Voter Registration Act of 1993 to provide members of the Armed Forces and their family members equal access to voter registration assistance, and for other purposes.

S. 1267

At the request of Mr. MENENDEZ, the name of the Senator from Ohio (Mr. BROWN) was added as a cosponsor of S. 1267, a bill to amend title V of the Social Security Act to provide grants to establish or expand quality programs providing home visitation for low-income pregnant women and low-income families with young children, and for other purposes.

S. 1283

At the request of Mr. SCHUMER, the name of the Senator from New York (Mrs. GILLIBRAND) was added as a cosponsor of S. 1283, a bill to require persons that operate Internet websites that sell airline tickets to disclose to the purchaser of each ticket the air carrier that operates each segment of the flight, and for other purposes.

S. 1304

At the request of Mr. GRASSLEY, the names of the Senator from Florida (Mr. NELSON), the Senator from Georgia (Mr. CHAMBLISS), the Senator from Iowa (Mr. HARKIN), the Senator from Florida (Mr. MARTINEZ) and the Senator from Minnesota (Ms. KLOBUCHAR) were added as cosponsors of S. 1304, a bill to restore the economic rights of automobile dealers, and for other purposes.

S. 1308

At the request of Mr. LAUTENBERG, the names of the Senator from Texas (Mrs. HUTCHISON) and the Senator from West Virginia (Mr. ROCKEFELLER) were added as cosponsors of S. 1308, a bill to reauthorize the Maritime Administration, and for other purposes.

S. 1348

At the request of Mr. CHAMBLISS, the name of the Senator from South Dakota (Mr. THUNE) was added as a cosponsor of S. 1348, a bill to recognize the heritage of hunting and provide opportunities for continued hunting on Federal public land.

S. 1375

At the request of Mr. ROBERTS, the names of the Senator from South Dakota (Mr. THUNE) and the Senator from Oklahoma (Mr. INHOFE) were added as cosponsors of S. 1375, a bill to amend the Agricultural Credit Act of 1987 to reauthorize State mediation programs.

S. 1382

At the request of Mr. DODD, the names of the Senator from Illinois (Mr. DURBIN) and the Senator from Massachusetts (Mr. KENNEDY) were added as cosponsors of S. 1382, a bill to improve and expand the Peace Corps for the 21st century, and for other purposes.

S. 1384

At the request of Mr. CARDIN, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 1384, a bill to amend title XVIII of the Social Security Act to provide a senior housing facility plan option under the Medicare Advantage program.

S. 1389

At the request of Mr. NELSON of Nebraska, the name of the Senator from Louisiana (Mr. VITTER) was added as a cosponsor of S. 1389, a bill to clarify the exemption for certain annuity contracts and insurance policies from Federal regulation under the Securities Act of 1933.

S.J. RES. 17

At the request of Mr. MCCONNELL, the names of the Senator from Georgia (Mr. ISAKSON), the Senator from Florida (Mr. MARTINEZ) and the Senator from Mississippi (Mr. COCHRAN) were added as cosponsors of S.J. Res. 17, a joint resolution approving the renewal of import restrictions contained in the Burmese Freedom and Democracy Act of 2003, and for other purposes.

S. CON. RES. 25

At the request of Mr. MENENDEZ, the names of the Senator from Connecticut (Mr. LIEBERMAN) and the Senator from Alaska (Ms. MURKOWSKI) were added as cosponsors of S. Con. Res. 25, a concurrent resolution recognizing the value and benefits that community health centers provide as health care homes for over 18,000,000 individuals, and the importance of enabling health centers and other safety net providers to continue to offer accessible, affordable, and continuous care to their current patients and to every American who lacks access to preventive and primary care services.

S. RES. 206

At the request of Mr. JOHANNS, the names of the Senator from Idaho (Mr. CRAPO) and the Senator from South Carolina (Mr. DEMINT) were added as cosponsors of S. Res. 206, a resolution expressing the sense of the Senate that the United States should immediately implement the United States-Colombia Trade Promotion Agreement.

AMENDMENT NO. 1367

At the request of Mr. DEMINT, the name of the Senator from Kentucky (Mr. BUNNING) was added as a cosponsor of amendment No. 1367 proposed to H.R. 2918, a bill making appropriations for the Legislative Branch for the fiscal year ending September 30, 2010, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Ms. COLLINS (for herself and Mr. DURBIN):

S. 1396. A bill to direct the Administrator of the United States Agency for International Development to carry out a pilot program to promote the production and use of fuel-efficient stoves engineered to produce significantly less black carbon than traditional stoves, and for other purposes; to the Committee on Foreign Relations.

Ms. COLLINS. Mr. President, I rise today to offer a bill to reduce the production of black carbon, a potent contributor to global climate change. I am pleased to be joined on this bill by my friend and colleague, Senator DURBIN, as the lead cosponsor.

Black carbon is a particulate produced during the incomplete combustion of carbon-containing materials. It has been estimated to have, on an equivalent mass basis, more than 500 times the global warming potential of carbon dioxide. Reducing the production of black carbon would help stabilize the global climate.

Black carbon is produced by some events, such as forest fires, that cannot easily be corrected by Senate actions. My bill addresses a mechanism of black carbon production that we can influence.

Throughout the world today, an estimated two billion people cook with solid fuels over an open fire or with primitive stoves. More than 50 percent of the controllable black carbon emissions in the world are due to these practices. Modern stoves, designed to efficiently burn fuel, can eliminate up to 90 percent of the black carbon produced during cooking and home heating.

Additionally, cooking and heating with poorly designed stoves emits noxious gases and particulates. Experts believe that these pollutants cause the premature deaths of over 1 million people, chiefly women and children, each year. Replacing these stoves with modern alternatives will strongly reduce the number of these deaths. There is a real need to find alternatives to those poorly performing stoves to improve global environmental and human health.

The U.S. Agency for International Development carries out activities under a number of existing projects to place low-cost, fuel efficient stoves in poor communities. It has found that, to be successful, the new stoves must be customized to fit the needs and cooking traditions of the community. These programs have had a very positive impact. But, they have not had the resources to optimize stoves to minimize black carbon emissions.

Our bill authorizes $1 million per year for 2 years for the U.S. Agency for International Development to conduct a pilot program to develop and test stoves that optimize both fuel efficiency and black carbon reduction.

This measure addresses an issue, global climate change, that we must take very seriously. It also provides funding that, while addressing an important global pollutant, also alleviates a public health disaster affecting developing nations. I urge my colleagues to join me in supporting this bill.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 1396

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DEFINITIONS.

In this Act:

(1) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the United States Agency for International Development.

(2) BLACK CARBON.—The term ''black carbon'' means a particulate formed through the incomplete combustion of fossil fuels, biofuel, and biomass.

SEC. 2. PILOT PROGRAM ON PROMOTION OF FUEL-EFFICIENT STOVES ENGINEERED TO OPERATE WITHOUT THE PRODUCTION OF BLACK CARBON.

The Administrator shall establish a 2-year pilot program to promote the production and use of fuel-efficient stoves that—

(a) do not produce significant amounts of black carbon; and

(b) are customized for use throughout the world.

SEC. 3. REPORTS TO CONGRESS.

Not later than 6 months after the date of the enactment of this Act, and not later than 30 days after the last day of the pilot program established under section 2, the Administrator shall submit to Congress a report on the pilot program that includes—

(1) the names of the organizations receiving funding through the pilot program;

(2) the names of communities identified for participation in the pilot program and descriptions of the socioeconomic parameters that led to their selection for participation in the pilot program;

(3) a description of the services carried out by the Administrator under the pilot program;

(4) an assessment of the effectiveness of the pilot program; and

(5) the recommendations of the Administrator with respect to the extension or expansion of the pilot program.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this Act $1,000,000 for each of the fiscal years 2010 and 2011.

By Mrs. FEINSTEIN (for herself and Ms. SNOWE):

S. 1399. A bill to amend the Commodity Exchange Act to establish a market for the trading of greenhouse gases, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

Mrs. FEINSTEIN. Mr. President, I rise today to introduce The Carbon Market Oversight Act, which is cosponsored by Senator SNOWE.

I believe this bill is necessary to ensure that future markets created by proposed climate change legislation are transparent and free from manipulation.

Our legislation would establish a comprehensive framework to regulate both primary and derivative carbon markets at the Commodity Futures Trading Commission, CFTC.

Trading would be transparent and electronically monitored.

Manipulation, fraud, and excessive speculation would be prohibited, and violations would be severely punished.

All carbon permits and standardized carbon derivatives would have to be traded through facilities that monitor trading, establish fair trading rules, and follow established regulatory principles.

All standardized contracts would have to be cleared through a centralized counterparty clearinghouse, to reduce systemic risk.

CFTC would maintain a centralized position accounting system to monitor all large traders across multiple markets.

Traders, dealers, and brokers would have to be educated, would have to pass an exam to demonstrate competence, and would need to maintain certification.

Bottom line: the legislation would use lessons learned in other markets to establish the most comprehensive and efficient market oversight structure in the U.S.

This legislation is necessary because cap and trade legislation would create, in an unprecedented manner, an extremely large new financial market.

Without regulation, this market would likely emerge quickly into one of the largest over-the-counter derivatives markets in the world.

Resources for the Future Economist Dallas Burtraw recently testified in Congress that putting a price on carbon dioxide emissions through ''a cap and trade program would constitute the greatest creation of government-enforced property rights since the 19th century.''

Depending on the stringency of the cap, the breadth of the program, and the cost containment measures employed, the annual value of the pollution permits alone is estimated to range from $100 billion to $370 billion. Secondary markets for futures, options, and over-the-counter derivatives are expected to be considerably larger than that market.

If we fail to establish a framework for oversight, the greenhouse gas market could turn into a wild west.

The market would invite the worst kind of manipulation, fraud, and abuse.

The resulting volatility would affect consumer energy costs and harm the environmental goals of the system.

My concerns regarding the emergence of new over-the-counter derivatives markets are based on real experience, not hypothetical situations.

In 2000 and 2001, newly created California energy markets lacked the basic protections proposed in this legislation.

Specifically, there was no federal oversight to assure transparency, no limits on speculation, no prohibition on manipulation, no requirements to prevent systemic risk, no monitoring of trading to address price spikes and irregularities, and no professional requirements to ensure that energy traders and dealers knew the law and followed a professional code of conduct.

In short, the electricity and related natural gas markets emerged before the law caught up, and much of the manipulation that resulted, shockingly, was legal.

The market that looked more like the wild west than an efficient price discovery tool.

Enron, for instance, ran a market where only it knew the prices. It was able to manipulate natural gas and electricity prices beyond the view of any third party, and it swindled the people of California to the tune of billions of dollars.

Not until enactment of the Energy Policy Act of 2005, years after the crisis, were we able to amend the Natural Gas Act and the Federal Power Act to clarify that this manipulation was unlawful.

Not until the Farm Bill in 2008 were we able to close the infamous ''Enron Loophole'' that had allowed Enron to operate an unregulated electronic energy trading exchange in which prices were not public, speculation was unlimited, and there was no audit trail.

More recently, our government failed to establish a regulatory framework for over-the-counter, OTC, credit default swap and energy derivative markets.

First, energy swaps markets wreaked havoc on oil and other energy commodity prices during the speculative energy bubble of 2008.

Then, credit default swaps emerged from the shadows to bring our entire financial system to the brink of collapse.

According to the Treasury Department's recent report titled Financial Regulatory Reform: A New Foundation, a ''lax regulatory regime for OTC derivatives'' can be blamed for creating a situation in which ''regulators were unable to identify or mitigate the enormous systemic threat that had developed.''

The Obama administration has called for Congress to rectify this failure by giving regulators tools to provide transparency, limit excessive speculation, require margins, and require clearing and other systemic risk mitigation measures.

First in California, then in energy derivatives markets, and finally in financial swaps markets, we have learned the same three lessons.

First, unregulated and non-transparent markets do not perform the price discovery function effectively. They are more volatile than supply and demand can explain.

Second, transparency leads to informed buyers and sellers, improving market functionality and price discovery. Economics stands on a basic tenet: perfect markets require perfect information. The more transparent the market, the more likely it is functioning efficiently.

Third, totally unregulated markets are prone to increased risk taking and manipulative schemes that can bring about market failure, posing a risk to our financial system.

In each of the cases I have described, we in government have learned these lessons the hard way.

A systemic or near-systemic collapse in each market reminded us that regulation plays an essential role in market functionality.

Scientists tell us that we need to reduce greenhouse gas emissions by approximately 80 percent by 2050, and

economists believe that a cap and trade system with a greenhouse gas emissions allowance market would be the most cost-efficient way to guarantee specified levels of emissions reductions.

The economists also tell us that markets are most efficient when: buyers and sellers have complete information, no market participant can cheat another, and prices result from supply and demand, not manipulation.

That is why we need to prevent manipulation, fraud, and a lack of transparency.

Senator SNOWE and I introduce this legislation today so that we will not have to learn the lessons taught by recent unregulated over-the-counter derivatives markets one more time.

We propose to establish mature and effective regulation for this market before it booms, busts, and threatens our economic wellbeing.

Our legislation would establish a transparent carbon market governed by proven regulatory principles and practices to maintain stable prices that reflect supply and demand, including: transparency. We know that transparency can be provided by requiring reporting, record keeping, and publication of trading information.

Position Limits. We know that speculation can be limited by imposing comprehensive, aggregate position limits across multiple markets.

Monitoring. We know that fraud and manipulation can be prevented and identified by active, electronic monitoring of trading.

Clearing. We know that systemic risk can be mitigated by requiring margins and central counterparty clearing through a CFTC regulated clearing house.

Professional Standards. We know that trader and dealer abusive behavior can be controlled and punished if traders and dealers are governed by a code of conduct.

Bottom line: this legislation is vital to protecting the market integrity of greenhouse gas emissions markets, and it should be included as part of any cap and trade legislation approved by Congress.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 1399

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Carbon Market Oversight Act of 2009''.

SEC. 2. REGULATION OF CARBON MARKETS.

(a) IN GENERAL.—The Commodity Exchange Act (7 U.S.C. 1 et seq.) is amended by adding at the end the following:

''TITLE II—REGULATION OF CARBON MARKETS

''SEC. 201. PURPOSES.

''The purposes of this title are—

''(1) to ensure that the greenhouse gas market established by this title—

''(A) is formed in a manner consistent with the public interest and

''(B) is formed in a manner consistent with the goal of reducing greenhouse gas emissions in the United States;

''(C) is designed to prevent fraud and manipulation, which could potentially arise from many sources, including—

''(i) the concentration of market power within the control of a limited number of individuals or entities;

''(ii) the abuse of material, nonpublic information; and

''(iii) the unique nature of the allowance markets in which supply is known and declining over time, but demand is unknown, which can create an inherent potential for scarcity;

''(D)(i) is appropriately transparent, with real-time reporting of quotes and trades;

''(ii) makes information on price, volume, and supply, and other important statistical information, available to the public on fair, reasonable, and nondiscriminatory terms;

''(iii) is subject to appropriate record-keeping and reporting requirements regarding transactions; and

''(iv) has the confidence of investors;

''(E) functions smoothly and efficiently, generating prices that accurately reflect supply and demand for emission allowances;

''(F) promotes just and equitable principles of trade; and

''(G) establishes an equitable system for the best execution of customer orders;

''(2) to minimize transaction costs for regulated entities so that the cost of abatement is reduced for those entities and customers of those entities;

''(3) to establish a cost-effective capability for real-time monitoring of the market in order to avoid manipulation and market failure;

''(4) to minimize the volatility induced by the structure of the marketplace itself in the interest of providing an accurate price signal for regulated entities; and

''(5) to ensure that the markets will function in a stable and efficient manner to promote the environmental and economic objectives of the United States.

''SEC. 202. DEFINITIONS.

''In this title:

''(1) CARBON CLEARING ORGANIZATION.—The term 'Carbon Clearing Organization' means the entity established under section 206(a).

''(2) CARBON DIOXIDE EQUIVALENT.—The term 'carbon dioxide equivalent' means for each greenhouse gas, the quantity of the greenhouse gas that the Administrator of the Environmental Protection Agency determines makes the same contribution to global warming as 1 metric ton of carbon dioxide.

''(3) DEALER.—The term 'dealer' means an individual, association, partnership, corporation, or trust that—

''(A) is engaged in soliciting or in accepting orders for the purchase or sale of a regulated instrument on or subject to the rules of a registered carbon trading facility; and

''(B) in or in connection with the solicitation or acceptance of such an order, accepts money, securities, or property (or extends credit in lieu of such an acceptance) to margin, guarantee, or secure any trade or contract that results or may result from such an acceptance.

''(4) DIRECTOR.—The term 'Director' means the Director of the Office.

''(5) ELECTRONIC MARKET TRADER.—The term 'electronic market trader' means a person who executes a trade on an electronic trading facility.

''(6) ELECTRONIC TRADING FACILITY.—The term 'electronic trading facility' means a trading facility that—

''(A) operates by means of an electronic or telecommunications network; and

''(B) maintains an automated audit trail of bids, offers, and the matching of orders or the execution of transactions on the facility.

''(7) EMISSION ALLOWANCE.—The term 'emission allowance' means a Government-issued or Government-accredited authorization to emit 1 carbon dioxide equivalent of greenhouse gas.

''(8) GREENHOUSE GAS.—The term 'greenhouse gas' means any of—

''(A) carbon dioxide;

''(B) methane;

''(C) nitrous oxide;

''(D) sulfur hexafluoride;

''(E) a perfluorocarbon; or

''(F) a hydrofluorocarbon.

''(9) INTRODUCING BROKER.—

''(A) IN GENERAL.—The term 'introducing broker' means any person engaged in soliciting or in accepting orders for the purchase or sale of a regulated instrument on or subject to the rules of a registered carbon trading facility, who does not accept money, securities, or property (or extend credit in lieu of such an acceptance) to margin, guarantee, or secure any trade or contract that results or may result from such a solicitation or acceptance.

''(B) EXCLUSION.—The term 'introducing broker' does not include an individual who elects to be and is registered as an associated person of a dealer.

''(10) MEMBER.—The term 'member' means, with respect to a trading facility, an individual, association, partnership, corporation, or trust owning or holding membership in, admitted to membership representation on, or having trading privileges on the trading facility.

''(11) OFFICE.—The term 'Office' means the Office of Carbon Market Oversight established by section 203(a)(1).

''(12) PRIVATE BILATERAL CONTRACT.—The term 'private bilateral contract' means a nonstandard contract that lacks each of the following characteristics:

''(A) The applicable transaction or class of transactions settles against any price (including the daily or final settlement price) of 1 or more contracts listed for trading on a registered trading facility.

''(B) The price of the applicable transaction or class of transactions is reported to a third party, published, or otherwise disseminated.

''(C) The price of the applicable transaction or class of transactions is referenced in another transaction.

''(D) There is a significant volume of the applicable transaction or class of transactions.

''(E) The value of the applicable transaction is significant in comparison to the value of the underlying carbon derivative market.

''(F) The contract or applicable transactions meets other criteria that the Commission determines to be appropriate.

''(13) REGISTERED CARBON TRADER.—The term 'registered carbon trader' means a member, in good standing, of a registered carbon trading facility who has registered with the Commission under section 205(b).

''(14) REGISTERED CARBON TRADING FACILITY.—The term 'registered carbon trading facility' means a facility that meets standards established by the Commission under section 203(d)(1).

''(15) REGULATED ALLOWANCE.—The term 'regulated allowance' means—

''(A) an emission allowance; or

''(B) a Government-issued unit of reduction in the quantity of emissions, or an increase in sequestration, equal to 1 carbon dioxide equivalent.

''(16) REGULATED ALLOWANCE DERIVATIVE.—The term 'regulated allowance derivative' means an instrument that is or includes—

''(A) any instrument, contract, or other obligation (or guaranty or indemnity of such an obligation), the value of which, in whole or in part, is linked to the price of a regulated allowance or another regulated allowance derivative;

''(B) any contract for future delivery (including an option, a swap agreement, or a futures contract) of—

''(i) a regulated allowance; or

''(ii) any obligation described in subparagraph (A); or

''(C) any other contract—

''(i) the value of which is derived from the existence of a market for regulated allowances; and

''(ii) that the Commission has not determined to be a private bilateral contract.

''(17) REGULATED INSTRUMENT.—The term 'regulated instrument' means—

''(A) a regulated allowance; or

''(B) a regulated allowance derivative.

''(18) SHORT SALE.—The term 'short sale' means—

''(A) any sale of a regulated allowance that the seller does not own; and

''(B) any sale that is consummated by the delivery of a regulated allowance borrowed by, or for the account of, the seller.

''(19) TRADING FACILITY.—

''(A) IN GENERAL.—The term 'trading facility' means 1 or more individuals or entities that constitute, maintain, or provide a physical or electronic facility or system in which multiple participants have the ability to execute or trade agreements, contracts, or transactions involving a regulated instrument by accepting bids and offers made by other participants that are open to multiple participants in the facility or system.

''(B) INCLUSION.—The term 'trading facility' includes a telephone voice brokerage that executes multiple, largely offsetting, bilateral transactions.

''(20) UNITED STATES.—The term 'United States' includes the territories and possessions of the United States.

''SEC. 203. OFFICE OF CARBON MARKET OVERSIGHT; JURISDICTION.

''(a) ESTABLISHMENT OF OFFICE OF CARBON MARKET OVERSIGHT.—

''(1) IN GENERAL.—There is established within the Commission an Office of Carbon Market Oversight.

''(2) DIRECTOR.—

''(A) IN GENERAL.—The Office shall be headed by a Director for Carbon Market Oversight.

''(B) ADDITIONAL NATURE OF POSITION.—The position of Director for Carbon Market Oversight shall be in addition to the directors of other offices of the Commission.

''(C) APPOINTMENT; QUALIFICATIONS.—The Director shall be—

''(i) appointed by the Commission; and

''(ii) an individual who is, by reason of background and experience in the regulation of commodities, securities, or other financial markets, especially qualified to direct a program of oversight of the market in regulated instruments.

''(b) ADMINISTRATION OF THIS TITLE.—The Commission, acting through the Director, shall administer this title.

''(c) DUTY OF COMMISSION.—The Commission shall regulate all contracts of sale involving regulated instruments under the jurisdiction of the Commission.

''(d) REGULATIONS.—The Commission shall, not later than 1 year after the date of enactment of this title, promulgate regulations governing the implementation of this title, and periodically thereafter, revise the regulations as necessary, including regulations that relate to—

''(1) specific initial and ongoing standards for qualification as a registered carbon trading facility;

''(2) position limits for individual market participants, adjusted as necessary based on market conditions;

''(3) margin requirements for the instruments traded by registered carbon trading facilities;

''(4) suitability standards for the solicitation by members of carbon instruments to retail investors;

''(5) a best execution standard for regulated allowance trading, such as the standard used in the national securities markets;

''(6) approval of—

''(A) specific protocols of the central limit order books of carbon trading facilities; and

''(B) the connection of those facilities to—

''(i) Carbon Clearing Organizations established under section 206; and

''(ii) the automated quotation system established under section 207;

''(7) the establishment of baseline initial and ongoing membership standards for registered carbon trading facilities;

''(8) subject to section 204(a)(4), specific standards for short sale transactions involving regulated instruments;

''(9) such other matters as are necessary for the carbon market to operate with the highest standards of fairness and efficiency; and

''(10) the establishment and operation of a carbon clearing organization.

''(e) MEMORANDUM OF UNDERSTANDING.—

''(1) IN GENERAL.—Not later than 180 days after the date of enactment of this title, the Commission shall enter into a memorandum of understanding with the Federal Energy Regulatory Commission, the Environmental Protection Agency, and any State or regional organization operating a market-based greenhouse gas emissions control program relating to information-sharing and coordination of oversight roles regarding—

''(A) trading facilities;

''(B) registered carbon traders;

''(C) carbon clearing organizations; and

''(D) derivative clearing organizations.

''(2) INCLUSIONS.—The memorandum of understanding shall include, at a minimum, provisions—

''(A) ensuring that information requests to markets within the respective jurisdictions of each agency are properly coordinated to minimize duplicative information requests; and

''(B) regarding the treatment of proprietary trading information.

''(f) COORDINATION FOR FOREIGN REGULATORS.—Not later than 180 days after the date of enactment of this title, the Commission shall, to the maximum extent practicable, enter into agreements with foreign regulatory bodies to ensure that foreign boards of trade do not offer for sale allowance derivatives beyond the jurisdiction of the Commission that would undermine the authority of the carbon market regulators in the United States or reduce the effectiveness of Commission oversight.

''(g) REGULATIONS.—The regulations issued to carry out this section shall take into account impacts on liquidity, flexibility, and robust participation in carbon markets, in order to maximize cost-effective and efficient reductions in carbon emissions.

''SEC. 204. REGULATION OF CARBON TRADING.

''(a) LIMITATION OF CERTAIN ACTIVITIES TO REGISTERED ENTITIES.—

''(1) CARBON ALLOWANCE TRADING FACILITY ACTIVITIES.—It shall be unlawful for a person to offer to enter into, execute, confirm the execution of, or conduct an office or a business for the purpose of soliciting, accepting an order for, or otherwise dealing in, an agreement, contract, or transaction involving a contract for the purchase or sale of a regulated allowance, unless—

''(A) the transaction is conducted through the carbon allowance trading facility established under section 205(a);

''(B) the contract for the purchase or sale is evidenced by a record in writing (or other form acceptable to the Commission) that includes—

''(i) the date;

''(ii) the names of the parties to the contract (including the addresses of those parties);

''(iii) a description of the property covered by the contract (including the price of the property);

''(iv) the terms of delivery; and

''(v) all other nonstandardized terms and conditions; and

''(C) the contract is cleared through the Carbon Clearing Organization.

''(2) CARBON DERIVATIVE TRADING FACILITY ACTIVITIES.—It shall be unlawful for a person to offer to enter into, execute, confirm the execution of, or conduct an office or a business for the purpose of soliciting, accepting an order for, or otherwise dealing in, an agreement, contract, or transaction involving a contract for the purchase or sale of a regulated allowance derivative, unless—

''(A) the Commission has determined that the contract is a private bilateral contract that has been reported to the Commission and included as part of the total market risk exposure of a participant; or

''(B)(i) the transaction is conducted through a trading facility designated as a registered carbon derivative trading facility under section 205(a);

''(ii) the contract for the purchase or sale is evidenced by a record in writing (or other form acceptable to the Commission) that includes—

''(I) the date;

''(II) the names of the parties to the contract (including the addresses of those parties);

''(III) a description of the property covered by the contract (including the price of the property);

''(IV) the terms of delivery; and

''(V) all other nonstandardized terms and conditions; and

''(iii) the contract is cleared through a derivatives clearing organization registered with the Commission pursuant to section 5b.

''(3) BROKER OR DEALER ACTIVITIES.—It shall be unlawful for a person to act in the capacity of an introducing broker, dealer, floor broker, electronic market trader, or floor trader in connection with the purchase or sale of a regulated instrument, unless—

''(A) the person is a registered carbon trader; and

''(B) the registration of the person is not suspended, revoked, or expired.

''(4) SHORT SALE TRANSACTIONS.—A short sale transaction involving a regulated instrument that occurs without the borrowing of a regulated allowance shall be unlawful unless the Commission determines that the transaction is in the best interest of regulated entities and the public.

''(b) PROHIBITION ON PRICE OR MARKET MANIPULATION, FRAUD, AND FALSE OR MISLEADING STATEMENTS OR REPORTS.—It shall be unlawful for a person, directly or indirectly—

''(1) to use or employ, or attempt to use or employ, in connection with a transaction involving the purchase or sale of a regulated instrument or private bilateral contract, in violation of such rules and regulations as the Commission may promulgate to protect the public interest or consumers, including—

''(A) any manipulative or deceptive device or contrivance (within the meaning of section 10(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78j(b)));

''(B) any corner; or

''(C) any device or contrivance that cheats or defrauds any other person;

''(2) for the purpose of creating a false or misleading appearance of active trading in a regulated instrument or private bilateral contract, or a false or misleading appearance with respect to the market for such an instrument—

''(A) to effect any transaction in the instrument that involves no change in the beneficial ownership of the instrument;

''(B) to enter an order for the purchase of the instrument, with the knowledge that 1 or more orders of substantially the same size, at substantially the same time, and at substantially the same price, for the sale of any such instrument, has been or will be entered by or for the same or different parties; or

''(C) to enter an order for the sale of the instrument with the knowledge that 1 or more orders of substantially the same size, at substantially the same time, and at substantially the same price, for the purchase of the instrument, has been or will be entered by or for the same or different parties;

''(3) to deliver or cause to be delivered a knowingly false, misleading, or inaccurate report concerning information or conditions that affect or tend to affect the price of a regulated instrument;

''(4)(A) to make, or cause to be made, in an application, report, or document required to be filed under this title or any regulation promulgated under this title, a statement that is false or misleading with respect to a material fact; or

''(B) to omit any material fact that is required to be stated in such an application, report, or document, or that is necessary to make the statements in such an application, report, or document not misleading; or

''(5) to falsify, conceal, or cover up by any trick, scheme, or artifice a material fact, make any false, fictitious, or fraudulent statements or representations, or make or use any false writing or document that contains a false, fictitious, or fraudulent statement or entry, to an entity registered under this title acting in furtherance of the official duties of the entity under this title.

''(c) PREVENTION OF EXCESSIVE SPECULATION.—

''(1) IN GENERAL.—To prevent, decrease, or eliminate burdens associated with excessive speculation relating to regulated instruments (which may be more severe in markets in which supply is known and declining and demand is unknown), the Commission shall promulgate regulations establishing such position or transaction limitations, in the aggregate, as the Commission determines to be necessary to prevent potential upward bias in price with respect to any regulated instrument.

''(2) AGGREGATE POSITIONS.—In carrying out paragraph (1), the Commission shall, to the maximum extent practicable, aggregate carbon dioxide equivalent positions in natural gas, electricity, and regulated instruments.

''(3) INAPPLICABILITY TO BONA FIDE HEDGING TRANSACTIONS AND POSITIONS.—The limitations and requirements established under paragraph (1) shall not apply to a position or transaction that is a bona fide hedging position or transaction, as defined by the Commission in accordance with the purposes of this title.

''(d) RECORDKEEPING; REPORTING; ACCESS TO BOOKS AND RECORDS.—

''(1) MEMBERS OF REGISTERED ENTITIES.—Each member of an entity registered under this title shall—

''(A) keep books and records, and make such reports as are required by the Commission, regarding the transactions and positions of the member, and the transactions and positions of the customer involved, in regulated instruments and private bilateral contracts, in such form and manner, and for such period, as may be required by the Commission; and

''(B) make the books and records available for inspection by any representative of the Commission or the Department of Justice.

''(2) REGISTERED ENTITIES.—Each entity registered under this title shall—

''(A) maintain daily trading records (including a time-stamped audit trail), that include such information, in such form, and for such period as the Commission may require by regulation;

''(B) before the beginning of trading each day, insofar as is practicable and under terms and conditions specified by the Commission, make public the volume of trading on each type of contract for the previous day and such other information as the Commission considers necessary in the public interest and prescribes by rule, order, or regulation; and

''(C) make such reports from the records, at such times and places, and in such form, as the Commission may require by regulation to protect the public interest and the interest of persons trading in regulated instruments.

''(e) FOREIGN TRANSACTIONS.—

''(1) IN GENERAL.—Any United States person or corporation shall be subject to this section for all contracts executed by the United States person or corporation, including contracts executed outside of the United States.

''(2) FOREIGN PERSONS AND CORPORATIONS.—A foreign person or corporation shall be subject to this section for all contracts executed by the foreign person or corporation within the United States.

''SEC. 205. ESTABLISHMENT AND REGISTRATION OF A CARBON TRADING FACILITIES; REGISTRATION OF TRADERS, BROKERS, AND DEALERS.

''(a) CARBON TRADING FACILITIES.—

''(1) ESTABLISHMENT OF A CARBON ALLOWANCE TRADING FACILITY.—The Commission may establish a carbon allowance trading facility in accordance with this section to process trades of regulated allowances.

''(2) REGISTRATION OF CARBON TRADING FACILITIES.—

''(A) IN GENERAL.—A trading facility may apply to the Commission for designation as a registered carbon allowance trading facility or a registered carbon allowance derivative trading facility by submitting to the Commission an application that contains such information and commitments as the Commission may require.

''(B) REVIEW.—A designation under this paragraph shall be reviewed by the Commission from time to time, but not less frequently than once every 3 years.

''(3) OPERATION OF THE CARBON TRADING FACILITIES.—

''(A) IN GENERAL.—To obtain or maintain designation and continue operating as a registered carbon allowance trading facility or a registered carbon allowance derivative trading facility under this title, a carbon allowance trading facility established by the Commission or registered with the Commission under this section shall comply with the requirements and principles described in this paragraph.

''(B) PREVENTION OF MARKET MANIPULATION.—The trading facility shall demonstrate capability to prevent market manipulation through market surveillance, compliance, and enforcement practices and procedures, including methods for conducting real-time monitoring of trading and comprehensive and accurate trade reconstructions.

''(C) ELECTRONIC MONITORING OF TRADING.—The trading facility shall demonstrate—

''(i) that the trading facility monitors trading on or through the facility to prevent manipulation, price distortion, and disruptions of the delivery or cash-settlement process; and

''(ii) in addition to traditional methods, a capability to monitor market activities electronically on a real-time basis and, if appropriate, by algorithm and other such means as are determined to be appropriate by the Commission.

''(D) FAIR AND EQUITABLE TRADING.—The trading facility shall establish and enforce rules to ensure—

''(i) fair and equitable trading through the trading facility;

''(ii) the capacity to detect, investigate, and discipline any person that violates the rules;

''(iii) the operation of any electronic matching platform;

''(iv) the terms and conditions of any contracts to be traded on or through the trading facility;

''(v) any limitations on access to the trading facility;

''(vi) the financial integrity of transactions and contracts entered into by or through the trading facility, including the clearance and settlement of the transactions;

''(vii) the financial integrity of brokers, dealers, and traders doing business on or through the trading facility;

''(viii) the protection of customer funds;

''(ix) that the trading facility is able to discipline, suspend, or expel members or market participants that violate the rules of the trading facility, or similar methods for performing the same functions, including delegation of the functions to third parties; and

''(x) that market participants are protected from abusive practices committed by any party acting as an agent for the participants.

''(E) AGGREGATE POSITION LIMITATIONS OR ACCOUNTABILITY.—The trading facility shall—

''(i) adopt and enforce aggregate position limitations or position accountability for speculators, as necessary and appropriate, to reduce the potential threat of market manipulation and excessive speculation in a marketplace in which supply is fixed by government policy and demand is set by market prices;

''(ii) facilitate netting of members' positions across all of the instruments through the trading facility, in order to minimize the cost of trading while ensuring adequate risk management; and

''(iii) monitor and enforce any limitations on leverage or position size that might be imposed by the Commission.

''(F) EMERGENCY AUTHORITY.—The trading facility shall adopt and enforce rules to provide for the exercise of emergency authority, in consultation or cooperation with the Commission, as necessary and appropriate, including the authority—

''(i) to liquidate or transfer open positions in any contract;

''(ii) to suspend or curtail trading in any regulated instrument; and

''(iii) in the case of a regulated derivative, to require market participants to meet special margin requirements.

''(G) AVAILABILITY OF GENERAL INFORMATION.—The trading facility shall make available to market authorities, market participants, and the public information concerning—

''(i) the terms, conditions, and specifications of the contracts traded on or through the trading facility;

''(ii) the mechanisms for executing transactions on or through the trading facility; and

''(iii) the rules and regulations of the trading facility

''(H) PUBLICATION OF TRADING INFORMATION.—

''(i) IN GENERAL.—The trading facility shall, in real time, to the maximum extent practicable, provide the public with information on bids, offers, settlement prices, volume, open interest, and opening and closing ranges for all regulated instruments traded on the trading facility.

''(ii) CENTRALIZED ENTITY.—The Commission may by regulation permit compliance with this subparagraph through the provision of pricing information described in clause (i) to a centralized entity that will simultaneously post that information to the public.

''(I) EXECUTION OF TRANSACTIONS.—The trading facility shall provide a competitive, open, and efficient market and mechanism for executing transactions on or through the trading facility.

''(J) SECURITY OF TRADE INFORMATION.—The trading facility shall maintain rules and procedures to provide for the recording and safe storage of all identifying trade information in a manner that enables the trading facility to use the information—

''(i) to assist the prevention of customer and market abuses; and

''(ii) provide evidence of violations of the rules of the trading facility.

''(K) DISPUTE RESOLUTION.—The trading facility shall establish and enforce rules regarding and provide facilities for alternative dispute resolution as appropriate for market participants and any market intermediaries.

''(L) GOVERNANCE FITNESS STANDARDS.—The trading facility shall establish and enforce appropriate fitness standards for directors, members of any disciplinary committee, members of the trading facility, and any other person with direct access to the trading facility (including any parties affiliated with any of the persons described in this subparagraph).

''(M) CONFLICTS OF INTEREST.—The trading facility shall—

''(i) establish and enforce rules to minimize conflicts of interest in the decision-making process of the trading facility; and

''(ii) establish a process for resolving any such conflict of interest.

''(N) COMPOSITION OF BOARDS OF MUTUALLY OWNED TRADING FACILITIES.—In the case of a mutually owned trading facility, the trading facility shall ensure that the composition of the governing board reflects market participants.

''(O) RECORDKEEPING.—The trading facility shall maintain records of all activities relating to the business of the trading facility in a form and manner acceptable to the Commission for a period of at least 5 years.

''(P) ANTITRUST CONSIDERATIONS.—Unless necessary or appropriate to achieve the purposes of this title, the trading facility shall endeavor to avoid—

''(i) adopting any rules or taking any actions that result in any unreasonable restraint of trade; or

''(ii) imposing any material anticompetitive burden on trading on or through the trading facility.

''(Q) TRADING FEES.—The trading facility shall establish and enforce rules requiring the payment of fees for the purpose of funding Commission oversight, as established under section 208(h).

''(R) CENTRAL LIMIT ORDER BOOK.—The trading facility shall operate an electronic central limit order book as the trading mechanism for regulated derivatives and regulated allocations and share sufficient information, in a timely manner, with the automated quotation system to allow implementation of section 207.

''(S) NATIONAL MARKET SYSTEM.—The trading facility shall participate, along with the Commission, in the formation and operation of a national market system that allows for best execution in the trading of regulated instruments among registered carbon trading facilities.

''(T) SCREENING.—The trading facility shall establish and enforce rules to screen members based on capital, systems, and standards of compliance, and other such membership standards as the Commission determines to be appropriate.

''(U) USE OF CLEARING.—The trading facility shall facilitate the clearing of all trades of regulated allowances through the Carbon Clearing Organization and the clearing of all trades of regulated allowance derivatives through a Derivatives Clearing Organization registered with the Commission.

''(V) ENFORCEMENT.—The trading facility shall establish and enforce rules that allow the trading facility to obtain any necessary information to perform any of the functions described in this paragraph, including the capacity to carry out such international information-sharing agreements as the Commission may require.

''(b) BROKERS, DEALERS, TRADERS, AND THEIR ASSOCIATES.—The Commission shall promulgate regulations governing—

''(1) the eligibility of a person to act in the capacity of an introducing broker, a dealer, a floor broker, an electronic market trader, or a floor trader of regulated instruments in the United States;

''(2) the registration of introducing brokers, dealers, floor brokers, electronic market traders, and floor traders as registered carbon traders with the Commission;

''(3) the conduct of a person registered pursuant to regulations promulgated under paragraph (2), and of a partner, officer, employee, or agent of the registered person, in connection with transactions involving a regulated instrument; and

''(4) minimum standards for eligibility of a person to register as a registered carbon trader, including the requirements that an applicant for such a position—

''(A) has never had an applicable license or registration revoked in any governmental jurisdiction;

''(B) has never been convicted of, or pled guilty or nolo contendere to, a felony in a domestic, foreign, or military court;

''(C) has demonstrated such financial responsibility, character, and general fitness as to command the confidence of the community and to warrant a determination that the applicant will operate honestly, fairly, and efficiently within the purposes of this title;

''(D) has completed the preregistration education requirement described in paragraph (5); and

''(E) has passed a written test that meets the test requirement described in paragraph (6).

''(5) PREREGISTRATION EDUCATION OF A CARBON TRADER.—

''(A) MINIMUM EDUCATIONAL REQUIREMENTS.—In order to meet the preregistration education requirement referred to in paragraph (4)(D), a person shall complete at least 20 hours of education approved in accordance with subparagraph (B), which shall include at least—

''(i) 6 hours of instruction on applicable Federal law (including regulations);

''(ii) 10 hours of instruction in ethics, which shall include instruction on fraud, manipulation, excessive speculation, and consumer protection; and

''(iii) 2 hours of training relating to reporting requirements under this title.

''(B) APPROVED EDUCATIONAL COURSES.—

''(i) IN GENERAL.—For the purpose of subparagraph (A), preregistration educational courses shall be reviewed and approved by the Commission.

''(ii) PROHIBITION.—To maintain the independence of the approval process, the Commission shall not directly or indirectly offer preregistration educational courses for loan originators.

''(C) STANDARDS.—In approving courses under this paragraph, the Commission shall apply reasonable standards in the review and approval of courses.

''(6) TESTING OF A CARBON TRADER.—

''(A) IN GENERAL.—In order to meet the written test requirement referred to in paragraph (4)(E), an individual shall pass, in accordance with the standards established under this paragraph, a qualified written test developed by the Commission and administered by an approved test provider.

''(B) QUALIFIED TEST.—A written test shall not be treated as a qualified written test for purposes of subparagraph (A) unless—

''(i) the test consists of a minimum of 100 questions; and

''(ii) the test adequately measures the knowledge and comprehension of the individual taking the test in appropriate subject areas, including—

''(I) ethics;

''(II) Federal law (including regulations) pertaining to trading regulated instruments; and

''(III) Federal law (including regulations) on fraud, manipulation, excessive speculation, and reporting.

''(C) MINIMUM COMPETENCE.—

''(i) PASSING SCORE.—An individual shall not be considered to have passed a qualified written test under this paragraph unless the individual achieves a test score of not less than 75 percent correct answers to questions on the test.

''(ii) INITIAL RETESTS.—An individual may retake a test 3 consecutive times, with each consecutive taking occurring not later than 14 days after the preceding test.

''(iii) SUBSEQUENT RETESTS.—After 3 consecutive tests, an individual shall be required to wait at least 14 days before retaking the test.

''(iv) RETEST AFTER LAPSE OF REGISTRATION.—A registered carbon trader who fails to maintain a valid registration for a period of 5 years or longer shall retake the test.

''(7) BACKGROUND CHECKS.—An applicant for registration shall, at a minimum, provide to the Commission—

''(A) fingerprints for submission to the Federal Bureau of Investigation for a State and national criminal history background check;

''(B) a description of personal history and experience, including an independent credit report obtained from a consumer reporting agency described in section 603(p) of the Fair Credit Reporting Act (15 U.S.C. 1681a(p)); and

''(C) information relating to any administrative, civil, or criminal findings by any governmental jurisdiction.

''SEC. 206. CARBON CLEARING ORGANIZATION.

''(a) ESTABLISHMENT.—

''(1) IN GENERAL.—The Commission shall establish an entity to be known as the 'Carbon Clearing Organization' for the purpose of creating a common clearing platform for regulated allowances.

''(2) APPLICATION BY DERIVATIVES CLEARING ORGANIZATION.—A derivatives clearing organization registered with the Commission pursuant to section 5b may apply to the

Commission for designation as the Carbon Clearing Organization by submitting to the Commission an application that contains such information and commitments as the Commission may require.

''(b) OPERATION.—

''(1) REQUIREMENTS.—

''(A) IN GENERAL.—The Carbon Clearing Organization shall comply with the requirements described in this paragraph.

''(B) FINANCIAL RESOURCES.—The Carbon Clearing Organization shall demonstrate adequate financial, operational, and managerial resources to discharge the responsibilities of a clearing organization.

''(C) PARTICIPANT AND PRODUCT ELIGIBILITY.—The Carbon Clearing Organization shall establish—

''(i) appropriate admission and continuing eligibility standards (including appropriate minimum financial requirements) for members of and participants in the Carbon Clearing Organization; and

''(ii) appropriate standards for determining eligibility of agreements, contracts, or transactions submitted to the Carbon Clearing Organization.

''(D) RISK MANAGEMENT.—The Carbon Clearing Organization shall manage the risks associated with discharging the responsibilities of a clearing organization through the use of appropriate tools and procedures.

''(E) SETTLEMENT PROCEDURES.—The Carbon Clearing Organization shall—

''(i) complete settlements on a timely basis under varying circumstances; and

''(ii) maintain an adequate record of the flow of funds associated with each transaction that the Carbon Clearing Organization clears.

''(F) TREATMENT OF FUNDS.—The Carbon Clearing Organization shall have standards and procedures designed to protect and ensure the safety of member and participant funds.

''(G) DEFAULT RULES AND PROCEDURES.—The Carbon Clearing Organization shall have rules and procedures designed to allow for efficient, fair, and safe management of events if members or participants become insolvent or otherwise default on obligations to the Carbon Clearing Organization.

''(H) RULE ENFORCEMENT.—The Carbon Clearing Organization shall—

''(i) maintain adequate arrangements and resources for the effective monitoring and enforcement of compliance with rules of Carbon Clearing Organization and for resolution of disputes; and

''(ii) have the authority and ability to discipline, limit, suspend, or terminate the activities of a member or participant for violations of rules of the Carbon Clearing Organization.

''(I) SYSTEM SAFEGUARDS.—The Carbon Clearing Organization shall—

''(i) establish and maintain a program of oversight and risk analysis to ensure that the automated systems of the Carbon Clearing Organization function properly and have adequate capacity and security; and

''(ii) establish and maintain emergency procedures and a plan for disaster recovery, and will periodically test backup facilities sufficient to ensure daily processing, clearing, and settlement of transactions.

''(J) PUBLIC INFORMATION.—The Carbon Clearing Organization shall make information concerning the rules and operating procedures governing the clearing and settlement systems (including default procedures) available to market participants.

''(K) INFORMATION-SHARING.—The Carbon Clearing Organization shall—

''(i) enter into and abide by the terms of all appropriate and applicable domestic and international information-sharing agreements; and

''(ii) use relevant information obtained from the agreements in carrying out the risk management program of the Carbon Clearing Organization.

''SEC. 207. AUTOMATED QUOTATION SYSTEMS.

''(a) IN GENERAL.—The Commission shall facilitate the widespread dissemination of reliable and accurate last-sale and quotation information with respect to regulated instruments, short sales, and private bilateral contracts the value of which, in whole or in part, is linked to the price of a regulated instrument by establishing an automated quotation system that will collect and disseminate information regarding all regulated instruments.

''(b) CHARACTERISTICS OF SYSTEM.—The automated quotation system shall—

''(1) collect and disseminate quotation and transaction information;

''(2) provide bid and ask quotations of participating brokers or dealers; and

''(3) provide for the reporting of information on bids, offers, settlement prices, volume, open interest, and opening and closing ranges for all regulated instrument transactions, including last-sale reporting.

''(c) ELECTRONIC LINKAGE.—The carbon allowance trading facility and all registered carbon derivative trading facilities shall be linked electronically with the automated quotation system.

''(d) MISSING.—All registered carbon trading facilities shall share sufficient information with the automated quotation system to allow the implementation of this section.

''SEC. 208. ADMINISTRATIVE ENFORCEMENT.

''(a) INVESTIGATIONS.—The Commission may conduct such investigations as the Commission determines to be necessary to carry out this title, in accordance with this Act.

''(b) REVIEW OF ADVERSE ACTION BY REGISTERED CARBON TRADING FACILITY.—

''(1) IN GENERAL.—

''(A) DISCIPLINARY ACTIONS.—The Commission may, in accordance with such standards and procedures as the Commission determines to be appropriate, review a decision by a registered carbon trading facility—

''(i) to suspend, expel, or otherwise discipline a member of the trading facility; or

''(ii) to deny access to the trading facility.

''(B) OTHER ACTIONS.—On application of any person who is adversely affected by any decision by a registered carbon trading facility described in subparagraph (A), the Commission may—

''(i) review the decision; and

''(ii) issue such order with respect to the decision as the Commission determines to be appropriate to protect the public interest.

''(2) SCOPE OF AUTHORITY.—The Commission may affirm, modify, set aside, or remand a trading facility decision reviewed under paragraph (1), after a determination on the record as to whether the decision was made in accordance with the rules of the trading facility.

''(c) COMPLAINTS.—The Commission shall enforce this title in accordance with this Act.

''(d) AUTHORITY TO SUSPEND OR REVOKE REGISTERED CARBON TRADING FACILITY DESIGNATION.—The Commission may suspend for a period of not more than 180 days, or revoke, the designation of a trading facility as a registered carbon trading facility if, after notice and opportunity for a hearing on the record, the Commission finds that—

''(1) the trading facility or the entity, as the case may be, has not complied with a requirement of subsection (a)(3) or (c) of section 205, as the case may be; or

''(2) a director, officer, employee, or agent of the trading facility or entity, as the case may be, has violated this title or a regulation or order promulgated or issued under this title.

''(e) INJUNCTIVE RELIEF.—If the Commission finds that a person has violated this title or a regulation or order promulgated or issued under this title, the Commission may seek injunctive relief in accordance with this Act.

''(f) TRADING SUSPENSIONS; EMERGENCY AUTHORITY.—

''(1) DEFINITION OF EMERGENCY.—In this subsection, the term 'emergency' means—

''(A) a major market disturbance characterized by or constituting—

''(i) sudden and excessive fluctuations of prices of regulated instruments generally (or a substantial threat of such sudden and excessive fluctuations) that threaten fair and orderly markets; or

''(ii) a substantial disruption of the safe or efficient operation of the national system for clearance and settlement of transactions in regulated instruments (or a substantial threat of such a disruption); or

''(B) a major disturbance that substantially disrupts, or threatens to substantially disrupt—

''(i) the functioning of markets in regulated instruments, or any significant portion or segment of the markets; or

''(ii) the transmission or processing of transactions in regulated instruments.

''(2) TRADING SUSPENSIONS.—

''(A) IN GENERAL.—Subject to subparagraph (B), if the Commission determines that the public interest so requires, the Commission may, by order, summarily suspend all trading of regulated instruments on any trading facility or otherwise, for a period not exceeding 90 calendar days.

''(B) NOTIFICATION OF DECISION.—An order issued by the Commission under subparagraph (A) shall not take effect unless—

''(i) the Commission notifies the President of the decision of the Commission; and

''(ii) the President notifies the Commission that the President does not disapprove of the decision.

''(3) EMERGENCY ORDERS.—

''(A) IN GENERAL.—The Commission, in an emergency, may by order summarily take such action to alter, supplement, suspend, or impose requirements or restrictions with respect to any matter or action subject to regulation by the Commission or an entity registered under this title, as the Commission determines is necessary in the public interest—

''(i) to maintain or restore fair and orderly markets in regulated instruments; or

''(ii) to ensure prompt, accurate, and safe clearance and settlement of transactions in regulated instruments.

''(B) EFFECTIVE PERIOD.—An order of the Commission under this paragraph—

''(i) shall continue in effect for the period specified by the Commission;

''(ii) may be extended in accordance with subparagraph (C); and

''(iii) except as provided in subparagraph (C), may not continue in effect for more than 10 business days, including extensions.

''(C) EXTENSION.—An order of the Commission under this paragraph may be extended to continue in effect for more than 10 business days, but in no event may continue in effect for more than 30 calendar days, if, at the time of the extension, the Commission determines that—

''(i) the emergency situation still exists; and

''(ii) the continuation of the order beyond 10 business days is necessary in the public interest and for the protection of investors to attain an objective described in clause (i) or (ii) of subparagraph (A).

''(D) EXEMPTION.—In exercising the authority provided by this paragraph, the Commission shall not be required to comply with section 553 of title 5, United States Code.

''(4) TERMINATION OF EMERGENCY ACTIONS BY PRESIDENT.—The President may direct that action taken by the Commission under paragraph (3) shall not continue in effect.

''(5) COMPLIANCE WITH ORDERS.—A member of a trading facility, introducing broker, dealer, floor broker, or floor trader shall not effect any transaction in, or induce the purchase or sale of, any regulated instrument in contravention of an order of the Commission under this subsection, unless the order—

''(A) has been stayed, modified, or set aside as provided in paragraph (6); or

''(B) has ceased to be effective on direction of the President as provided in paragraph (4).

''(6) LIMITATIONS ON REVIEW OF ORDERS.—

''(A) IN GENERAL.—An order of the Commission pursuant to this subsection shall be subject to review by the United States Court of Appeals for the District of Columbia Circuit.

''(B) BASIS.—A review of an order under subparagraph (A) shall be based on an examination of all the information before the Commission at the time the order was issued.

''(C) STANDARD FOR FINDINGS.—The reviewing court shall not enter a stay, writ of mandamus, or similar relief unless the court finds, after notice and hearing before a panel of the court, that the action of the Commission is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.

''(g) OTHER AUTHORITY TO ISSUE ORDERS.—The Commission may issue such other orders as are necessary to ensure compliance with this title (including regulations promulgated under this title).

''(h) TRADING FEES TO SUPPORT COMMISSION ACTIVITIES.—

''(1) IN GENERAL.—To support oversight by the Commission of markets under this title, each registered trading facility shall charge a trading fee, per transaction, to be established by the Commission at a level not to exceed ½ of 1 percent of the value of the contract being executed.

''(2) REMITTANCE OF FEES.—Each registered trading facility shall submit fees charged under this subsection to the Commission on such schedule as the Commission shall designate.

''SEC. 209. CIVIL JUDICIAL ENFORCEMENT.

''(a) IN GENERAL.—If it appears to the Commission that a person has engaged, is engaging, or is about to engage in any act or practice constituting a violation of this title (including a regulation promulgated or order issued under this title), the Commission may bring a civil action in the appropriate United States district court or United States court of any territory or other place subject to the jurisdiction of the United States—

''(1) to enjoin the act or practice; or

''(2) to enforce compliance with this title (or a regulation or order promulgated or issued under this title).

''(b) FORMS OF RELIEF.—

''(1) INJUNCTIVE RELIEF; RESTRAINING ORDER.—On a proper showing, a court described in subsection (a) shall grant a permanent or temporary injunction or issue a restraining order, without bond.

''(2) CIVIL MONEY PENALTY.—

''(A) IN GENERAL.—The Commission may seek and the court, on a proper showing, shall have jurisdiction to impose on any person found in the civil action brought under this section to have committed a violation, a civil penalty in an amount that is not more than the greater of—

''(i) $100,000; or

''(ii) triple the monetary gain to the person for the violation.

''(B) ENFORCEMENT OF PENALTY BY THE ATTORNEY GENERAL.—If a person on whom such a penalty is imposed fails to pay the penalty within the time prescribed in the order of the court, the Commission may refer the matter to the Attorney General, who shall recover the penalty by action in the appropriate United States district court.

''SEC. 210. CRIMINAL ENFORCEMENT.

''(a) VIOLATIONS GENERALLY.—A person that knowingly violates section 204 (or any regulation promulgated under section 204), or willfully violates any other provision of this title (or a regulation promulgated under this title) the violation of which is made unlawful or the observance of which is required by or under this title, shall—

''(1) be fined not more than $1,000,000 (or not more than $500,000, if the violator is an individual), imprisoned not more than 5 years, or both; and

''(2) shall pay the costs of prosecution.

''(b) FAILURE TO COMPLY WITH CEASE AND DESIST ORDER.—

''(1) IN GENERAL.—If, after the period allowed for appeal of an order issued under section 206(e) or after the affirmance of such an order, a person subject to the order fails or refuses to comply with the order, the person shall be—

''(A) fined not more than the greater of $100,000 or triple the monetary gain to the person, imprisoned not less than 180 days nor more than 1 year, or both; or

''(B) if the failure or refusal to comply involves a violation referred to in subsection (a), subject to the penalties provided in that subsection for the violation.

''(2) SPECIAL RULE.—Each day during which a failure or refusal to comply with such an order continues shall be considered to be a separate offense for purposes of paragraph (1).

''SEC. 211. MARKET REPORTS.

''(a) COLLECTION AND ANALYSIS OF INFORMATION.—The Commission shall, on a continuous basis, collect and analyze the following information on the functioning of the markets for regulated instruments established under this title:

''(1) The status of, and trends in, the markets, including prices, trading volumes, transaction types, and trading channels and mechanisms.

''(2) Spikes, collapses, and volatility in prices of regulated instruments, and the causes of the spikes, collapses, and volatility.

''(3) The relationship between the market for emission allowances, offset credits, and allowance derivatives, and the spot and futures markets for energy commodities, including electricity.

''(4) Evidence of fraud or manipulation in any such market, the effects on any such market of any such fraud or manipulation (or threat of fraud or manipulation) that the Commission has identified, and the effectiveness of corrective measures undertaken by the Commission to address the fraud or manipulation, or threat.

''(5) The economic effects of the markets, including to the macro- and micro-economic effects of unexpected significant increases and decreases in the price of regulated instruments.

''(6) Any changes in the roles, activities, or strategies of various market participants.

''(7) Regional, industrial, and consumer responses to the market, and energy investment responses to the markets.

''(8) Any other issue relating to the markets that the Commission determines to be appropriate.

''(b) QUARTERLY REPORTS TO CONGRESS.—Not later than 30 days after the end of each calendar quarter, the Commission shall submit to the President, the Committee on Energy and Commerce of the House of Representatives, the Committee on Energy and Natural Resources of the Senate, and the Committee on Environment and Public Works of the Senate, and make available to the public, a report on the matters described in subsection (a) with respect to the quarter, including recommendations for any administrative or statutory measures the Commission considers necessary to address any threats to the transparency, fairness, or integrity of the markets in regulated instruments.

''SEC. 212. AUTHORIZATION OF APPROPRIATIONS.

''In addition to any fees collected by the Commission under this Act, there are authorized to be appropriated such sums as are necessary to carry out this title.''.

(b) CONFORMING AMENDMENT.—The Commodity Exchange Act (7 U.S.C. 1 et seq.) is amended by inserting after section 1a (7 U.S.C. 1a) the following:

''TITLE I—REGULATION OF COMMODITY EXCHANGES''.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 207—RECOGNIZING THE 100TH ANNIVERSARY OF THE INDIANAPOLIS MOTOR SPEEDWAY

Mr. BAYH (for himself and Mr. LUGAR) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 207

Whereas the Indianapolis Motor Speedway is the largest spectator sporting facility in the world, with more than 250,000 permanent seats;

Whereas founders Carl G. Fisher, Arthur C. Newby, Frank H. Wheeler, and James A. Allison pooled their resources in 1909 to build the Indianapolis Motor Speedway 5 miles from downtown Indianapolis as a testing ground to support the growing automotive industry of Indiana;

Whereas, on August 14, 1909, the first motorized races, using motorcycles, took place on the recently completed 2.5-mile oval, which had a racing surface composed of crushed stone and tar;

Whereas, on August 19, 1909, the first 4-wheeled automobile races at the Indianapolis Motor Speedway took place;

Whereas, for 63 days in late 1909, 3,200,000 paving bricks, each weighing 9.5 pounds, were laid on top of the crushed stone and tar surface to upgrade the Indianapolis Motor Speedway, leading the facility to be nicknamed ''The Brickyard'';

Whereas a 3-foot horizontal strip of that original brick remains exposed at the start and finish line, known as the ''Yard of Bricks'';

Whereas, on May 30, 1911, the first Indianapolis 500-mile race (in this preamble referred to as the ''Indianapolis 500'') took place and was won by Ray Harroun at an average speed of 74.602 miles per hour;

Whereas the Indianapolis Motor Speedway was a pioneer in introducing seating areas specifically for people with disabilities;

Whereas the race car of Ray Harroun, the Marmon ''Wasp'', was the first automobile to use a rearview mirror, one of many innovations in automotive technology and safety devised or developed at the Indianapolis Motor Speedway, including in 1911 the first use of a Pace Car, in 1921 the first use of 4-wheel hydraulic brakes, in 1935 the first installation of color warning lights, in 1935 the first mandatory use of helmets, in 1993 the first use of crash-data recorders, and in 2002 the steel and foam energy reduction