

Calendar No. 1067

110TH CONGRESS
2D SESSION**S. 1387****[Report No. 110–491]**

To amend the Emergency Planning and Community Right-to-Know Act of 1986 to provide for greenhouse gases.

IN THE SENATE OF THE UNITED STATES

MAY 14, 2007

Ms. KLOBUCHAR (for herself and Ms. SNOWE) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

SEPTEMBER 24 (legislative day, SEPTEMBER 17), 2008

Reported by Mrs. BOXER, with an amendment and an amendment to the title
[Strike out all after the enacting clause and insert the part printed in *italic*]

A BILL

To amend the Emergency Planning and Community Right-to-Know Act of 1986 to provide for greenhouse gases.

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 “National Greenhouse
5 Gas Registry Act of 2007”.

1 **SEC. 2. FINDINGS AND PURPOSE.**

2 (a) FINDINGS.—Congress finds that—

3 (1) global climate change poses a significant
4 threat to national security, the United States econ-
5 omy, public health and welfare, and the global envi-
6 ronment;

7 (2) high-quality data will be an important fac-
8 tor in successfully implementing a green house gas
9 regulatory framework; and

10 (3) to begin to manage climate change risks,
11 public and private entities will need a comprehen-
12 sive, accurate inventory, registry, and information
13 system of the sources and quantities of United
14 States greenhouse gas emissions.

15 (b) PURPOSE.—The purpose of this Act is to estab-
16 lish a mandatory greenhouse gas inventory, registry, and
17 information system that—

18 (1) is complete, consistent, transparent, and ac-
19 curate;

20 (2) will provide accurate data that can be used
21 by public and private entities to design efficient and
22 effective greenhouse gas emission reduction strate-
23 gies; and

24 (3) will provide the appropriate high-quality
25 data to be used in any future greenhouse gas regu-
26 latory framework.

1 **SEC. 3. INCLUSION OF GREENHOUSE GASES IN EMER-**
 2 **GENCY PLANNING AND COMMUNITY RIGHT-**
 3 **TO-KNOW ACT OF 1986.**

4 (a) INCLUSION ON LIST OF GREENHOUSE GASES.—

5 Section 302 of the Emergency Planning and Community
 6 Right-to-Know Act of 1986 (42 U.S.C. 11002) is amend-
 7 ed—

8 (1) in subsection (a)—

9 (A) in paragraph (2)—

10 (i) in the first sentence, by striking
 11 “Within” and inserting the following:

12 “(A) IN GENERAL.—Not later than”;

13 (ii) in the second sentence, by striking
 14 “The list” and inserting the following:

15 “(B) CONTENTS.—

16 “(i) IN GENERAL.—Subject to clause
 17 (ii), the list”; and

18 (iii) by adding at the end the fol-
 19 lowing:

20 “(ii) INCLUSION OF GREENHOUSE
 21 GASES.—Notwithstanding clause (i), the
 22 Administrator shall include greenhouse
 23 gases on the list under this paragraph.”;
 24 and

25 (B) in paragraph (3), by adding at the end
 26 the following:

1 “(D) GREENHOUSE GASES.—Notwith-
 2 standing any other provision of this section, the
 3 Administrator—

4 “(i) shall establish a threshold plan-
 5 ning quantity for greenhouse gases under
 6 subparagraph (A) of 1 metric ton for each
 7 greenhouse gas; and

8 “(ii) shall not be required to comply
 9 with subparagraph (A) for purposes of es-
 10 tablishing the threshold planning quantity
 11 for greenhouse gases under clause (i).”;
 12 and

13 (2) by adding at the end the following:

14 “(e) GREENHOUSE GAS EMISSIONS.—

15 “(1) DEFINITION OF AFFECTED FACILITY.—In
 16 this subsection:

17 “(A) IN GENERAL.—The term ‘affected fa-
 18 cility’ means—

19 “(i) a major emitting facility (as de-
 20 fined in section 169 of the Clean Air Act
 21 (42 U.S.C. 7479));

22 “(ii) a major stationary source (as de-
 23 fined in section 169A(g) of that Act (42
 24 U.S.C. 7491(g)));

1 “(iii) an electricity generator or elec-
2 tric utility that emits a greenhouse gas;

3 “(iv) a facility that manufactures or
4 imports a greenhouse gas;

5 “(v) a facility that emits nitrous ox-
6 ides associated with the manufacture of
7 adipic or nitric acid;

8 “(vi) an aluminum smelter that emits
9 a greenhouse gas;

10 “(vii) an underground coal mine that
11 emitted more than 35,000,000 cubic feet
12 of methane during calendar year 2004 or
13 thereafter;

14 “(viii) a facility that emits
15 hydrofluorocarbon-23 as a byproduct of
16 hydrochlorofluorocarbon-22; and

17 “(ix) any other facility of appropriate
18 size, as determined by the Administrator,
19 that emits a greenhouse gas.

20 “(B) EXCLUSION.—The term ‘affected fa-
21 cility’ does not include any small business (as
22 described in part 121 of title 13, Code of Fed-
23 eral Regulations (or a successor regulation))
24 that generates fewer than 10,000 metric tons of
25 greenhouse gas emissions during a calendar

year unless the small business elects to be considered for a de minimis exemption under this subsection, or elects to voluntarily participate in the reporting and registry under section 314, as an affected facility.

~~“(2) DE MINIMIS EXEMPTIONS.—As soon as practicable after the date of enactment of this subsection, the Administrator may determine the level of global warming pollution emissions from a source within an affected facility that shall be considered to be eligible for a de minimis exemption from a requirement under this section.~~

~~“(3) REQUIREMENTS.—In making a determination pursuant to paragraph (2), the Administrator shall—~~

~~“(A) take into consideration the availability and suitability of simplified techniques and tools;~~

~~“(B) establish criteria under which, beginning in calendar year 2010, a third-party entity may be qualified by the Administrator to certify reported greenhouse gas emissions and emission baselines of affected facilities; and~~

~~“(C) to the maximum extent practicable, integrate into any applicable reporting and cer-~~

1 tification procedure each State administering a
 2 mandatory carbon registry system, as deter-
 3 mined by the Administrator.”.

4 (b) COMMISSIONS, DISTRICTS, AND COMMITTEES.—

5 Section 301 of the Emergency Planning and Community
 6 Right-to-Know Act of 1986 (42 U.S.C. 11001) is amended
 7 by adding at the end the following:

8 “(e) GREENHOUSE GASES.—Notwithstanding any
 9 other provision of this Act, the establishment of a State
 10 emergency response commission, an emergency planning
 11 district, or an emergency planning committee under this
 12 section shall not be required with respect to any green-
 13 house gas.”.

14 (c) GREENHOUSE GAS RECORDS.—Subtitle B of the
 15 Emergency Planning and Community Right-to-Know Act
 16 of 1986 (42 U.S.C. 11021 et seq.) is amended by adding
 17 at the end the following:

18 **“SEC. 314. GREENHOUSE GAS REPORTS AND REGISTRY.**

19 “(a) REPORTS.—

20 “(1) IN GENERAL.—Subject to section 301(e),
 21 each affected facility (as defined in section
 22 302(e)(1)) shall submit to the appropriate State
 23 emergency response commission under section 301
 24 an annual report describing the greenhouse gas

1 emissions and applicable emission baselines of the
 2 affected facility during the preceding calendar year.

3 ~~“(2) REQUIREMENT.—Each report submitted~~
 4 ~~under paragraph (1) shall express the greenhouse~~
 5 ~~gas emissions of an affected facility—~~

6 ~~“(A) in metric tons of each greenhouse gas~~
 7 ~~emitted by the affected facility; and~~

8 ~~“(B) in metric tons of the carbon dioxide~~
 9 ~~equivalent of each greenhouse gas so emitted.~~

10 ~~“(b) ACTION BY COMMISSION.—Each State emer-~~
 11 ~~gency response commission that receives a report under~~
 12 ~~subsection (a) shall—~~

13 ~~“(1) ensure that the report is certified in ac-~~
 14 ~~cordance with regulations of the Administrator;~~

15 ~~“(2) for calendar year 2010 and each calendar~~
 16 ~~year thereafter, ensure that the report is certified by~~
 17 ~~a third-party entity as described in section~~
 18 ~~302(e)(3)(B);~~

19 ~~“(3) submit to the Administrator a copy of each~~
 20 ~~report for inclusion in the greenhouse gas registry~~
 21 ~~under subsection (d); and~~

22 ~~“(4) establish and maintain in the office of the~~
 23 ~~commission a record of each report submitted to the~~
 24 ~~commission under subsection (a) for each calendar~~
 25 ~~year.~~

1 “(c) PUBLIC ACCESS.—A State emergency response
 2 commission shall ensure public access to the records main-
 3 tained under subsection (b)(3), except to the extent that
 4 information contained in such a record is otherwise pro-
 5 tected from public access under this Act.

6 “(d) NATIONAL GREENHOUSE GAS REGISTRY.—

7 “(1) ESTABLISHMENT.—The Administrator, in
 8 consultation with the Secretary of Commerce, the
 9 Secretary of Agriculture, the Secretary of Energy,
 10 States, the private sector, and nongovernmental or-
 11 ganizations concerned with establishing standards
 12 for the reporting of greenhouse gas emissions, shall
 13 establish and maintain a national greenhouse gas
 14 emissions registry (referred to in this subsection as
 15 the ‘registry’).

16 “(2) INCLUSIONS.—The Administrator shall in-
 17 clude in the registry—

18 “(A) each report received from a State
 19 emergency response commission under sub-
 20 section (b)(3);

21 “(B) for each greenhouse gas emitted, ac-
 22 cording to the reports, an estimate of the quan-
 23 tity of emissions of the greenhouse gas by each
 24 category of source;

1 “(C) a detailed analysis of trends in the
2 quantity, composition, and sources of green-
3 house gas emissions in the United States; and

4 “(D) an estimate of—

5 “(i) mobile source emissions of the
6 greenhouse gas emitted as a result of com-
7 bustion of fuels in transportation equip-
8 ment, such as automobiles, trucks, trains,
9 airplanes, and vessels;

10 “(ii) direct stationary combustion
11 source emissions;

12 “(iii) the total quantity of direct
13 greenhouse gas emissions from stationary
14 sources, expressed in units of carbon diox-
15 ide equivalent;

16 “(iv) the quantity of petroleum prod-
17 ucts sold or imported by each affected fa-
18 cility, and the quantity of greenhouse
19 gases, expressed in units of carbon dioxide
20 equivalent, that would be emitted when
21 those products are used for transportation
22 in the United States, as determined by the
23 Administrator;

1 “(v) the total quantity of reductions
2 in greenhouse gas emissions created by
3 greenhouse gas offsets;

4 “(vi) the quantity of
5 hydrofluorocarbons, perfluorocarbons, and
6 sulfur hexafluoride (expressed in units of
7 carbon dioxide equivalent) that—

8 “(I) are sold or imported by each
9 affected facility; and

10 “(II) will ultimately be emitted in
11 the United States, as determined by
12 the Administrator; and

13 “(vii) such other categories of emis-
14 sions as the Administrator determines may
15 be practicable and useful for the purposes
16 of this Act, such as—

17 “(I) indirect emissions from im-
18 ported electricity, heat, and steam;

19 “(II) process and fugitive emis-
20 sions; and

21 “(III) production or importation
22 of greenhouse gases.

23 “(3) PUBLIC AVAILABILITY.—The Adminis-
24 trator shall publish on the website of the Environ-
25 mental Protection Agency all information contained

1 in the registry, except in any case in which pub-
 2 lishing the information would result in a disclosure
 3 of information vital to national security, as deter-
 4 mined by the Administrator.

5 “(4) INTEGRATION.—The Administrator shall
 6 integrate, to the maximum extent practicable, infor-
 7 mation contained in the registry with any other envi-
 8 ronmental information system maintained by the
 9 Administrator.

10 “(c) NEW REPORTING SYSTEM.—

11 “(1) IN GENERAL.—On or after the date that
 12 is 3 years after the date of enactment of this sec-
 13 tion, the Administrator, in consultation with each
 14 party described in subsection (d)(1), may, on the
 15 record, after providing for a public hearing and op-
 16 portunity to comment, and accordance with this Act
 17 or the authority of the Administrator under any
 18 other law administered by the Administrator, estab-
 19 lish a new reporting system for greenhouse gases.

20 “(2) REQUIREMENTS.—A new reporting system
 21 established under this subsection shall, as compared
 22 with the registry established under subsection (d)—

23 “(A) incorporate and apply to the same af-
 24 fected facilities, gases, sources, and economic
 25 sectors; and

1 “(B) at a minimum, be equally as com-
2 prehensive.

3 “(f) REGULATIONS.—Regulations promulgated under
4 this section may be enforced pursuant to section 113 of
5 the Clean Air Act (42 U.S.C. 7413) with respect to any
6 person that—

7 “(1) fails to submit a report under this section;

8 or

9 “(2) otherwise fails to comply with those regu-
10 lations.”.

11 (d) DEFINITION OF GREENHOUSE GAS.—Section
12 329 of the Emergency Planning and Community Right-
13 to-Know Act of 1986 (42 U.S.C. 11049) is amended—

14 (1) by redesignating paragraphs (5) through
15 (10) as paragraphs (6) through (11), respectively;
16 and

17 (2) by inserting after paragraph (4) the fol-
18 lowing:

19 “(5) GREENHOUSE GAS.—The term ‘greenhouse
20 gas’ means any of—

21 “(A) carbon dioxide;

22 “(B) mercury;

23 “(C) methane;

24 “(D) nitrous oxides;

25 “(E) hydrofluorocarbons;

1 ~~“(F) perfluorocarbons;~~
 2 ~~“(G) sulfur hexafluoride; and~~
 3 ~~“(H) any other anthropogenically-emitted~~
 4 ~~gas that the Administrator, after notice and~~
 5 ~~comment, determines to contribute to global~~
 6 ~~warming.”.~~

7 ~~(e) EFFECT OF SECTION.—Nothing in this section or~~
 8 ~~an amendment made by this section requires the labeling~~
 9 ~~of a greenhouse gas (as defined in paragraph (5) of section~~
 10 ~~329 of the Emergency Planning and Community Right-~~
 11 ~~to-Know Act of 1986 (42 U.S.C. 11049) (as amended by~~
 12 ~~subsection (d))) as a toxic substance for purposes of any~~
 13 ~~other Federal law (including regulations).~~

14 **SECTION 1. SHORT TITLE.**

15 *This Act may be cited as the “Federal Greenhouse Gas*
 16 *Registry Act of 2008”.*

17 **SEC. 2. PURPOSE.**

18 *The purpose of this Act is to provide for the establish-*
 19 *ment of a Federal greenhouse gas registry that—*

20 *(1) is complete, consistent, transparent, and ac-*
 21 *curate;*

22 *(2) will collect reliable and accurate data that*
 23 *can be used by public and private entities to design*
 24 *efficient and effective energy security initiatives and*
 25 *greenhouse gas emission reduction strategies; and*

1 (3) *will provide appropriate high-quality data to*
 2 *be used for implementing greenhouse gas reduction*
 3 *policies.*

4 **SEC. 3. 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) *AFFECTED FACILITY.*—

10 (A) *IN GENERAL.*—*The term “affected facil-*
 11 *ity” means—*

12 (i) *any facility that uses more than*
 13 *5,000 tons of coal in a calendar year;*

14 (ii) *any facility that is a natural gas*
 15 *processing plant or that produces natural*
 16 *gas in the State of Alaska, or any entity*
 17 *that imports natural gas (including lique-*
 18 *fied natural gas);*

19 (iii) *any facility that in any year pro-*
 20 *duces, or any entity that in any year im-*
 21 *ports, petroleum- or coal-based liquid or*
 22 *gaseous fuel, the combustion of which will*
 23 *emit a group I greenhouse gas, assuming no*
 24 *capture and sequestration of that gas;*

1 (iv) any facility that in any year pro-
2 duces for sale or distribution, or any entity
3 that in any year imports, more than 10,000
4 carbon dioxide equivalents of chemicals that
5 are greenhouse gas (other than
6 hydrofluorocarbons), assuming no capture
7 and destruction or sequestration of that gas;

8 (v) a facility that produces for sale or
9 distribution, or an entity that imports, in
10 any calendar year more than 10,000 carbon
11 dioxide equivalents of hydrofluorocarbons,
12 perfluorocarbons, sulfur hexafluoride, nitro-
13 gen trifluoride, or any other fluorinated gas
14 that is a greenhouse gas, as designated by
15 the Administrator;

16 (vi) a facility within the electric power
17 sector that contains a fossil fuel-fired elec-
18 tricity generating unit or units that to-
19 gether emit more than 10,000 carbon diox-
20 ide equivalents of greenhouse gas in any
21 calendar year;

22 (vii) an industrial facility that emits
23 more than 10,000 carbon dioxide equiva-
24 lents of greenhouse gas in any calendar
25 year;

(viii) a facility that produces, or an entity that imports, in any calendar year petroleum- or coal-based liquid or gaseous fuel, the combustion of which will emit more than 10,000 carbon dioxide equivalents of greenhouse gas;

(ix) a local distribution company that in any calendar year delivers natural gas, the combustion of which will emit more than 10,000 carbon dioxide equivalents of greenhouse gas;

(x) a site at which carbon dioxide is geologically sequestered on a commercial scale;

(xi) subject to subparagraph (B), another facility that emits a greenhouse gas, as determined by the Administrator; and

(xii) at the option of the Administrator, a vehicle fleet with emissions of more than 10,000 carbon dioxide equivalents per calendar year, assuming no double-counting of emissions.

(B) *EXCLUSIONS.*—The term “affected facility” may not include, at the discretion of the Administrator, any facility described in subpara-

1 *graph (A)(xi) that is owned or operated by a*
 2 *small business (as described in part 121 of title*
 3 *13, Code of Federal Regulations (or a successor*
 4 *regulation)).*

5 (3) *CARBON CONTENT.*—*The term “carbon con-*
 6 *tent” means the quantity of carbon (in carbon dioxide*
 7 *equivalent) contained in a fuel.*

8 (4) *CARBON DIOXIDE EQUIVALENT.*—*The term*
 9 *“carbon dioxide equivalent” means, with respect to a*
 10 *greenhouse gas, the quantity of the greenhouse gas*
 11 *that the Administrator determines makes the same*
 12 *contribution to global warming as 1 metric ton of*
 13 *carbon dioxide.*

14 (5) *CLIMATE REGISTRY.*—*The term “Climate*
 15 *Registry” means the greenhouse gas emissions registry*
 16 *jointly established and managed by more than 40*
 17 *States and Indian tribes to collect high-quality green-*
 18 *house gas emission data from facilities, corporations,*
 19 *and other organizations to support various greenhouse*
 20 *gas emission reporting and reduction policies for the*
 21 *member States and Indian tribes.*

22 (6) *FACILITY.*—*The term “facility” means 1 or*
 23 *more buildings, structures, or installations of an enti-*
 24 *ty on 1 or more contiguous or adjacent properties lo-*
 25 *cated in the United States.*

1 (7) *FEEDSTOCK*.—The term “feedstock” means
 2 *fossil fuel used as raw material in a manufacturing*
 3 *process.*

4 (8) *GREENHOUSE GAS*.—The term “greenhouse
 5 *gas” means—*

6 (A) *carbon dioxide;*

7 (B) *methane;*

8 (C) *nitrous oxide;*

9 (D) *hydrofluorocarbons;*

10 (E) *perfluorocarbons;*

11 (F) *sulfur hexafluoride; and*

12 (G) *any other anthropogenically-emitted gas*
 13 *that the Administrator, after notice and com-*
 14 *ment, determines to contribute to climate change.*

15 (9) *GREENHOUSE GAS EMISSIONS*.—

16 (A) *IN GENERAL*.—The term “greenhouse
 17 *gas emissions” means emissions of a greenhouse*
 18 *gas.*

19 (B) *INCLUSIONS*.—The term “greenhouse
 20 *gas emissions” includes—*

21 (i) *stationary combustion source emis-*
 22 *sions emitted as a result of combustion of*
 23 *fuels in stationary equipment, such as boil-*
 24 *ers, furnaces, burners, turbines, heaters, in-*

1 *cinerators, engines, flares, and other similar*
 2 *sources;*

3 *(ii) process emissions consisting of*
 4 *emissions from chemical or physical proc-*
 5 *esses other than combustion;*

6 *(iii) fugitive emissions consisting of in-*
 7 *tentional and unintentional emissions from*
 8 *equipment leaks, such as joints, seals, pack-*
 9 *ing, and gaskets, or from piles, pits, cooling*
 10 *towers, and other similar sources; and*

11 *(iv) biogenic emissions resulting from*
 12 *biological processes, such as anaerobic de-*
 13 *composition, nitrification, and*
 14 *denitrification.*

15 *(10) INDIAN TRIBE.—The term “Indian tribe”*
 16 *has the meaning given the term in section 4 of the In-*
 17 *dian Self-Determination and Education Assistance*
 18 *Act (25 U.S.C. 450b).*

19 *(11) INDUSTRIAL FACILITY.—The term “indus-*
 20 *trial facility” means—*

21 *(A) any facility in the manufacturing sec-*
 22 *tor (as defined in North American Industrial*
 23 *Classification System Codes 31, 32, and 33);*

24 *(B) any natural gas processing plant; and*

1 (C) any other facility that produces
2 petroleum- or coal-based liquid fuel.

3 (12) *LOCAL DISTRIBUTION COMPANY*.—The term
4 “local distribution company” has the meaning given
5 the term in section 2 of the Natural Gas Policy Act
6 of 1978 (15 U.S.C. 3301).

7 (13) *REGISTRY*.—The term “Registry” means the
8 Federal greenhouse gas registry established under sec-
9 tion 6(a).

10 (14) *REVERSAL*.—The term “reversal” means an
11 intentional or unintentional release to the atmosphere
12 of a significant quantity (as determined by the Ad-
13 ministrator) of greenhouse gas that was sequestered.

14 (15) *SEQUESTERED*.—The term “sequestered”
15 means the isolation of a greenhouse gas, without re-
16 versal, in geological formations, as determined by the
17 Administrator.

18 (16) *SOURCE*.—The term “source” means any
19 building, structure, installation, unit, point, oper-
20 ation, vehicle, land area, or other item that emits or
21 may emit a greenhouse gas.

22 **SEC. 4. REPORTING REQUIREMENTS.**

23 (a) *IN GENERAL*.—Each affected facility shall submit
24 to the Administrator, for inclusion in the Registry, periodic
25 reports, including annual and quarterly data, that—

1 (1) describe the quantity and type of feedstocks
2 that are extracted, produced, refined, imported, ex-
3 ported, or consumed at or by the facility;

4 (2) describe the quantity of each greenhouse gas
5 generated, produced, imported, exported, consumed, or
6 captured and sequestered at or by the facility;

7 (3) describe the quantity of electricity generated,
8 imported, exported, or consumed by or at the facility,
9 and information on the quantity of greenhouse gases
10 emitted when the imported, exported, or consumed
11 electricity was generated, as determined by the Ad-
12 ministrators;

13 (4) provide a list and description of sources of
14 greenhouse gas emissions at the facility;

15 (5) describe greenhouse gas emissions expressed
16 in metric tons of each greenhouse gas emitted and in
17 the quantity of carbon dioxide equivalents of each
18 greenhouse gas emitted;

19 (6) describe the aggregate quantity of each green-
20 house gas emitted from each source at the facility, in-
21 cluding stationary combustion source emissions, proc-
22 ess emissions, and fugitive emissions, and the aggre-
23 gate quantity of those emissions;

1 (7) *quantify greenhouse gas emissions in accord-*
 2 *ance with the measurement standards established*
 3 *under section 5;*

4 (8) *provide other data necessary for accurate and*
 5 *complete accounting of greenhouse gas emissions, as*
 6 *determined by the Administrator;*

7 (9) *provide an appropriate certification regard-*
 8 *ing the accuracy and completeness of reported data,*
 9 *as determined by the Administrator; and*

10 (10) *are submitted electronically to the Adminis-*
 11 *trator, in such form and to such extent as may be re-*
 12 *quired by the Administrator.*

13 ***(b) DE MINIMIS EXEMPTIONS.—***

14 (1) *IN GENERAL.—The Administrator may deter-*
 15 *mine—*

16 (A) *whether certain sources at a facility*
 17 *should be considered to be eligible for a de mini-*
 18 *mis exemption from the reporting requirement*
 19 *under this Act; and*

20 (B) *the level of greenhouse gases emitted*
 21 *from a source that would qualify for such an ex-*
 22 *emption.*

23 (2) *FACTORS.—In making a determination*
 24 *under paragraph (1), the Administrator shall con-*
 25 *sider—*

1 (A) the availability and suitability of sim-
 2 plified techniques and tools for quantifying emis-
 3 sions; and

4 (B) the cost to measure those emissions rel-
 5 ative to the purposes of this Act, including the
 6 goal of collecting complete and consistent facil-
 7 ity-wide data.

8 (c) *VERIFICATION OF REPORT REQUIRED.*—The Ad-
 9 ministrators shall verify the completeness and accuracy of
 10 the report using information provided under this section
 11 or obtained under other provisions of law.

12 (d) *TIMING.*—For calendar year 2010 and each subse-
 13 quent calendar year, each affected facility shall submit
 14 quarterly data described in this section to the Adminis-
 15 trator not later than 90 days after the end of the applicable
 16 quarter.

17 (e) *NO EFFECT ON OTHER REQUIREMENTS.*—Nothing
 18 in this title affects any requirement in effect as of the date
 19 of enactment of this Act relating to the reporting of—

20 (1) fossil fuel production, refining, importation,
 21 exportation, or consumption data;

22 (2) greenhouse gas emission data; or

23 (3) other relevant data.

24 **SEC. 5. DATA QUALITY AND VERIFICATION.**

25 (a) *PROTOCOLS AND METHODS.*—

1 (1) *IN GENERAL.*—*The Administrator shall es-*
2 *tablish by regulation, taking into account the Climate*
3 *Registry, comprehensive protocols and methods to en-*
4 *sure the accuracy, completeness, consistency, and*
5 *transparency of data on greenhouse gas emissions and*
6 *feedstock production, refining, importation, expor-*
7 *tation, and consumption submitted to the Registry*
8 *that include—*

9 (A) *accounting and reporting standards for*
10 *feedstock production, refining, importation, ex-*
11 *portation, and consumption;*

12 (B) *a requirement that, if technologically*
13 *feasible, submitted data are monitored using*
14 *monitoring systems for fuel flow or emissions,*
15 *such as continuous emission monitoring systems*
16 *or equivalent systems of similar rigor, accuracy,*
17 *quality, and timeliness;*

18 (C) *a requirement that, if a facility has al-*
19 *ready been directed to monitor emissions of a*
20 *greenhouse gas using a continuous emission*
21 *monitoring system under existing law, that sys-*
22 *tem be used in complying with this Act with re-*
23 *spect to the greenhouse gas;*

24 (D) *for cases in which the Administrator*
25 *determines that monitoring emissions with the*

precision, reliability, accessibility, and timeliness similar to that provided by a continuous emission monitoring system are not technologically feasible, standardized methods for calculating greenhouse gas emissions in specific industries using other readily available and reliable information, such as fuel consumption, materials consumption, production, or other relevant activity data, if those methods do not underreport emissions, as compared with the continuous emission monitoring system;

(E) information on the accuracy of measurement and calculation methods;

(F) methods to avoid double-counting of greenhouse gas emissions;

(G) protocols to prevent an affected facility from avoiding the reporting requirements of this title; and

(H) protocols for verification of data submitted by affected facilities.

(2) *BEST PRACTICES.*—The protocols and methods developed under paragraph (1) shall incorporate and conform to the best practices from the most recent Federal, State, and international protocols for the measurement, accounting, reporting, and verification

1 of greenhouse gas emissions to ensure the accuracy,
2 completeness, and consistency of the data.

3 (b) *VERIFICATION; INFORMATION BY REPORTING ENTI-*
4 *TIES.*—*Each affected facility shall—*

5 (1) *provide information sufficient for the Admin-*
6 *istrator to verify, in accordance with the protocols*
7 *and methods developed under subsection (a), that the*
8 *feedstock data and greenhouse gas emission data of*
9 *the affected facility have been completely and accu-*
10 *rately reported; and*

11 (2) *ensure the submission or retention, for the 5-*
12 *year period beginning on the date of provision of the*
13 *information, of—*

14 (A) *data sources;*

15 (B) *information on internal control activi-*
16 *ties;*

17 (C) *information on assumptions used in re-*
18 *porting emissions and fuels;*

19 (D) *uncertainty analyses; and*

20 (E) *other relevant data and information to*
21 *facilitate the verification of reports submitted to*
22 *the Registry.*

23 (c) *WAIVER OF REPORTING REQUIREMENTS.*—*The Ad-*
24 *ministrator may waive reporting requirements for specific*
25 *facilities if the Administrator determines that sufficient*

1 *and equally or more reliable data are available under other*
 2 *provisions of law.*

3 (d) *MISSING DATA.*—*If information, satisfactory to the*
 4 *Administrator, is not provided for an affected facility, the*
 5 *Administrator shall—*

6 (1) *prescribe methods to estimate emissions for*
 7 *the facility for each period for which data are miss-*
 8 *ing, reflecting the highest emission levels that may*
 9 *reasonably have occurred during the period for which*
 10 *data are missing; and*

11 (2) *take appropriate enforcement action pursu-*
 12 *ant to this section.*

13 **SEC. 6. FEDERAL GREENHOUSE GAS REGISTRY.**

14 (a) *ESTABLISHMENT.*—*Not later than 2 years after the*
 15 *date of enactment of this Act, the Administrator shall pro-*
 16 *mulgate regulations establishing a Federal greenhouse gas*
 17 *registry that—*

18 (1) *builds upon the final rule promulgated in ac-*
 19 *cordance with the sixth undesignated paragraph of*
 20 *the matter under the heading “ADMINISTRATIVE PRO-*
 21 *VISIONS, ENVIRONMENTAL PROTECTION AGENCY”*
 22 *under title II of division F of the Consolidated Ap-*
 23 *propriations Act, 2008 (Public Law 110–161; 121*
 24 *Stat. 2128);*

1 (2) *makes changes necessary to achieve the pur-*
2 *pose described in section 2; and*

3 (3) *requires emission reporting to begin by not*
4 *later than January 1, 2011.*

5 (b) *ADMINISTRATION.—In establishing the Registry,*
6 *the Administrator shall—*

7 (1) *design and operate the Registry;*

8 (2) *establish an advisory body that is broadly*
9 *representative of private enterprise, agriculture, envi-*
10 *ronmental groups, and State, tribal, and local govern-*
11 *ments to guide the development and management of*
12 *the Registry;*

13 (3) *provide coordination and technical assistance*
14 *for the development of proposed protocols and meth-*
15 *ods, taking into account the Climate Registry, to be*
16 *published by the Administrator;*

17 (4)(A) *develop an electronic format for reporting*
18 *under guidelines established under section 4(a)(1);*
19 *and*

20 (B) *make the electronic format available to re-*
21 *porting entities;*

22 (5) *verify and audit the data submitted by re-*
23 *porting entities;*

1 (6) *establish consistent policies for calculating*
 2 *carbon content and greenhouse gas emissions for each*
 3 *type of feedstock reported under section 4;*

4 (7) *calculate carbon content and greenhouse gas*
 5 *emissions associated with the combustion of feedstock*
 6 *data reported by reporting entities; and*

7 (8) *immediately publish on the Internet all in-*
 8 *formation contained in the Registry, except in any*
 9 *case in which publishing the information would result*
 10 *in a disclosure of—*

11 (A) *information vital to national security,*
 12 *as determined by the President; or*

13 (B) *confidential business information that*
 14 *cannot be derived from information that is other-*
 15 *wise publicly available and that would cause sig-*
 16 *nificant calculable competitive harm if published*
 17 *(except that information relating to greenhouse*
 18 *gas emissions shall not be considered to be con-*
 19 *fidential business information).*

20 (c) *THIRD-PARTY VERIFICATION.—The Administrator*
 21 *may use the services of third parties that have no conflicts*
 22 *of interest to verify reports required under section 4.*

23 (d) *REGULATIONS.—The Administrator shall—*

1 (1) *not later than 180 days after the date of en-*
 2 *actment of this Act, propose regulations to carry out*
 3 *this section; and*

4 (2) *not later than July 1, 2009, promulgate final*
 5 *regulations to carry out this section.*

6 **SEC. 7. ENFORCEMENT.**

7 (a) *CIVIL ACTIONS.*—*The Administrator may bring a*
 8 *civil action in United States district court against the*
 9 *owner or operator of an affected facility that fails to comply*
 10 *with any requirement of this Act.*

11 (b) *PENALTY.*—*Any person that has violated or is vio-*
 12 *lating this Act shall be subject to a civil penalty of not more*
 13 *than \$25,000 per day of each violation.*

Amend the title so as to read: “A bill to direct the Administrator of the Environmental Protection Agency to establish a Federal greenhouse gas registry.”.

Calendar No. 1067

110TH CONGRESS
2^D Session

S. 1387

[Report No. 110-491]

A BILL

To amend the Emergency Planning and Community Right-to-Know Act of 1986 to provide for greenhouse gases.

SEPTEMBER 24 (legislative day, SEPTEMBER 17), 2008
Reported with an amendment and an amendment to the
title