

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.

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## 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

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## 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 sub-  
stance.

“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 equiva-  
11 lent that the Administrator of the Environmental Protec-  
12 tion Agency determines would be emitted from the com-  
13 bustion or other greenhouse gas emitting use of such sub-  
14 stance.

15 “(b) COVERED PERSON.—For purposes of this sub-  
16 title, 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 prod-  
21 ucts received at a United States refinery, the oper-  
22 ator 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 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 SECUR-**  
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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