by the Administrator.

8 (6) EXCHANGE VALUE.—The term “exchange
9 value” means, for each regulated substance and each
10 substance referenced in paragraph (1)(B), (1)(C),
11 (2)(B), or (2)(C) of section 5(a), the value by which
12 the mass of such substance shall be multiplied for
13 purposes of calculations under section 5.

14 (7) EXPORT.—The term “export” means the
15 transport of a regulated substance from any place
16 subject to the jurisdiction of the United States to
17 any place not subject to the jurisdiction of the
18 United States.

19 (8) IMPORT.—The term “import” means to
20 land on, bring into, or introduce into, or attempt to
21 land on, bring into, or introduce into, any place sub-
22 ject to the jurisdiction of the United States, whether
23 or not such landing, bringing, or introduction con-
24 stitutes an importation within the meaning of the
25 customs laws of the United States.

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

4 (10) PRODUCE, PRODUCED, AND PRODUCTION.—The terms “produce”, “produced”, and
5 “production” refer to the manufacture in the United
6 States of a regulated substance from any raw mate-
7 rial or feedstock chemical, but such terms do not in-
8 clude—
9

10 (A) the manufacture of a regulated sub-
11 stance that is used and entirely consumed (ex-
12 cept for trace quantities) in the manufacture of
13 other chemicals;

14 (B) the reuse or recycling of a regulated
15 substance; or

16 (C) amounts that are destroyed.

17 (11) PRODUCTION BASELINE.—The term “pro-
18 duction baseline” means the baseline established for
19 production of regulated substances under section
20 5(a)(1).

21 (12) RECLAIM, RECLAIMED, AND RECLAIM-
22 ING.—The terms “reclaim”, “reclaimed”, and “re-
23 claiming” mean the reprocessing of a recovered reg-
24 ulated substance to, at a minimum, the purity speci-
25 fied by and verified in accordance with the Air-Con-

1 ditioning, Heating, and Refrigeration Institute
2 (AHRI) Standard 700–2016 (or an appropriate suc-
3 cessor standard adopted by the Administrator).

4 (13) RECOVER AND RECOVERED.—The terms
5 “recover” and “recovered” mean the removal of a
6 regulated substance in any condition from equipment
7 and the storage of such regulated substance in an
8 external container without necessarily testing or
9 processing such regulated substance in any way.

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

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

16 **SEC. 3. LISTING OF REGULATED SUBSTANCES.**

17 (a) LIST OF REGULATED SUBSTANCES.—The Ad-
18 ministrator shall maintain a list of regulated substances,
19 listed by chemical name and common name. The Adminis-
20 trator shall publish such list and each update thereto in
21 the Federal Register. Not later than 180 days after the
22 date of enactment of this Act, the Administrator shall es-
23 tablish the initial such list. The initial list under this sub-
24 section shall contain the following:

Table 1

Chemical Name	Common Name	Exchange Value
CHF ₂ CHF ₂	HFC-134	1100
CH ₂ FCF ₃	HFC-134a	1430
CH ₂ FCHF ₂	HFC143	353
CHF ₂ CH ₂ CF ₃	HFC-245fa	1030
CF ₃ CH ₂ CF ₂ CH ₃	HFC-365mfc	794
CF ₃ CHF ₂ CF ₃	HFC-227ea	3220
CH ₂ FCF ₂ CF ₃	HFC-236cb	1340
CHF ₂ CHF ₂ CF ₃	HFC-236ea	1370
CF ₃ CH ₂ CF ₃	HFC-236fa	9810
CH ₂ FCF ₂ CHF ₂	HFC-245ca	693
CF ₃ CHF ₂ CHF ₂ CF ₃	HFC-43-10mee	1640
CH ₂ F ₂	HFC-32	675
CHF ₂ CF ₃	HFC-125	3500
CH ₃ CF ₃	HFC-143a	4470
CH ₃ F	HFC-41	92
CH ₂ FCH ₂ F	HFC-152	53
CH ₃ CHF ₂	HFC-152a	124
CHF ₃	HFC-23	14800

1 (b) REQUIREMENTS.—The list required under sub-
2 section (a) shall include the exchange value of each regu-
3 lated substance, as set forth in table 1 of this section or,
4 for additional regulated substances listed pursuant to sub-
5 section (c), as determined by the Administrator pursuant
6 to the requirements of that subsection.

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

1 (1) is a saturated hydrofluorocarbon; and

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

7 (d) SAVINGS PROVISION.—Nothing in this section au-
8 thorizes the Administrator to add to the list under sub-
9 section (a), for purposes of phasing down production or
10 consumption under section 5, a blend of substances. The
11 preceding sentence does not affect the authority of the Ad-
12 ministrator to regulate a regulated substance within a
13 blend of substances.

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

15 (a) REPORTS.—

16 (1) IN GENERAL.—On a periodic basis to be de-
17 termined by the Administrator, but which shall be
18 not less than annually, each person who produced,
19 imported, exported, reclaimed, destroyed, used and
20 entirely consumed (except for trace quantities) in
21 the manufacture of other chemicals, or used as a
22 process agent a regulated substance shall submit a
23 report to the Administrator setting forth the amount
24 of each such substance that such person during the
25 preceding reporting period—

- 1 (A) produced;
- 2 (B) imported;
- 3 (C) exported;
- 4 (D) reclaimed;
- 5 (E) destroyed;
- 6 (F) used and entirely consumed (except for
- 7 trace quantities) in the manufacture of other
- 8 chemicals; or
- 9 (G) used as a process agent.

10 (2) ATTESTATION.—Each report submitted

11 under paragraph (1) shall be signed and attested by

12 a responsible officer (as such term is used in section

13 603(b) of the Clean Air Act (42 U.S.C. 7671b(b)).

14 (b) CESSATION OF REPORTING REQUIREMENT.—If a

15 person subject to subsection (a)(1) permanently ceases

16 production, importation, exportation, reclaiming, destruc-

17 tion, use and entire consumption (except for trace quan-

18 tities), or process agent use of a regulated substance, such

19 person shall—

20 (1) submit a report under such subsection for

21 the reporting period in which such cessation occurs;

22 (2) notify the Administrator of such cessation

23 prior to the end of such reporting period; and

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

4 (c) BASELINE REPORTS.—

5 (1) INITIAL REPORT.—Each person reporting
6 pursuant to subsection (a)(1) shall include in the
7 first required such report, in addition to the infor-
8 mation required by subsection (a)(1) to be reported
9 for the applicable reporting period, the amount of
10 each regulated substance, in each of calendar years
11 2011 through 2013, produced, imported, exported,
12 reclaimed, destroyed, used and entirely consumed
13 (except for trace quantities) in the manufacture of
14 other chemicals, or used as a process agent.

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

1 ported, reclaimed, destroyed, used and entirely con-
2 sumed (except for trace quantities) in the manufac-
3 ture of other chemicals, or used as a process agent
4 in—

5 (A) each of calendar years 2011 through
6 2013; and

7 (B) the calendar year in which this Act is
8 enacted and each subsequent calendar year, if
9 required by the Administrator in a regulation
10 adding a substance to the list of regulated sub-
11 stances.

12 (d) COORDINATION.—To the extent consistent with
13 subsections (a) through (c), the Administrator may, by
14 regulation, allow any person subject to the requirements
15 of subsection (a)(1) to combine and include the informa-
16 tion required to be reported under that subsection with
17 any other related information that the person is required
18 to report to the Administrator.

19 (e) REGULATIONS.—The Administrator shall promul-
20 gate regulations to implement this section. Not later than
21 270 days after the date of enactment of this Act, the Ad-
22 ministrator shall promulgate such initial final regulations
23 as may be necessary pursuant to the preceding sentence.

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

25 (a) BASELINES.—

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

4 (A) the sum of the products of—

5 (i) the average annual production in
6 the United States of each regulated sub-
7 stance during the 3-year period of calendar
8 years 2011, 2012, and 2013; multiplied by

9 (ii) the respective exchange value of
10 each regulated substance;

11 (B) an amount equal to 15 percent of the
12 sum of the products of—

13 (i) the average production in the
14 United States of each
15 hydrochlorofluorocarbon in 1989; multi-
16 plied by

17 (ii) the respective exchange value of
18 each such hydrochlorofluorocarbon; and

19 (C) an amount equal to 0.42 percent of the
20 sum of the products of—

21 (i) the average production in the
22 United States of each chlorofluorocarbon
23 in 1989; multiplied by

24 (ii) the respective exchange value of
25 each such chlorofluorocarbon.

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

4 (A) an amount equal to the sum of the
5 products of—

6 (i) the average annual consumption in
7 the United States of each regulated sub-
8 stance during the 3-year period of calendar
9 years 2011, 2012, and 2013; multiplied by

10 (ii) the respective exchange value of
11 each such regulated substance;

12 (B) an amount equal to 15 percent of the
13 sum of the products of—

14 (i) the average consumption in the
15 United States of each
16 hydrochlorofluorocarbon in 1989; multi-
17 plied by

18 (ii) the respective exchange value of
19 each such hydrochlorofluorocarbon; and

20 (C) an amount equal to 0.42 percent of the
21 sum of the products of—

22 (i) the average consumption in the
23 United States of each chlorofluorocarbon
24 in 1989; multiplied by

1 (ii) the respective exchange value of
2 each such chlorofluorocarbon.

3 (3) EXCHANGE VALUES.—For purposes of
4 paragraphs (1) and (2), the following exchange val-
5 ues for hydrochlorofluorocarbons and
6 chlorofluorocarbons respectively shall apply:

Table 2

Chemical Name	Common Name	Exchange Value
CHFCl ₂	HCFC-21	151
CHF ₂ Cl	HCFC-22	1810
C ₂ HF ₃ Cl ₂	HCFC-123	77
C ₂ HF ₄ Cl	HCFC-124	609
CH ₃ CFCl ₂	HCFC-141b	725
CH ₃ CF ₂ Cl	HCFC-142b	2310
CF ₃ CF ₂ CHCl ₂	HCFC-225ea	122
CF ₂ ClCF ₂ CHClF	HCFC-225eb	595

Table 3

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

7 (b) ALLOWANCES.—

8 (1) FRAMEWORK REGULATIONS.—The Adminis-
9 trator shall, by regulation, establish an allowance al-
10 location and trading program to phase down the
11 production and the consumption of regulated sub-

1 stances in accordance with this section. Not later
 2 than 270 days after the date of enactment of this
 3 Act, the Administrator shall promulgate such final
 4 regulations as may be necessary to establish the pro-
 5 gram required by the preceding sentence.

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

10 (A) The Administrator shall establish a
 11 quantity of production allowances and a quan-
 12 tity of consumption allowances. The quantities
 13 established pursuant to this paragraph shall not
 14 exceed the applicable percentages of the produc-
 15 tion baseline and of the consumption baseline
 16 for the calendar year involved as specified in
 17 the following table 4:

Table 4

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

1 (B) The Administrator shall, by regulation,
2 allocate such production allowances and con-
3 sumption allowances up to the quantities of
4 such allowances established pursuant to this
5 paragraph for the succeeding calendar year.
6 The Administrator may, at the Administrator's
7 discretion, so allocate allowances through a sin-
8 gle rulemaking for multiple succeeding calendar
9 years.

10 (3) PROHIBITION.—Effective January 1 of the
11 calendar year immediately following the issuance of
12 a final regulation pursuant to the second sentence of
13 paragraph (1), it shall be unlawful for a person to
14 do any of the following:

15 (A) Production of a regulated substance
16 without holding a production allowance that au-
17 thORIZES such production.

18 (B) Consumption of a regulated substance
19 without holding a consumption allowance that
20 authorizes such consumption.

21 (C) Holding, using, or transferring any
22 production allowance or consumption allowance
23 allocated under this section, except in accord-
24 ance with regulations promulgated by the Ad-
25 ministrator pursuant to paragraphs (1) and (2).

1 (4) NATURE OF ALLOWANCES.—An allowance
2 does not constitute a property right. Nothing in this
3 Act or in any other provision of law shall be con-
4 strued to limit the authority of the United States to
5 terminate or limit the authorization for the produc-
6 tion or consumption of a regulated substance, as ap-
7 plicable, granted by the allowance.

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

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

17 (1) utilize the exchange values for each regu-
18 lated substance established by or pursuant to section
19 3;

20 (2) ensure that transfers of production allow-
21 ances and consumption allowances will result in
22 greater total reductions in the annual production or
23 consumption, as applicable, of regulated substances
24 than would occur in that year in the absence of such
25 transfers; and

1 (3) authorize the transfer of production allow-
2 ances or consumption allowances among two or more
3 persons only if the transferor and transferee are
4 subject to an enforceable and quantifiable reduction
5 in, respectively, annual production or consumption.

6 (d) SCHEDULE.—

7 (1) IN GENERAL.—

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

24 (B) UNIFORM APPLICATION.—In any regu-
25 lations under subparagraph (A), the Adminis-

1 trator shall apply any more stringent phase-
2 down schedule uniformly to the allocation of
3 production allowances and consumption allow-
4 ances as provided under subsection (b).

5 (2) PETITION.—

6 (A) SUBMISSION.—Any person may peti-
7 tion the Administrator to promulgate regula-
8 tions under this subsection.

9 (B) DISPOSITION.—The Administrator
10 shall grant or deny any petition under subpara-
11 graph (A) within 270 days after receipt of any
12 such petition.

13 (C) DENIAL.—If the Administrator denies
14 any such petition, the Administrator shall pub-
15 lish in the Federal Register an explanation of
16 why the petition was denied.

17 (D) GRANTING.—If the Administrator
18 grants any such petition, the Administrator
19 shall—

20 (i) propose regulations implementing
21 a more stringent phasedown schedule not
22 later than 270 days after granting the pe-
23 tition; and

24 (ii) promulgate final regulations im-
25 plementing a more stringent phasedown

1 schedule not later than 365 days after pro-
2 posing such regulations.

3 (E) REQUIRED SHOWING.—Any petition
4 under subparagraph (A) shall include a showing
5 by the petitioner that there are adequate data
6 to support the petition.

7 (F) INSUFFICIENT INFORMATION.—If the
8 Administrator determines that data are not
9 adequate to grant or deny the petition, the Ad-
10 ministrator shall use any authority available to
11 the Administrator, under any applicable law, to
12 acquire such data.

13 (3) LIMITATION.—The Administrator may not
14 promulgate a more stringent phasedown schedule
15 under this subsection applicable to any calendar year
16 prior to calendar year 2024.

17 (e) ESSENTIAL USES.—

18 (1) PETITION; AUTHORIZATION.—The Adminis-
19 trator may, by regulation, allocate to a person addi-
20 tional production allowances or consumption allow-
21 ances to authorize the production or consumption,
22 respectively, beginning with calendar year 2034, for
23 a period of up to 5 years, of a regulated substance
24 in an amount up to 10 percent of the quantity of
25 production or consumption of such regulated sub-

1 stance contributed by such person to the production
2 baseline or the consumption baseline, as applicable,
3 if the Administrator finds, based on a petition by
4 such person, that—

5 (A) such excess production or consumption
6 is exclusively for an application with respect to
7 which no substitute is available during such pe-
8 riod, considering technological achievability,
9 commercial demands, safety, and other relevant
10 factors; and

11 (B) the available supply of such regulated
12 substance, including any quantities of such reg-
13 ulated substance available from reclaiming,
14 prior production, or prior import, and allow-
15 ances for such regulated substance, are insuffi-
16 cient to accommodate such application.

17 (2) EXTENSION.—The Administrator may, by
18 regulation, allocate additional production allowances
19 or consumption allowances, for additional periods of
20 up to 5 years, in an amount up to 10 percent of the
21 quantity of production or consumption of the regu-
22 lated substance contributed by the person involved to
23 the production baseline or the consumption baseline,
24 as applicable, if the Administrator finds, based on a
25 petition by such person, that the criteria described

1 in subparagraphs (A) and (B) of paragraph (1) con-
2 tinue to be satisfied.

3 (3) EXCEPTION.—The Administrator may allo-
4 cate production allowances or consumption allow-
5 ances pursuant to this subsection in amounts that
6 cause the total quantity of production allowances or
7 consumption allowances in a year to exceed the max-
8 imum quantity permissible under subsection (b) for
9 that year.

10 (f) EXPORTS.—

11 (1) EXPORTS OF EXCESS AMOUNTS.—

12 (A) IN GENERAL.—Subject to subpara-
13 graphs (B) and (C) and paragraph (2), the Ad-
14 ministrator may, by regulation, issue additional
15 production allowances for renewable periods of
16 up to 5 years to a person to produce a regu-
17 lated substance at a facility located in the
18 United States in excess of the amount author-
19 ized by the production allowances otherwise
20 held by that person solely for export to, and use
21 in, a foreign country.

22 (B) PETITION REQUIRED.—Prior to
23 issuing any additional production allowances to
24 a person pursuant to subparagraph (A), the
25 Administrator shall require the person to sub-

1 mit a petition in such manner and containing
2 such information as the Administration may by
3 regulation require.

4 (C) LIMITATION.—The Administrator shall
5 not issue any production allowances pursuant to
6 subparagraph (A) in amounts that would cause
7 the total quantity of production allowances in a
8 year to exceed the maximum quantity of pro-
9 duction allowances permissible under subsection
10 (b) for that year.

11 (2) PROHIBITED EXPORT FOR CERTAIN COUN-
12 TRIES.—Beginning on January 1, 2033, no person
13 subject to the requirements of this Act shall export
14 a regulated substance to a foreign country that is
15 not identified by the Administrator as having en-
16 acted or otherwise established the same or similar
17 requirements or otherwise undertaken commitments
18 regarding the production and the consumption of
19 regulated substances as are contained in this Act.

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

21 (a) SENSE OF CONGRESS.—It is the sense of Con-
22 gress that the Administrator should provide for a safe
23 hydrofluorocarbon transition by ensuring that heating,
24 ventilation, air conditioning, and refrigeration practi-

1 tioners are positioned to comply with safe servicing, re-
2 pair, disposal, or installation procedures.

3 (b) REGULATIONS.—

4 (1) IN GENERAL.—Not later than 24 months
5 after the date of enactment of this Act, the Adminis-
6 trator shall, for purposes of maximizing reclaiming,
7 minimizing the release of a regulated substance from
8 equipment, and ensuring the safety of technicians
9 and consumers, promulgate regulations to control,
10 where appropriate, any practice, process, or activity
11 regarding the servicing, repair, disposal, or installa-
12 tion of equipment that involves a regulated sub-
13 stance or a substitute for a regulated substance, in-
14 cluding the reclaiming of a regulated substance or a
15 substitute for a regulated substance.

16 (2) MINIMUM STANDARDS.—The regulations
17 promulgated under paragraph (1) may include,
18 where appropriate, that any such servicing, repair,
19 disposal, or installation be performed by a trained
20 technician meeting minimum standards, as deter-
21 mined by the Administrator.

22 (c) RECLAIM.—

23 (1) CONSIDERATION.—The Administrator shall
24 consider the use of any authority available to the

1 Administrator under this Act to increase opportuni-
2 ties for the reclaiming of regulated substances.

3 (2) REQUIREMENT.—Any regulated substance
4 that is recovered shall be reclaimed before such reg-
5 ulated substance is sold or transferred to a new
6 owner, except where such recovered regulated sub-
7 stance is sold or transferred to a new owner solely
8 for the purposes of being reclaimed or destroyed.

9 (d) COORDINATION.—In promulgating regulations to
10 implement this section, the Administrator may coordinate
11 such regulations with any other regulations promulgated
12 by the Administrator that involve—

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

16 (2) reclaiming.

17 (e) INAPPLICABILITY.—Subsections (a) through (d)
18 do not apply with respect to a regulated substance or a
19 substitute for a regulated substance that is contained in
20 a foam.

21 **SEC. 7. TECHNOLOGY TRANSITIONS.**

22 (a) AUTHORITY.—The Administrator may, by regula-
23 tion and in accordance with this section, prohibit or re-
24 strict, including through a graduated schedule, the use of

1 a regulated substance in a sector or subsector in which
2 such regulated substance is used.

3 (b) NEGOTIATED RULEMAKING.—The Administrator
4 shall consider negotiating and developing a proposed regu-
5 lation under this section in accordance with the negotiated
6 rulemaking procedure under subchapter III of chapter 5
7 of title 5, United States Code (commonly referred to as
8 the “Negotiated Rulemaking Act of 1990”). If the Admin-
9 istrator decides to proceed with a negotiated rulemaking,
10 the Administrator shall, to the extent the Administrator
11 deems practicable, give priority to completing that rule-
12 making over completing concurrent non-negotiated
13 rulemakings pursuant to this section. If the Administrator
14 decides not to proceed with a negotiated rulemaking, the
15 Administrator shall include an explanation of such deci-
16 sion in any proposed regulation published pursuant to this
17 section.

18 (c) PETITION.—

19 (1) Any person may petition the Administrator
20 to promulgate regulations under this section to pro-
21 hibit or restrict the use of a regulated substance in
22 a sector or subsector.

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

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

5 (4) If the Administrator grants a petition re-
6 ceived pursuant to paragraph (1), the Administrator
7 shall—

8 (A) propose regulations prohibiting or re-
9 stricting the use of the regulated substance in
10 the sector or subsector under subsection (a) not
11 later than 270 days after granting such peti-
12 tion; and

13 (B) promulgate final regulations prohib-
14 iting or restricting the use of the regulated sub-
15 stance in the sector or subsector under sub-
16 section (a) not later than 365 days after pro-
17 posing such regulations.

18 (5) The Administrator shall—

19 (A) submit for publication in the Federal
20 Register a notice of the availability of each peti-
21 tion received pursuant to this subsection not
22 later than 60 days after receipt of such petition;
23 and

24 (B) shall make each such petition available
25 in full upon request.

1 (d) CRITERIA.—In promulgating regulations under
2 this section, the Administrator shall consider—

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

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

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

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

11 (5) ensuring consumer safety;

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

17 (7) minimizing any costs to consumers.

18 (e) EVALUATION.—For purposes of this Act, the Ad-
19 ministrator shall—

20 (1) on an ongoing basis, evaluate the avail-
21 ability of substitutes for regulated substances in a
22 sector or subsector, taking into account technological
23 achievability, commercial demands, safety, and other
24 relevant factors, including lead times for equipment
25 conversion; and

1 (2) maintain a public clearinghouse of such
2 substitutes by sector and subsector, as applicable.

3 (f) COORDINATION.—In promulgating regulations to
4 prohibit or restrict the use of a regulated substance in a
5 sector or subsector under this section, the Administrator
6 may coordinate such regulations with any other regula-
7 tions pertaining to currently or potentially available sub-
8 stitutes for regulated substances.

9 **SEC. 8. RULEMAKING AUTHORITY.**

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

13 (b) DELEGATION.—The Administrator may delegate
14 to any officer or employee of the Environmental Protection
15 Agency such of the powers and duties of the Administrator
16 under this Act as the Administrator determines to be ap-
17 propriate.

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

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

24 Sections 113, 114, 304, and 307 of the Clean Air
25 Act (42 U.S.C. 7413, 7414, 7604, 7607) shall apply to

1 this Act and any regulations promulgated by the Adminis-
2 trator pursuant to this Act as though this Act were in-
3 cluded in title VI of the Clean Air Act (42 U.S.C. 7671
4 et seq.).

