

Section-by-Section for Innovation for the Environment Division

Section ■. *Reauthorization of diesel emissions reduction program.*

This section extends the authorization of the Diesel Emissions Reduction Act (DERA) program at the U.S. Environmental Protection Agency (EPA) through Fiscal Year 2024 at \$100 million annually.

Section ■. *Encouraging projects to reduce emissions.*

This section contains the Utilizing Significant Emissions with Innovative Technologies Act (USE IT Act), as provided in subsection (a).

Subsection (b) authorizes EPA, in consultation with the Department of Energy, to conduct certain carbon dioxide research and development activities under existing research authority provided in section 103 of the Clean Air Act, 42 U.S.C. 7403. The EPA Administrator is authorized to carry out a competitive technology prize program that provides financial awards for direct air capture research projects. The subsection authorizes the Administrator to establish a Direct Air Capture Technology Advisory Board of experts to advise the Administrator. The USE IT Act authorizes \$35 million in funding, to remain available until expended, for direct air capture research and sunsets the program 12 years after enactment of the Act. In consultation with the Secretary of Energy, the Administrator is also required to prepare a report regarding carbon dioxide storage in deep saline formations. Subsection (b) also directs the Government Accountability Office to submit a report to Congress, not later than 5 years after the enactment of the USE IT Act, identifying Federal grant programs regarding carbon capture and utilization technology research and examining any overlap or duplication.

Subsection (c) directs the Secretary of Energy, in consultation with the Administrator of the Environmental Protection Agency, to carry out a research, development, demonstration, and commercialization program for carbon utilization by amending Subtitle F of title IX of the Energy Policy Act of 2005, 42 U.S.C. 16291 et seq. The subsection identifies a number of activities for the program. In supporting demonstration and commercialization research under this subsection, the Secretary is to prioritize the consideration of projects that meet certain, listed criteria. The Secretary is to coordinate carbon utilization activities under this subsection with any other carbon utilization activities established through the bill. The USE IT Act authorizes up to \$50 million in funding for carbon utilization activities under this subsection, available until expended. The subsection also directs the Secretary of Energy, in consultation with the Administrator of the EPA, to enter into an agreement with the National Academies to conduct a study assessing the barriers and opportunities related to commercial application of carbon dioxide in the United States.

Subsection (d)(1) amends existing law to clarify that “covered projects” eligible for the environmental permitting process established by Title XLI of the FAST Act (FAST 41) include construction of carbon capture, utilization, and sequestration (CCUS) projects as well as carbon dioxide pipelines. CCUS projects include direct air capture projects. Subsection (d)(2) directs the Chair of the Council on Environmental Quality (CEQ) to coordinate preparation of an interagency report on CCUS facilities (including direct air capture projects) and carbon dioxide pipelines. CEQ will then issue permitting guidance informed by that report. The guidance must facilitate reviews associated with the deployment of CCUS projects and carbon dioxide pipelines and support the “efficient, orderly, and responsible” development of such projects, as defined in the Act. To improve coordination and ensure that states' and other interested parties' input informs the guidance on an ongoing basis, at least two regional task forces cover different geographical areas and provide feedback to the Chair on the guidance and related issues.

Section ■. *American innovation and manufacturing.*

This section contains the American Innovation and Manufacturing Act of 2020 (AIM Act). Subsection (b) contains relevant definitions. Subsection (c) establishes the regulated hydrofluorocarbon (HFC) substances covered by the Act. Subsection (d) establishes monitoring and reporting requirements.

Subsection (e) directs the EPA Administrator to implement a graduated, 85 percent phase-down of the production and consumption of regulated HFC substances over a 15-year period. The schedule for this phase-down is established by the Act, and compliance is achieved through an allowance allocation and trading program. The Act provides special treatment for feedstocks, process agents, essential uses, and domestic manufacturing, including mandatory allocations of allowances for six, Congressionally-identified essential uses in subsection (e)(4)(B)(iv). Under the “essential use” provisions, EPA must allocate the full quantity of allowances for each of those six uses – for at least five years – through a rulemaking. The ability for other, non-identified uses to be designated as essential uses is provided in subsection (4)(B)(i)-(iii). The Administrator is required to review each essential use allocation every five years and extend essential use allowances, provided statutory criteria are met.

Subsection (f) allows the Administrator, only in response to a petition, to accelerate the schedule for phasedown if certain statutory criteria are met. In no case can the Administrator accelerate the schedule prior to January 1, 2025.

Subsection (g) directs the Administrator to establish regulations governing the transfer of allowances.

Subsection (h) authorizes the Administrator to establish certain regulations regarding the management of regulated HFC substances. No regulation promulgated pursuant to this subsection shall apply to a regulated HFC substance or a substitute for a regulated HFC substance that is contained in foam. Under subsection (h), the Administrator is directed, subject to the availability of appropriations, to establish a grant program for identified small business equipment concerns at \$5 million annually for Fiscal Years 2021 to 2023.

Subsection (i) provides EPA’s authority, by regulation, to establish technology transitions that restrict (fully, partially or on a graduated schedule) the use of a regulated substance in a sector or subsector. Uses deemed as essential by Congress or the Administrator cannot be subject to regulation under this subsection until they are no longer determined to be an essential use. Before proposing any regulation under this subsection, the Administrator must consider undertaking a negotiated rulemaking following the procedure provided for under subchapter III of chapter 5 of title 5, U.S. Code.

Section (j) governs international cooperation and provides for the Administrator to allow for trade or transfer of allowances with those in in another country.

Subsection (k) provides the Administrator with the authority to promulgate regulations as are necessary to carry out the functions of the Administrator under this section. The Administrator may delegate the powers and duties under this section to any officer or employee of the EPA that the Administrator deems appropriate. Subsection (k) specifies that sections 113, 114, 304, and 307 of the Clean Air Act (42 U.S.C. 7413, 7414, 7604, 7607) apply to this section and any rule, rulemaking or regulation under it as though this section were expressly included in Title VI of that Act (42 U.S.C. 7671 et seq). Subsection (k) preempts any enforcement of a statute or administrative action by a State or political subdivision of a State restricting the management or use of a regulated substance for the six statutorily-listed essential uses in subsection (d)(4)(B) for five years, potentially extendable as provided in subsection (k)(2)(B).