

No. 25-1079

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**In the Supreme Court of the United States**

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RMS OF GEORGIA, LLC, D/B/A CHOICE REFRIGERANTS,  
PETITIONER

*v.*

ENVIRONMENTAL PROTECTION AGENCY, ET AL.

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*ON PETITION FOR A WRIT OF CERTIORARI  
TO THE UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA CIRCUIT*

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**BRIEF FOR THE FEDERAL RESPONDENTS  
IN OPPOSITION**

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## QUESTION PRESENTED

The American Innovation and Manufacturing Act of 2020 (AIM Act), 42 U.S.C. 7675, creates a regulatory program to phase down the production and consumption of hydrofluorocarbons (HFCs) in the United States. The statute prescribes percentage reduction targets by specific years, mandates a cap-and-trade program that uses a statutory formula to establish an allowance baseline, and prohibits the production or importation of HFCs without a corresponding allowance. The United States Environmental Protection Agency (EPA) is required to implement this program by allocating allowances within the statutory confines set by Congress. EPA's final rule allocated allowances for the years 2024 through 2028 based on each market participant's historical production and consumption of HFCs. Petitioner challenged that rule on the ground that the AIM Act's allowance-allocation provision unconstitutionally delegates legislative power. The question presented is as follows:

Whether Congress violated the nondelegation doctrine by enacting a statute that phases down the production and consumption of HFCs through a cap-and-trade program and instructs EPA to allocate allowances for production and consumption, which EPA implemented based on each industry participant's historical production and consumption.

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**OPINION BELOW**

The opinion of the court of appeals (Pet. App. 1-27) is reported at 146 F.4th 1126.

**JURISDICTION**

The judgment of the court of appeals was entered on August 1, 2025. A petition for rehearing was denied on September 30, 2025 (Pet. App. 28-29). On January 22, 2026, the Chief Justice extended the time within which to file a petition for a writ of certiorari to and including February 27, 2026, and the petition was filed on that date. This Court's jurisdiction is invoked under 28 U.S.C. 1254(1).

## STATEMENT

Petitioner filed a petition for review in the United States Court of Appeals for the D.C. Circuit, challenging a final rule promulgated by the Environmental Protection Agency (EPA) to implement a provision of the American Innovation and Manufacturing Act of 2020 (AIM Act), 42 U.S.C. 7675. See Pet. App. 2-3. The court of appeals denied the petition. *Id.* at 21.

1. “In the 1980s, an international movement developed to combat depletion of the ozone layer.” *Mexi-chem Fluor, Inc. v. EPA*, 866 F.3d 451, 454 (D.C. Cir. 2017) (Kavanaugh, J.), cert. denied, 586 U.S. 918 (2018). Those efforts culminated in an international agreement to “regulate the production and use of a variety of ozone-depleting substances,” which Congress implemented by “add[ing] a new Title VI to the Clean Air Act” that “require[d] manufacturers \* \* \* to phase out their use of [most] ozone-depleting substances by 2015.” *Ibid.*; see Clean Air Act, 42 U.S.C. 7401 *et seq.* To comply with the resulting phaseout requirements, some manufacturers switched to using hydrofluorocarbons (HFCs), which “do not deplete the ozone layer.” 866 F.3d at 455. Certain stakeholders then argued that HFCs should also be phased out in favor of further substitutes. *Ibid.* EPA lacked statutory authority to phase down the production and importation of HFCs under the CAA, however, because HFCs “are not ozone-depleting substances covered by Title VI of the Clean Air Act,” but instead are “potential *substitutes for* ozone-depleting substances.” *Ibid.*

To address that gap in statutory coverage, Congress enacted and President Trump signed the AIM Act to mandate a phasedown of HFCs. See Pub. L. No. 116-260, Div. S, § 103, 134 Stat. 2255 (42 U.S.C. 7675). The

AIM Act incorporated several provisions of the Clean Air Act, including its general procedural and judicial-review mechanisms, 42 U.S.C. 7607 and 7675(k)(1)(C), and it was largely modeled on analogous Title VI provisions that had been enacted to phase out the ozone-depleting substances that HFCs came to replace. See 42 U.S.C. 7675(k)(1)(C) (providing that regulations “promulgated \* \* \* pursuant to this section [shall be treated] as though this section were expressly included in title VI of th[e Clean Air] Act”).

The AIM Act (1) required EPA to phase down the production and consumption of specified HFCs through an allocation-and-trading (otherwise known as “cap-and-trade”) program; (2) required EPA to promulgate certain regulations relating to the management of these HFCs and their substitutes; and (3) authorized EPA to facilitate the transition to new technologies through additional sector-based restrictions. Pet. App. 4-6. Pursuant to the statutory phasedown requirement, Congress directed EPA to promulgate, through notice-and-comment rulemaking, final rules that would govern the allocation of allowances for HFC production and consumption up to the statutory caps. *Id.* at 5-6. Within that regulatory plan, Congress gave EPA limited discretion over the distribution of allowances, provided that the agency allocated them pursuant to the prescribed baseline and reduction schedule and accounted for the mandatory allowances set aside for certain enumerated uses. *Ibid.*

a. The AIM Act prohibits any person from producing or importing regulated HFCs without an allowance issued for use in a particular calendar year. 42 U.S.C. 7675(e)(2)(A). The number of allowances available each

year is determined by a statutory formula. 42 U.S.C. 7675(e)(2)(C).

Congress's program takes the form of stepwise percentage reductions in the production and consumption (including importation) of HFCs from pre-statutory baseline levels down to 15% of those levels by 2036. 42 U.S.C. 7675(e)(2)(C). To effectuate that plan, the AIM Act directs EPA to first determine the baselines, with statutory language specifying what is to be calculated, including historical levels of production and consumption of HFCs in the United States. 42 U.S.C. 7675(e)(1)(B) and (C). Congress next provided a schedule for a gradual phasedown of production and consumption relative to those baselines. 42 U.S.C. 7675(e)(2)(C). The statute directs EPA to "ensure that the annual quantity of all regulated substances produced or consumed in the United States does not exceed" the quantity permitted by the statutory phasedown schedule. 42 U.S.C. 7675(e)(2)(B).

b. Congress further instructed EPA to establish, by rule, "an allowance allocation and trading program" to achieve that phasedown. 42 U.S.C. 7675(e)(3)(A) and (B). Under the statute, an allowance is a limited authorization for the production or consumption of regulated HFCs, 42 U.S.C. 7675(e)(2)(D)(ii), and it is transferrable according to regulations to be promulgated by the same deadline as the overall allocation-and-trading program, 42 U.S.C. 7675(g)(1); see 40 C.F.R. 84.19.

The AIM Act mandates that, for at least the first five years of the allocation-and-trading program, EPA must allocate "the full quantity of allowances necessary, based on projected, current, and historical trends, for the production or consumption" of HFCs related to six specific applications, including certain semiconductor

uses and mission-critical military purposes. 42 U.S.C. 7675(e)(4)(B)(iv)(I). After that initial five-year period has elapsed, EPA must review these applications and consider, in light of criteria set forth in the statute, whether to renew the applicants' priority allowance access, up to the full life of the program. *Ibid.* The Act also authorizes EPA to identify other applications that should receive priority allowance access if those applications meet the enumerated statutory criteria. 42 U.S.C. 7675(e)(4)(B)(i).

2. a. As Congress had directed, see 42 U.S.C. 7675(e)(3), EPA promulgated its rule for the allocation-and-trading program in the fall of 2021. See 86 Fed. Reg. 55,116 (Oct. 5, 2021) (Framework Rule). The Framework Rule began by applying the statutory formulas to set the production and consumption baselines against which the required HFC phasedown would be measured. *Id.* at 55,118; see 42 U.S.C. 7675(e)(1). The Rule next applied the percentage in the statutory phasedown schedule (*e.g.*, 90% for 2022 and 2023) to those baselines to determine the allowances that would be available for each calendar year. 86 Fed. Reg. at 55,118, 55,144; see 42 U.S.C. 7675(e)(2)(C).

The Framework Rule then established an allocation-and-trading program, as the AIM Act stipulated. EPA provided notice of its proposal and solicited public comment on how to structure that program (along with other aspects of the Rule). After reviewing input from regulated parties and other members of the public, EPA established three types of allowances: application-specific allowances, consumption allowances, and production allowances. 86 Fed. Reg. at 55,142. The Rule provided that application-specific allowances could be used only for the six specific applications enumerated in

the statute (or later added by EPA through the process mandated by Congress). *Ibid.*; 40 C.F.R. 84.13(a).

EPA also set out its methodology for allocating the allowances for calendar years 2022 and 2023. 86 Fed. Reg. at 55,118. First, end users in the six statutorily specified applications would receive application-specific allowances. *Id.* at 55,148. Next, EPA would set aside a small number of allowances for which a limited set of users that would not otherwise qualify for allowances—“new market entrants”—could apply. *Id.* at 55,155-55,156. The remaining allowances would go into a general allowance pool. *Id.* at 55,147. Adhering to the structure of the predecessor Title VI phaseout, EPA provided that whatever allowances remained for that general pool would be allocated to historical market participants that remained active in the HFC business, based on their relative market share before enactment of the AIM Act. *Id.* at 55,144-55,147.

b. In December 2021, petitioner challenged the Framework Rule by filing a petition for review in the United States Court of Appeals for the D.C. Circuit. See Pet. for Review, *RMS of Georgia, LLC v. EPA*, No. 21-1253 (D.C. Cir. Dec. 6, 2021). The court of appeals rejected petitioner’s nondelegation challenge because that challenge had not been raised during the comment period on the Rule. See *Heating, Air Conditioning & Refrigeration Distribs. Int’l v. EPA*, 71 F.4th 59, 64-65 (D.C. Cir. 2023).

c. The Framework Rule governed allocations for only the first two years of the phasedown, 2022 and 2023. In 2023, EPA undertook a new rulemaking (the one at issue here), which maintained the allocation-and-trading approach from the original Rule. See 88 Fed. Reg. 46,836 (July 20, 2023) (2024-2028 Rule). As with

the Framework Rule, the 2024-2028 Rule provided that allowances would be allocated first to the uses identified by Congress in the AIM Act for “the full quantity of allowances necessary, based on projected, current, and historical trends, for the production or consumption” of HFCs. 42 U.S.C. 7675(e)(4)(B)(iv)(I); see 88 Fed. Reg. at 46,840. The remaining general-pool allowances would again be issued to active historical market participants based on their relative market share before enactment, with accommodations for entities that received allowances as new market entrants. 88 Fed. Reg. at 46,850.

Since promulgating the 2024-2028 Rule, EPA has issued calendar-year allowances in separate annual actions. The number of allowances available to the general pool varies from year to year based on how many allowances must be allocated for application-specific uses. In the most recent annual allocation, 5.9% of consumption allowances were earmarked for such uses. See 90 Fed. Reg. 52,391 (Nov. 20, 2025).

3. Certain entities that received allowances under EPA’s allocation-and-trading program petitioned for review of the 2024-2028 Rule in the D.C. Circuit. Among those was petitioner, which “argue[d] that Congress violated the nondelegation doctrine when it granted the EPA authority to allocate use allowances, and that the EPA unconstitutionally exercised legislative power when it promulgated the 2024 Rule.” Pet. App. 2.

The court of appeals denied the petitions for review. Pet. App. 12-21. The court first rejected a challenge to petitioner’s standing to seek judicial relief. The court held that a decision in petitioner’s favor would redress petitioner’s alleged injuries because, if Congress’s directive to establish an allowance-allocation system were “invalidated,” the overall phasedown schedule could not

“remain operative” because “the interrelated subparts of [the statute] are not severable.” *Id.* at 10-11.

On the merits, the court of appeals determined that the AIM Act “does not unconstitutionally delegate legislative power because it sufficiently constrains the EPA’s discretion to allocate HFC allowances.” Pet. App. 12. The court derived the appropriate nondelegation test from, *inter alia*, this Court’s decision in *FCC v. Consumers’ Research*, 606 U.S. 656 (2025), which applied “the intelligible-principle standard [that] has focused [the] nondelegation doctrine for a century,” *id.* at 673. See Pet. App. 14, 16. Reviewing the pertinent text of Section 7675, the court of appeals explained that the AIM Act “directs the EPA’s regulatory authority ‘to a particular subject matter . . . in a particular industry’—*i.e.*, the allocation of a capped number of allowances for the production and consumption of HFCs.” *Id.* at 19 (citation omitted). The court also examined the context of the broader statutory plan, including the “predecessor cap-and-trade programs” on which the AIM Act was modeled. *Id.* at 16-17. The court concluded that “Congress intended that the EPA would implement the AIM Act by allocating allowances in an orderly, market-based fashion, as it did when implementing cap-and-trade programs under Title VI” of the Clean Air Act. *Id.* at 18. The court concluded on these bases that “[t]he AIM Act plainly does not give the EPA the sort of unbounded discretion that renders a statute unconstitutional.” *Id.* at 20.

The court of appeals subsequently denied a petition for rehearing. Pet. App. 28-29.

#### ARGUMENT

Petitioner contends (Pet. 14-34) that, by according EPA limited discretion to allocate some AIM Act

allowances, Congress effected an unconstitutional delegation of legislative power. The court of appeals correctly rejected that argument, and its decision does not conflict with any decision of this Court or of another court of appeals. In crafting the AIM Act, Congress made the relevant policy decisions, and Congress both bounded and channeled the narrow discretion it afforded EPA in establishing the method of allocation within the cap-and-trade program. That statutory plan “easily passe[d] muster,” Pet. App. 15, under “the longstanding ‘intelligible principle’ test set forth by this Court’s precedents,” *FCC v. Consumers’ Research*, 606 U.S. 656, 698 (2025) (Kavanaugh, J., concurring), and there is no sound reason to revisit a test that this Court considered and applied just last year. Further review is not warranted.

1. This case meets none of the usual criteria for certiorari. Sup. Ct. R. 10(a). Petitioner does not assert that any circuit conflict exists on the question presented, and no court other than the D.C. Circuit has considered the AIM Act’s constitutionality or rendered a contrary application of the nondelegation doctrine as to any similar statute. Nor did the court of appeals decide a novel question of federal law that warrants this Court’s immediate intervention. Rather, the court below simply applied the longstanding “intelligible principle” test, which this Court itself applied just last year to reject a nondelegation challenge in *Consumers’ Research, supra*.

2. The court of appeals’ decision is correct. Congress does not impermissibly delegate legislative power when it “‘vest[s] discretion’ in executive agencies to implement and apply the laws it has enacted—for example, by deciding on ‘the details of [their] execution.’”

*Consumers' Research*, 606 U.S. at 672 (citation omitted; second set of brackets in original); see *J. W. Hampton, Jr., & Co. v. United States*, 276 U.S. 394, 406 (1928). When Congress leaves implementation of a statute to an agency, it must supply an “intelligible principle,” *Hampton*, 276 U.S. at 409, meaning that Congress must “ma[k]e clear both ‘the general policy’ that the agency must pursue and ‘the boundaries of [its] delegated authority,’” *Consumers' Research*, 606 U.S. at 673 (citation omitted; second set of brackets in original). Under the intelligible-principle standard, “the degree of agency discretion that is acceptable varies according to the scope of the power congressionally conferred.” *Ibid.* (quoting *Whitman v. American Trucking Ass'ns*, 531 U.S. 457, 475 (2001)). Where that test is satisfied, courts “will not disturb [Congress’s] grant of authority.” *Ibid.* The below court faithfully applied those precedents here, see Pet. App. 13-14, and it correctly held that “the AIM Act easily passes muster,” *id.* at 15.

a. The AIM Act “clearly delineate[d] the general policy, the public agency which is to apply it, and the boundaries of this delegated authority.” Pet. App. 13-14 (citing *Consumers' Research*, 606 U.S. at 673). Specifically, Congress identified the HFC compounds to be phased down from a specified baseline according to a detailed schedule; prohibited HFC production and importation without an allowance; and directed EPA to establish, through rulemaking, an allocation-and-trading program that would accomplish the “phasing down [of] production \* \* \* [and] consumption of regulated substances in the United States.” 42 U.S.C. 7675(e)(3)(A) and (B). That statutory plan plainly embodies “an intelligible principle to which [EPA] \* \* \* is directed to conform.” *Hampton*, 276 U.S. at 409.

Petitioner isolates and challenges one aspect of this detailed statutory plan—“how to allocate the [non-mandatory] allowances the AIM Act establishes”—which petitioner contends has been left to EPA’s “boundless discretion.” Pet. 20. But Congress defined “allowance[s],” 42 U.S.C. 7675(b)(2), and explicitly required that sufficient allowances be allocated to certain enumerated applications, 42 U.S.C. 7675(e)(4)(B)(iv), and to further applications meeting the statutory criteria, 42 U.S.C. 7675(e)(4)(B)(i). It was also Congress, not EPA, that directed the establishment of “an allowance allocation and trading program *in accordance with this section*” and “*in accordance with the [phasedown] schedule.*” 42 U.S.C. 7675(e)(3)(A) and (B) (emphases added).

The latter directives foreclose petitioner’s nondelegation challenge. Congress’s reference to “this section”—which encompasses the AIM Act as a whole—obligated EPA to allocate allowances so as to “phas[e] down the production \* \* \* [and] consumption” of HFCs from pre-enactment baselines according to the statutory schedule. 42 U.S.C. 7675(e)(3)(A) and (B). That exercise necessarily takes account of the state of HFC production and consumption in the pre-enactment marketplace. See Pet. App. 16 (“A natural way to allocate the allowances to achieve th[e statutory phasedown] purpose is to rely on the market participants’ historical market share.”). The statutory language repeatedly confirms this connection between EPA’s allocating authority and the agency’s assessment of the pre-enactment marketplace—including, notably, by instructing the agency to provide mandatory allocations “based on projected, current, and historical trends.” 42 U.S.C. 7675(e)(4)(B)(iv)(I); cf. 42 U.S.C. 7675(e)(4)(B)(i) (instructing EPA to consider, *inter alia*, “overall economic

costs and environmental impacts compared to historical trends” when determining whether to “allocate a quantity of allowances” for certain nonmandatory “[e]ssential uses”).

The AIM Act thus both limits EPA’s discretion by establishing a phasedown schedule anchored to a statutory baseline and channels that discretion by requiring the agency to take account of the pre-enactment marketplace when implementing the statutory plan. The statute bears no resemblance to the National Industrial Recovery Act provisions that the Court previously held invalid under the nondelegation doctrine. Whereas the provision at issue in *A.L.A. Schechter Poultry Corp. v. United States*, 295 U.S. 495 (1935), “conferred authority to regulate the entire economy,” *American Trucking*, 531 U.S. at 474, the AIM Act confers authority to conduct an inexhaustive phasedown of a narrow class of specifically identified chemicals. And while the provision at issue in *Panama Refining Co. v. Ryan*, 293 U.S. 388 (1935), “provided literally no guidance for the exercise of discretion,” *American Trucking*, 531 U.S. at 474, the AIM Act requires EPA to allocate a capped number of allowances, subject to express statutory set-asides, on a fixed phasedown schedule, in accordance with the overall statutory plan.\*

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\* The delegation here is substantially narrower than in many statutes that the Court has previously upheld against nondelegation challenges. See, e.g., *American Power & Light Co. v. SEC*, 329 U.S. 90, 104 (1946) (upholding delegation to prevent “unfair[] or inequitable[]” distribution of voting power among security holders); *Yakus v. United States*, 321 U.S. 414, 420 (1944) (upholding delegation to the Price Administrator to fix commodity prices that, “in his judgment, will be generally fair and equitable”); *Federal Power Comm’n v. Hope Natural Gas Co.*, 320 U.S. 591, 600 (1944) (upholding delegation to determine “just and reasonable” rates); *National Broad.*

Indeed, EPA’s duty to allocate allowances “in accordance with this section,” 42 U.S.C. 7675(e)(3)(A), reflects a classically executive act of implementing, not creating, the law. The fact that the Act tasked EPA with filling in certain particulars of the allocation-and-trading program does not render it an unconstitutional delegation of authority. Rather, Congress acts within its constitutional ambit when it sets out a “general policy” and leaves to the appropriate agency the responsibility of “address[ing] \* \* \* narrow, technical issue[s]” that arise in the implementation of that policy. *Consumers’ Research*, 606 U.S. at 673 (citation omitted); accord, e.g., *American Trucking*, 531 U.S. at 475 (“[E]ven in sweeping regulatory schemes we have never demanded \* \* \* that statutes provide a ‘determinate criterion.’”); *Hampton*, 276 U.S. at 406 (“Congress has found it frequently necessary to use officers of the executive branch, within defined limits, to secure the exact effect intended by its acts of legislation, by vesting discretion in such officers to \* \* \* direct[] the details of [their] execution.”).

b. Although the statutory text alone is sufficient to supply the requisite intelligible principle here, “consider[ing that text] alongside its context, purpose, and history” eliminates any doubt as to the AIM Act’s constitutionality. *Gundy v. United States*, 588 U.S. 128, 136 (2019) (plurality opinion). The history of statutorily mandated phasedowns of similar manmade chemicals confirms the boundaries of EPA’s discretion. See Pet. App. 16-21.

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*Co. v. United States*, 319 U.S. 190, 225-226 (1943) (upholding delegation to regulate as “public interest, convenience, or necessity” require).

As discussed, see pp. 2-3, *supra*, Congress enacted the AIM Act—including its directive that EPA establish and administer a cap-and-trade phasedown for HFCs—against the recent historical backdrop of EPA’s cap-and-trade phaseout of ozone-depleting substances under Title VI of the Clean Air Act. See 42 U.S.C. 7671 *et seq.* Indeed, Congress enacted the AIM Act shortly after the D.C. Circuit determined that EPA could not simply incorporate HFCs into the same replacement regime used for ozone-depleting substances because “HFCs are not ozone-depleting substances” under Title VI. *Mexichem Fluor, Inc. v. EPA*, 866 F.3d 451, 455 (D.C. Cir. 2017) (Kavanaugh, J.), cert. denied, 586 U.S. 918 (2018). And the statutes bear unmistakable similarities, from Congress’s use of “baseline” years to set caps and phaseout schedules, compare 42 U.S.C. 7671(2)(A)-(C), 7671c(a), 7671d(b)(1), with 42 U.S.C. 7675(e)(1)(A)-(D)(i); to its directive that EPA allocate allowances “in accordance with” the rest of the statute, compare 42 U.S.C. 7671c(e), 7671d(c), with 42 U.S.C. 7675(e)(3).

“Based on the strong similarity between the programs created by the AIM Act and Title VI,” the court of appeals found it “evident that Congress expected the EPA to implement the HFC cap-and-trade program in a manner that tracked the successful predecessor programs for [ozone-depleting substances].” Pet. App. 17. And because “those predecessor programs allocated allowances according to market share,” *id.* at 17-18, EPA appropriately assessed and anchored its allocations under the successor statute to shares in the HFC market. See *Parker Drilling Mgmt. Servs., Ltd. v. Newton*, 587 U.S. 601, 611 (2019) (“It is a commonplace of statutory interpretation that ‘Congress legislates against the backdrop of existing law.’”) (citation omitted).

Petitioner fails to rebut this contextual evidence, focusing (Pet. 23-24) instead on two references to “legislative history” in the court of appeals’ opinion. See Pet. App. 17 (citing *Promoting American Innovation and Jobs: Legislation to Phase Down Hydrofluorocarbons: Hearing on H.R. 5544 Before the Subcomm. on Environment & Climate Change of the House Comm. on Energy and Commerce*, 116th Cong., 1st Sess. 2, 7 (2020)); *id.* at 21 (same). Of course, this Court “reviews judgments, not statements in opinions.” *Black v. Cutter Labs.*, 351 U.S. 292, 297 (1956). There is no reason to conclude that the disposition below rested on these two citations to a committee report rather than on the several pages the court spent analyzing and comparing enacted statutory language. See Pet. App. 16-20. As for the court’s comparison between predecessor and successor statutes, petitioner does not dispute that such *statutory* history remains an appropriate interpretive tool. See *National Ass’n of Home Builders v. Defenders of Wildlife*, 551 U.S. 644, 666 (2007) (“It is a fundamental canon of statutory construction that the words of a statute must be read in their context and with a view to their place in the overall statutory scheme.”) (citation and internal quotation marks omitted); *Gundy*, 588 U.S. at 141 (“[B]eyond context and structure, the Court often looks to ‘history [and] purpose’ to divine the meaning of language.”) (citation omitted; second set of brackets in original).

In any event, here “[t]he text, context, purpose, and what little there is of drafting history all point in the same direction,” *United States v. Hayes*, 555 U.S. 415, 429 (2009): Congress approved of EPA’s market-share-based implementation of the Title VI phaseout and expected the agency to undertake a parallel approach to

the HFC phasedown. That was a permissible exercise of legislative power. This Court “ha[s] ‘almost never felt qualified to second-guess Congress regarding the permissible degree of policy judgment that can be left to those executing or applying the law.’” *American Trucking*, 531 U.S. at 474-475 (citation omitted). And no reason exists to do so where, as here, the implementing agency has not only a principle but a precedent to follow.

3. Finally, this Court should decline petitioner’s alternative request (Pet. 29-34) to revisit the intelligible-principle standard in this case. Since “the beginning of the Government,” Congress has enacted “general provisions” that confer substantial policymaking discretion upon the Executive Branch. *United States v. Grimaud*, 220 U.S. 506, 517 (1911). And the intelligible-principle test “has focused [this Court’s] nondelegation doctrine for a century.” *Consumers’ Research*, 606 U.S. at 673. Just last Term, the Court again applied that standard and rejected the invitation to “apply a different test” to a nondelegation challenge. *Ibid.* While “there of course can be difficult questions about how to apply the intelligible principle test to particular statutes,” *id.* at 704 (Kavanaugh, J., concurring), petitioner identifies no legal or factual development in the last year that would support abandonment of that longstanding approach now. Nor does the AIM Act—which would pass muster under either the intelligible-principle test or any other standard that Members of this Court have articulated—provide an appropriate occasion for reconsideration of those precedents.

**CONCLUSION**

The petition for a writ of certiorari should be denied.

Respectfully submitted.

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