

described in paragraph (2) or making a determination to grant or deny a petition submitted under paragraph (3), the Administrator shall, to the extent practicable, factor in—

(A) the best available data, including relevant publicly available and peer-reviewed scientific 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 reclaiming, 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 subsector 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 requirements or otherwise undertaken commitments regarding the production and consumption of regulated 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 revises 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 subsection (e)(4)(B)(v), the Administrator authorizes an additional period under subclause (II) of that subsection for the production or consumption of a regulated substance for an exclusive use described in subparagraph (A), no State or political subdivision of a State may enforce a statute or administrative action restricting the management or use of the regulated substance within that exclusive use for the duration of that additional period.

(ii) LIMITATION.—The period for which the limitation under clause (i) applies shall not exceed 5 years from the date on which the period described in subparagraph (A) ends.

## AUTHORITY FOR COMMITTEES TO MEET

Mr. SANDERS. Mr. President, I have one request for committees to meet during today's session of the Senate. It has the approval of the Majority and Minority Leaders.

Pursuant to rule XXVI, paragraph 5(a), of the Standing Rules of the Senate, the following committee is authorized to meet during today's session of the Senate:

### COMMITTEE ON THE JUDICIARY

The Committee on the Judiciary is authorized to meet during the session of the Senate on Thursday, September 10, 2020, at 10 a.m., in room 325 of the Russell Senate Office Building, to conduct a committee executive business meeting.

## APPOINTMENTS

The PRESIDING OFFICER. The Chair, on behalf of the Majority Leader, pursuant to the provisions of Public Law 116-92, appoints the following individuals to serve as members of the Commission on Combating Synthetic Opioid Trafficking: The Honorable TOM COTTON of Arkansas; Mr. Victor L. Brown of Kentucky.

The Chair announces, on behalf of the Democratic Leader, pursuant to the provisions of Public Law 107-12, the appointment of the following individual to serve as a member of the Public Safety Officer Medal of Valor Review Board: Trevor Whipple of Vermont.

## NATIONAL LOBSTER DAY

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to consideration of S. Res. 688, submitted earlier today.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the resolution by title.

The senior assistant legislative clerk read as follows:

A resolution (S. Res. 688) designating September 25, 2020, as “National Lobster Day”.

The PRESIDING OFFICER. There being no objection, the Senate proceeded to consider the resolution.

Mr. McCONNELL. I ask unanimous consent that the resolution be agreed to; that the preamble be agreed to; and that the motion to reconsider be considered made and laid upon the table with no intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 688) was agreed to.

The preamble was agreed to.

(The resolution, with its preamble, is printed in today's RECORD under “Submitted Resolutions.”)