

[DISCUSSION DRAFT]

MARCH 12, 2013

113TH CONGRESS
1ST SESSION

To require the payment of a fee for emissions of carbon pollution.

IN THE _____

_____ introduced the following bill; which was

A BILL

To require the payment of a fee for emissions of carbon pollution.

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 “_____ Act of
5 2013”.

6 **SEC. 2. CARBON POLLUTION FEES.**

7 (a) IN GENERAL.—The Secretary shall, for a fee,
8 issue carbon pollution permits to covered entities. The fee
9 amount shall be as specified in subsection (b).

1 (b) FEE AMOUNT.—The fee required to obtain a car-
2 bon pollution permit for a given compliance year under
3 this section shall be **【\$15/\$25/\$35】** per ton of carbon pol-
4 lution emitted during, or attributed for, calendar year
5 2014. Such fee shall increase at a real rate of **【2%-8%】**
6 each year thereafter.

7 (c) REQUIREMENT FOR COVERED ENTITIES.—A cov-
8 ered entity shall pay fees to the Secretary to obtain one
9 carbon pollution permit for each ton of carbon pollution
10 covered under section 4 that is emitted by, or attributed
11 to, such entity during a compliance year.

12 (d) EFFECTIVE DATE.—The requirement under sub-
13 section (c) shall take effect with respect to carbon pollu-
14 tion emitted during, or attributed for, calendar year 2014
15 and each year thereafter.

16 **SEC. 3. COVERED ENTITIES.**

17 Except as provided in section 11(a), covered entities
18 under this Act are entities that are or would be required
19 to report emissions or attributed emissions under the
20 greenhouse gas reporting requirements of part 98 of title
21 40, Code of Federal Regulations, as in effect as of the
22 date of enactment of this Act, including—

23 (1) the owners and operators of facilities re-
24 quired to report emissions under part 98, such as
25 electricity generation units; and

1 (2) the suppliers of products required to report
2 emissions attributed to such products under part 98,
3 such as petroleum refineries.

4 **SEC. 4. QUANTITY OF CARBON POLLUTION COVERED.**

5 (a) IN GENERAL.—Except as otherwise provided in
6 this Act, for purposes of this Act the quantity of carbon
7 pollution emitted by or attributed to a covered entity for
8 a year is the quantity of carbon pollution that is required
9 to be reported by the covered entity for such year pursuant
10 to the reporting rule, rounded to the nearest ton of carbon
11 pollution.

12 (b) LIMIT ON AUTHORITY.—Any revision of the re-
13 porting rule after the date of enactment of this Act, in-
14 cluding any revision to reduce reporting burdens, shall
15 maintain or enhance the accuracy and completeness of the
16 information required to be reported.

17 **SEC. 5. FEE AND PERMIT PROCEDURES.**

18 (a) TIMING.—A covered entity shall comply with sec-
19 tion 2(c) for a compliance year no later than May 1 of
20 the year following such compliance year, in accordance
21 with such procedures as the Secretary may establish.

22 (b) AVAILABILITY.—The Secretary shall make carbon
23 pollution permits available under section 2(a) for a given
24 compliance year during such year and during the first 4
25 months of the subsequent year. The Secretary may not

1 impose a limit on the number of such permits made avail-
2 able.

3 (c) NO TRADING, RESALE, OR BANKING.—Each car-
4 bon pollution permit may be used for compliance only for
5 the single compliance year specified in such permit and
6 may not be traded, resold, or banked for use for years
7 after the compliance year of such permit unless the Sec-
8 retary, by regulation, authorizes any such action.

9 (d) REFUND.—On request of a covered entity, the
10 Secretary shall refund the amount paid to the Secretary
11 under section 2(c) for a carbon pollution permit obtained
12 by such covered entity in excess of the number of tons
13 of carbon pollution emitted by or attributed to the covered
14 entity for the relevant compliance year.

15 **SEC. 6. EXCESS CARBON POLLUTION PENALTY.**

16 A covered entity that fails to comply with section 2(c)
17 with respect to a ton of carbon pollution shall be liable
18 for payment to the Secretary, without demand, of an ex-
19 cess carbon pollution penalty in the amount equal to 3
20 times the applicable fee specified in section 2(b) for carbon
21 pollution permits of the same compliance year as the year
22 in which the excess carbon pollution was emitted or for
23 which it was attributed.

1 **SEC. 7. COORDINATION.**

2 The Secretary and the Administrator shall, not later
3 than 3 months after the date of enactment of this Act,
4 enter into a memorandum of understanding setting forth
5 the respective roles and responsibilities of the Department
6 of the Treasury and the Environmental Protection Agency
7 in carrying out this Act. Such memorandum of under-
8 standing shall provide for coordination to the extent prac-
9 ticable, enable the requirements set by each such Federal
10 agency to be consistent with those of the other, and ensure
11 that covered entities do not experience conflicting or un-
12 necessarily duplicative mandates.

13 **SEC. 8. OTHER PROVISIONS UNAFFECTED.**

14 Nothing in this Act shall affect the application of any
15 other provision of law to a covered entity, or the responsi-
16 bility for a covered entity to comply with any such provi-
17 sion of law.

18 **SEC. 9. RETURNING FEES TO THE AMERICAN PEOPLE.**

19 [To be supplied: Seeking comment on the most effec-
20 tive ways to return revenue to the American people such
21 as—

- 22 (1) mitigating energy costs for consumers, espe-
23 cially low-income consumers;
- 24 (2) reducing the Federal deficit;
- 25 (3) protecting jobs of workers at trade-vulner-
26 able, energy-intensive industries;

1 (4) reducing the tax liability for individuals and
2 businesses; and

3 (5) investing in other activities to reduce carbon
4 pollution and its effects.]

5 **SEC. 10. INTERACTION WITH STATE PROGRAMS.**

6 **【To be supplied】**

7 **SEC. 11. SPECIAL RULES FOR SMALL SOURCES, RECONCILI-**
8 **ATION OF REPORTED EMISSIONS, AND HFCS.**

9 (a) COVERED ENTITY EXCEPTIONS.—The following
10 are not covered entities under section 3 for purposes of
11 this Act:

12 (1) Facilities that are or would be required to
13 report emissions under section 98.2(a)(3) of title 40,
14 Code of Federal Regulations, as in effect as of the
15 date of enactment of this Act, if the facility emits
16 50,000 metric tons or less of carbon dioxide equiva-
17 lent per year in combined emissions from all sta-
18 tionary fuel combustion sources, as measured under
19 such section.

20 (2) With respect to fluorinated greenhouse
21 gases other than nitrogen trifluoride—

22 (A) electrical transmission and distribution
23 equipment sources, as defined in subpart DD of
24 such part 98;

1 (B) electronics manufacturing sources, as
2 defined in subpart I of such part 98;

3 (C) suppliers of industrial greenhouse
4 gases, as defined in subpart OO of such part
5 98, with respect to transformation or destruc-
6 tion; and

7 (D) electrical equipment manufacturing or
8 refurbishment sources, as defined in subpart SS
9 of such part 98.

10 (3) With respect to nitrogen trifluoride—

11 (A) suppliers of industrial greenhouse
12 gases, as defined in subpart OO of such part
13 98; and

14 (B) importers of fluorinated greenhouse
15 gases contained in pre-charged equipment or
16 closed cell foams, as defined in subpart QQ of
17 such part 98.

18 (b) QUANTITY OF CARBON POLLUTION EXCEP-
19 TIONS.—The quantity described in section 4(a) shall not
20 include the following:

21 (1) Emissions required to be reported under the
22 reporting rule with respect to products that are ex-
23 ported.

24 (2) Quantities of carbon pollution that would
25 otherwise be attributed to the supplier of a product

1 pursuant to the reporting rule if the Administrator
2 determines by rule that the product will be used for
3 a non-emissive use.

4 (3) Quantities of carbon pollution that are at-
5 tributed to a supplier of natural gas or natural gas
6 liquids under subpart NN, or of petroleum under
7 subpart MM, of the reporting rule, but that are con-
8 tained in product that is transferred to an entity re-
9 porting emissions under subpart C or D of the re-
10 porting rule.

11 (4) Quantities of carbon pollution reported as
12 sequestered in subsurface geologic formations under
13 subpart RR of the reporting rule.

14 (5) With respect to the period on or before De-
15 cember 31, 2014, quantities of carbon pollution that
16 are biogenic CO₂, as defined in the reporting rule,
17 and, with respect to the period after December 31,
18 2014, quantities of carbon pollution resulting from
19 the combustion of a substance that is designated by
20 the Secretary of Agriculture and the Administrator,
21 through a joint rulemaking to be finalized no later
22 than September 30, 2014, as renewable biomass,
23 consistent with the purpose of this Act to require
24 payment of fees for emissions of carbon pollution

1 with externality costs that are not accounted for in
2 market prices.

3 (c) HFCs.—The quantity described in section 4(a)
4 shall be reduced by 90 percent with respect to—

5 (1) tons of carbon pollution that would result
6 from the release of HFCs produced or imported by
7 suppliers of industrial greenhouse gases, as defined
8 in subpart OO of the reporting rule; and

9 (2) importers of HFCs contained in pre-charged
10 equipment or closed cell foams, as defined in subpart
11 QQ of the reporting rule.

12 **SEC. 12. DEFINITIONS.**

13 In this Act:

14 (1) ADMINISTRATOR.—The term “Adminis-
15 trator” means the Administrator of the Environ-
16 mental Protection Agency.

17 (2) ATTRIBUTED.—The term “attributed”, with
18 respect to carbon pollution, means the assignation,
19 under the reporting rule, of responsibility for the
20 quantity of carbon pollution that would be emitted
21 from combustion or use of a product produced or
22 imported by an entity.

23 (3) CARBON DIOXIDE EQUIVALENT.—The term
24 “carbon dioxide equivalent” means, for each green-
25 house gas, the quantity of such greenhouse gas that

1 has a global warming potential equivalent to one
2 metric ton of carbon dioxide, as identified in Table
3 A–1 to Subpart A of the reporting rule.

4 (4) CARBON POLLUTION.—The term “carbon
5 pollution” means any of the greenhouse gases identi-
6 fied in Table A–1 to Subpart A of the reporting
7 rule.

8 (5) COMPLIANCE YEAR.—The term “compliance
9 year” means the calendar year—

10 (A) in which a ton of carbon pollution is
11 emitted or for which a ton of carbon pollution
12 is attributed; and

13 (B) for which a carbon pollution permit is
14 specified pursuant to section 5(c).

15 (6) FLUORINATED GREENHOUSE GASES.—The
16 term “fluorinated greenhouse gases” has the mean-
17 ing given that term in the reporting rule.

18 (7) REPORTING RULE.—The term “reporting
19 rule” means part 98 of title 40, Code of Federal
20 Regulations, including any revisions thereto, except
21 to the extent that the Administrator, in consultation
22 with the Secretary, determines that it would not be
23 appropriate to apply any such revision to the imple-
24 mentation of this Act in light of the different pur-
25 poses of this Act and such part 98.

1 (8) SECRETARY.—The term “Secretary” means
2 the Secretary of the Treasury.

3 (9) TON OF CARBON POLLUTION.—The term
4 “ton of carbon pollution” means a carbon dioxide
5 equivalent of carbon pollution.