

111TH CONGRESS
1ST SESSION

H. R. 1683

To amend the Internal Revenue Code of 1986 to reduce greenhouse gas emissions by requiring a Federal emission permit for the sale or use of greenhouse gas emission substances, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 24, 2009

Mr. McDERMOTT (for himself, Mr. BLUMENAUER, Mr. LARSON of Connecticut, and Mr. STARK) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Internal Revenue Code of 1986 to reduce greenhouse gas emissions by requiring a Federal emission permit for the sale or use of greenhouse gas emission substances, and for other purposes.

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 “Clean Environment
5 and Stable Energy Market Act of 2009”.

1 **SEC. 2. GREENHOUSE GAS EMISSION SUBSTANCES.**

2 (a) IN GENERAL.—The Internal Revenue Code of
3 1986 is amended by adding at the end the following:

4 **“Subtitle L—Greenhouse Gas**
5 **Emission Substances**

“Sec. 9901. Condition precedent to sale or use of greenhouse gas emission substance.

“Sec. 9902. Federal emission permit.

“Sec. 9903. Definitions.

“Sec. 9904. Regulations.

6 **“SEC. 9901. CONDITION PRECEDENT TO SALE OR USE OF**
7 **GREENHOUSE GAS EMISSION SUBSTANCE.**

8 “(a) IN GENERAL.—No covered person may sell any
9 greenhouse gas emission substance except pursuant to a
10 Federal emission permit for each carbon dioxide equivalent that the Administrator of the Environmental Protection Agency determines would be emitted from the combustion or other greenhouse gas emitting use of such substance.

15 “(b) COVERED PERSON.—For purposes of this subtitle, the term ‘covered person’ means—

17 “(1) in the case of coal (including lignite and
18 peat) produced from a mine in the United States,
19 the producer of such coal,

20 “(2) in the case of crude oil or petroleum products received at a United States refinery, the operator of the United States refinery,

1 “(3) in the case of any greenhouse gas emission
2 substance not described in paragraph (1) or (2) pro-
3 duced in the United States, the producer of such
4 substance, and

5 “(4) in the case of any greenhouse gas emission
6 substance entered into the United States for con-
7 sumption, use, or warehousing, the person entering
8 such substance for consumption, use, or
9 warehousing.

10 “(c) USE TREATED AS SALE.—

11 “(1) IN GENERAL.—If any person uses a green-
12 house gas emission substance before the first retail
13 sale of such substance, then such person shall be lia-
14 ble for the purchase of a Federal emission permit
15 under section 9902 in the same manner as if such
16 substance were sold at retail on the date of such use
17 by such person pursuant to a Federal emission per-
18 mit.

19 “(2) EXEMPTION FOR USE IN FURTHER MANU-
20 FACTURE.—Paragraph (1) shall not apply to use of
21 a greenhouse gas emission substance as material in
22 the manufacture or production of, or as a component
23 part of, another article to be manufactured or pro-
24 duced by such person.

1 “(d) EXCEPTIONS.—Subsection (a) shall not apply
2 to—

3 “(1) a greenhouse gas emission substance to be
4 used for noncombustion agricultural purposes, or

5 “(2) a greenhouse gas emission substance with
6 respect to which a Federal emission permit has pre-
7 viously been purchased.

8 “(e) IMPORTATION OF CARBON-INTENSIVE GOODS.—

9 “(1) GREENHOUSE GAS EMISSION PERMIT
10 EQUIVALENCY FEES.—The Secretary shall impose a
11 greenhouse gas emission permit equivalency fee on
12 imports of carbon intensive goods that shall be
13 equivalent to the cost that domestic producers of
14 comparable carbon intensive goods incur as a result
15 of—

16 “(A) permit fees paid by covered persons
17 for greenhouse gas emission substances under
18 this section, and

19 “(B) greenhouse gas emission permit
20 equivalency fees paid by importers of carbon in-
21 tensive goods used in the production of the
22 comparable carbon intensive goods in question.

23 “(2) EXPIRATION.—Paragraph (1) and 6633(b)
24 shall cease to have effect at such time as and to the
25 extent that—

1 “(A) an international agreement requiring
2 countries that emit greenhouse gases and
3 produce carbon-intensive goods for international
4 markets to adopt equivalent measures comes
5 into effect, and

6 “(B) the country of export has imple-
7 mented equivalent measures, and the actions
8 provided for by paragraph (1) and 6633(b) are
9 no longer appropriate.

10 **“SEC. 9902. FEDERAL EMISSION PERMIT.**

11 “(a) IN GENERAL.—The Secretary shall, subject to
12 subsection (d), issue Federal emission permits, as provided
13 for in this subtitle. A Federal emission permit may only
14 be obtained upon making payment to the Secretary.

15 “(b) RULES RELATING TO PERMITS.—For purposes
16 of this subtitle—

17 “(1) Each Federal emission permit shall be de-
18 nominated in carbon dioxide equivalents.

19 “(2) A Federal emission permit may only be
20 purchased at the time a greenhouse gas emission
21 substance is produced or entered into the United
22 States, as the case may be.

23 “(3) A Federal emission permit may not be
24 sold, exchanged, or otherwise transferred.

25 “(c) PERMIT PRICE.—

1 “(1) IN GENERAL.—The Secretary, after con-
2 sultation with the Administrator of the Environ-
3 mental Protection Agency and the Secretary of En-
4 ergy, shall establish the price of obtaining a Federal
5 emission permit for a calendar year based on a de-
6 termination of the dollar amount necessary to ensure
7 that the demand for permits does not exceed the
8 greenhouse gas emission allocations for such cal-
9 endar year.

10 “(2) 5-YEAR PRICE SCHEDULE.—

11 “(A) IN GENERAL.—Not later than Janu-
12 ary 1, 2010, and once every 5 years thereafter,
13 the Secretary shall publish a schedule of the
14 prices determined under paragraph (1) for ob-
15 taining a Federal emission permit during any
16 calendar year in the 5-calendar-year period be-
17 ginning 1 year after any such date.

18 “(B) MODIFICATIONS.—If in a given 5-
19 year period—

20 “(i) the Secretary reasonably expects
21 to issue Federal emission permits that (in
22 the aggregate) significantly exceed or fall
23 short of the national limitation because of
24 the price set by the Secretary (and not be-

1 cause of temporary fluctuations in the en-
2 ergy markets or the weather), and

3 “(ii) sufficient time remains in such
4 period,

5 the Secretary shall establish a new schedule of
6 prices for the remaining years in such 5-year
7 period. Such schedule may not take effect until
8 after 12 months after the establishment of such
9 schedule.

10 “(C) NUMBER OF MODIFICATIONS PER-
11 MITTED.—In the first 5-year period, the Sec-
12 retary may change the schedule of prices under
13 subparagraph (B) a maximum to two times. In
14 any ensuing 5-year period, the Secretary may
15 change the schedule of prices under subpara-
16 graph (B) a maximum of once.

17 “(d) NATIONAL LIMITATION.—

18 “(1) IN GENERAL.—There is a national green-
19 house gas emission allocation limitation for any cal-
20 endar year. Such limitation for a calendar year shall
21 be the sum of—

22 “(A) the greenhouse gas emission alloca-
23 tions specified in the table in paragraph (3) for
24 such calendar year reduced pursuant to para-
25 graph (2) for such calendar year, plus

1 “(B) the additional allocation of Federal
2 emission permits issued by the Secretary for
3 such calendar year to the extent that applica-
4 tions for Federal emission permits exceed the
5 greenhouse gas emission allocations specified in
6 the table in paragraph (3) for such calendar
7 year.

8 “(2) REDUCTION REQUIRED OVER REMAINING
9 YEARS.—After issuing additional allocations under
10 paragraph (1)(B) during any 5-calendar-year period,
11 the number of the greenhouse gas emission alloca-
12 tions specified in the table in paragraph (3) shall be
13 reduced ratably the aggregate number of such addi-
14 tional allocations over the years specified in such
15 table remaining after such period.

16 “(3) ANNUAL ECONOMY-WIDE GREENHOUSE
17 GAS EMISSION ALLOCATIONS.—The greenhouse gas
18 emission allocations for a calendar year are those
19 specified in the following table:

“Calendar Year	United States Economy-Wide Greenhouse Gas Emission Allocations (in Millions of Carbon Dioxide Equivalents)
2011	6835.29
2012	6670.58
2013	6505.87
2014	6341.16

“Calendar Year	United States Economy-Wide Greenhouse Gas Emission Allocations (in Millions of Carbon Dioxide Equivalents)
2015	6176.45
2016	6011.74
2017	5847.03
2018	5682.32
2019	5517.61
2020	5352.9
2021	5110.99
2022	4880
2023	4659.5
2024	4448.93
2025	4247.89
2026	4055.93
2027	3872.64
2028	3697.63
2029	3530.54
2030	3370.99
2031	3218.66
2032	3073.2
2033	2934.33
2034	2801.72
2035	2675.11
2036	2554.23
2037	2438.8
2038	2328.59
2039	2223.36
2040	2122.89

“Calendar Year	United States Economy-Wide Greenhouse Gas Emission Allocations (in Millions of Carbon Dioxide Equivalents)
2041	2026.95
2042	1935.36
2043	1847.9
2044	1764.39
2045	1684.66
2046	1608.53
2047	1535.84
2048	1466.43
2049	1400.16
2050	1336.89.

1 “(e) REPORT.—Not later than January 1, 2012, and
2 annually thereafter, the Secretary shall publish a report
3 describing the extent to which the United States green-
4 house gas emission allocations specified under subsection
5 (d) are being achieved. Such report shall include—

6 “(1) an explanation of the methodology and as-
7 sumptions the Secretary has used in establishing
8 prices under this section, and

9 “(2) an estimation, or range of estimations, of
10 the price of permits for the 10-year period following
11 the current 5-year period.

12 **“SEC. 9903. DEFINITIONS.**

13 “(a) IN GENERAL.—For purposes of this subtitle—

1 “(1) ADMINISTRATOR.—The term ‘Adminis-
2 trator’ means the Administrator of the Environ-
3 mental Protection Agency.

4 “(2) CARBON DIOXIDE EQUIVALENT.—The
5 term ‘carbon dioxide equivalent’ means, for each
6 greenhouse gas emission substance, the quantity of
7 the greenhouse gas emission substance that the Ad-
8 ministrator determines makes the same contribution
9 to global warming as 1 metric ton of carbon dioxide.

10 “(3) GREENHOUSE GAS EMISSION SUB-
11 STANCE.—The term ‘greenhouse gas emission sub-
12 stance’ means—

13 “(A) coal (including lignite, peat, and de-
14 rivatives of coal), to be used as a combustion
15 fuel,

16 “(B) petroleum and any petroleum prod-
17 uct, to be used as a combustion fuel,

18 “(C) natural gas,

19 “(D) methane,

20 “(E) nitrous oxide,

21 “(F) sulfur hexafluoride,

22 “(G) a perfluorocarbon,

23 “(H) a hydrofluorocarbon, and

1 “(I) any other substance that is deter-
2 mined by the Administrator to contribute to
3 global warming to a nonnegligible degree.

4 “(4) FEDERAL EMISSION PERMIT.—The term
5 ‘Federal emission permit’ means a permit required
6 under section 9901.

7 “(5) CARBON-INTENSIVE GOOD.—The term
8 ‘carbon-intensive good’ means—

9 “(A)(i) iron, steel, any steel mill product
10 (including pipe and tube), aluminum, cement,
11 glass (including flat, container, and specialty
12 glass and fiberglass), pulp, paper, chemicals,
13 and industrial ceramics, and

14 “(ii) any other manufactured product that
15 the Secretary determines—

16 “(I) is sold for purposes of further
17 manufacture, and

18 “(II) generates, in the course of the
19 manufacture of the product, direct and in-
20 direct greenhouse gas emissions that are
21 comparable (on an emissions per dollar of
22 output basis) to emissions generated in the
23 manufacture or production of a good iden-
24 tified in clause (i), and

1 “(B) a manufactured item in which one or
 2 more goods identified under subparagraph (A)
 3 are inputs and the cost of production of which
 4 in the United States the Secretary determines
 5 is significantly increased by this subtitle.

6 “(6) PETROLEUM PRODUCT.—The term ‘petro-
 7 leum product’ has the meaning given such term in
 8 section 4612(a)(3).

9 “(b) IDENTIFICATION OF CARBON-INTENSIVE
 10 GOODS.—The determinations by the Secretary required by
 11 subsection (a)(5) shall be by rule.

12 **“SEC. 9904. REGULATIONS.**

13 “The Secretary shall issue such regulations as may
 14 be necessary or appropriate to carry out this subtitle, in-
 15 cluding regulations relating to the timely and efficient
 16 issuance of permits and collection of payments for such
 17 permits.”.

18 (b) REFUND OF FEDERAL EMISSION PERMIT FEE.—
 19 Subchapter B of chapter 65 of such Code is amended by
 20 adding at the end the following new section:

21 **“SEC. 6633. REFUNDS OF FEDERAL EMISSION PERMIT FEE**
 22 **FOR CERTAIN USES.**

23 “(a) IN GENERAL.—If a Federal emission permit has
 24 been acquired with respect to a greenhouse gas emission
 25 substance pursuant to section 9902 and the acquirer of

1 such permit uses such substance in a manner that will
2 make a negligible or no contribution to global warming,
3 as determined by the Secretary in consultation with the
4 Administrator of the Environmental Protection Agency,
5 the Secretary shall pay (without interest) to the acquirer
6 of such substance pursuant to such permit an amount
7 equal to the amount paid for the applicable Federal emis-
8 sion permit.

9 “(b) PAYMENTS TO EXPORTERS.—The Secretary
10 shall pay (without interest) to the exporter of a carbon-
11 intensive good (as defined in section 9903(5)) produced
12 in the United States an amount equal to the cost that
13 domestic producers of such carbon-intensive goods incur
14 as a result of—

15 “(1) the dollar amount paid by covered persons
16 for Federal emission permits for greenhouse gas
17 emission substances under this section 9902, and

18 “(2) greenhouse gas emission permit equiva-
19 lency fees paid under section 9901(e) by importers
20 of carbon-intensive goods used in the production of
21 the comparable carbon-intensive goods in question.”.

22 (c) FAILURE TO OBTAIN PERMIT.—Subtitle D of the
23 Internal Revenue Code of 1986 is amended by adding at
24 the end the following new chapter:

1 **“CHAPTER 48—GREENHOUSE GAS**
2 **EMISSION SUBSTANCES**

“Sec. 5000A. Greenhouse gas emission substances.

3 **“SEC. 5000A. GREENHOUSE GAS EMISSION SUBSTANCES.**

4 “(a) IMPOSITION OF TAX.—There is hereby imposed
5 on any covered person who fails to obtain a Federal emis-
6 sion permit pursuant to subtitle L a tax equal to 300 per-
7 cent of the dollar amount of the fee that would have been
8 charged for such permit but for such failure.

9 “(b) COVERED PERSON.—The term ‘covered person’
10 has the meaning given such term by section 9901(b).

11 “(c) FEDERAL EMISSION PERMIT.—The term ‘Fed-
12 eral emission permit’ means a permit required under sec-
13 tion 9901.”.

14 (d) ESTABLISHMENT OF CLIMATE PROTECTION AND
15 ECONOMIC SECURITY TRUST FUND.—

16 (1) FINDING.—The Congress finds that revenue
17 generated from the sale of Federal emission permits
18 must be recycled into the American economy—

19 (A) to facilitate economic growth and clean
20 energy production, and

21 (B) to protect the economic security of vul-
22 nerable families and communities.

23 (2) ESTABLISHMENT OF TRUST FUND.—Sub-
24 chapter A of chapter 98 of such Code (relating to

1 trust fund code) is amended by adding at the end
 2 the following:

3 **“SEC. 9511. CLIMATE PROTECTION AND ECONOMIC SECU-**
 4 **RITY TRUST FUND.**

5 “(a) CREATION OF TRUST FUND.—There is estab-
 6 lished in the Treasury of the United States a trust fund
 7 to be known as the ‘Climate Protection and Economic Se-
 8 curity Trust Fund’ (referred to in this section as the
 9 ‘Trust Fund’), consisting of such amounts as may be ap-
 10 propriated or credited to the Trust Fund as provided in
 11 this section or section 9602(b).

12 “(b) TRANSFERS TO TRUST FUND.—There is hereby
 13 appropriated to the Trust Fund an amount equivalent to
 14 the amounts received in the Treasury pursuant to subtitle
 15 L.”.

16 (e) CONFORMING AND CLERICAL AMENDMENTS.—

17 (1) The table of chapters for subtitle D of such
 18 Code is amended by adding at the end the following
 19 new item:

“CHAPTER 48—GREENHOUSE GAS EMISSION SUBSTANCES.”.

20 (2) The table of subtitles for the Internal Rev-
 21 enue Code of 1986 is amended by adding at the end
 22 the following new item:

“Subtitle L—Greenhouse Gas Emission Substances.”.

1 (3) The table of sections for subchapter A of
2 chapter 98 of such Code is amended by adding at
3 the end the following:

“Sec. 9511. Climate Protection and Economic Security Trust Fund.”.

4 (f) EFFECTIVE DATE.—The amendments made by
5 this section shall apply with respect to the sale of any
6 greenhouse gas emission substance after December 31,
7 2010.

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