

[DISCUSSION DRAFT: FEE FOR EMISSIONS OF CARBON POLLUTION]

SECTION-BY-SECTION

SECTION 1 - SHORT TITLE

Names the legislation the “_____ Act of 2013.”

SECTION 2 – CARBON POLLUTION FEES

Establishes that the Secretary of the Treasury shall issue carbon pollution permits for a fee to covered entities.

Sets the carbon permit fee for 2014 at [\$15/\$25/\$30] per ton of carbon pollution, increasing at [2%-8%] annually.

Requires each covered entity to pay fees to the Secretary to obtain one carbon pollution permit for each ton of carbon pollution that such entity emitted, or that is attributed to such entity, during a compliance year.

The carbon pollution fee program takes effect with respect to carbon pollution that is emitted in or attributed for 2014.

SECTION 3 – COVERED ENTITIES

Requires entities to purchase carbon pollution permits if they are required to report emissions under the greenhouse gas reporting requirements of 40 CFR part 98, as in effect as of the date of enactment of this Act. Covered entities include owners and operators of facilities required to report under part 98 (e.g., electricity generators) and suppliers of products required to report under part 98 (e.g., petroleum refineries).

SECTION 4 – QUANTITY OF CARBON POLLUTION COVERED

Establishes that the quantity of carbon pollution emitted by or attributed to a covered entity for a year is the quantity required to be reported by such entity for such year under the reporting rule.

Requires any revisions to the reporting rule after the date of enactment to maintain or enhance the accuracy and completeness of the information required to be reported.

SECTION 5 – FEE AND PERMIT PROCEDURES

Requires covered entities to pay fees for carbon pollution permits for a given compliance year no later than May 1 of the following year.

Requires the Secretary of the Treasury to make an unlimited number of carbon pollution permits available for a given compliance year during such compliance year and the first four months of the next year.

Prohibits trading, resale, or banking of carbon pollution permits, and establishes that permits may be used only for their single, specified compliance year, unless the Secretary of the Treasury authorizes such actions by regulation.

Requires the Secretary of the Treasury to refund fees for any extra carbon pollution permits obtained by a covered entity for a compliance year.

SECTION 6 – EXCESS CARBON POLLUTION PENALTY

Sets a penalty for failure to obtain carbon pollution permits equal to three times the applicable permit fee per ton of carbon pollution emitted without a permit.

SECTION 7 – COORDINATION

Requires the Secretary of the Treasury and the Administrator of the Environmental Protection Agency to enter into a memorandum of understanding setting forth the respective roles and responsibilities of the Department of the Treasury and the Environmental Protection Agency in carrying out the Act, no later than three months after the date of enactment. Requires the memorandum to provide for coordination between the agencies and to ensure that covered entities do not experience conflicting or unnecessarily duplicative mandates.

SECTION 8 – OTHER PROVISIONS UNAFFECTED

Establishes that the Act shall not affect the application of any other provision of law to a covered entity, or the responsibility of a covered entity to comply with any such provision.

SECTION 9 – RETURNING FEES TO THE AMERICAN PEOPLE

[To be supplied. Draft seeks comment on the most effective ways to return revenue to the American people, such as—

1. Mitigating energy costs for consumers, especially low-income consumers;
2. Reducing the federal deficit;
3. Protecting jobs of workers at trade-vulnerable, energy-intensive industries;
4. Reducing the tax liability for individuals and businesses; and
5. Investing in other activities to reduce carbon pollution or its effects.]

SECTION 10 – INTERACTION WITH STATE PROGRAMS

[To be supplied.]

SECTION 11 – SPECIAL RULES FOR SMALL SOURCES, RECONILIATION OF REPORTED EMISSIONS, AND HFCS

Exempts from being a covered entity—

- Facilities required to report emissions under 40 CFR 98.2(a)(3) that emit 50,000 metric tons or less in combined annual emissions from stationary fuel sources. This exempts certain small sources, such as boilers at non-industrial facilities.
- Certain sources of fluorinated greenhouse gases, where the associated carbon pollution is also reported by another covered entity.

Excludes from the emitted or attributed quantity of carbon pollution—

- Emissions reported for products that are exported.
- Carbon pollution that is reported but is associated with a product that is a non-emissive use.

- Quantities of carbon pollution that are attributed to a supplier of natural gas, natural gas liquids, or petroleum, and are contained in a product that is transferred to an entity that reports direct emissions from burning or releasing such product.
- Quantities of carbon pollution that are permanently sequestered in subsurface geologic formations.
- Through 2014, carbon pollution that is defined as biogenic CO₂ under the reporting rule. Beginning in 2015, carbon pollution from burning renewable biomass, as defined by the Secretary of Agriculture and the Administrator of the Environmental Protection Agency through a joint rulemaking.

Reduces the quantity of carbon pollution attributed to a covered entity by 90% with respect to carbon pollution from HFCs attributed to specified entities.

SECTION 12 – DEFINITIONS

Defines “Administrator” as the Administrator of the Environmental Protection Agency.

Defines “attributed” as the assignment of responsibility for the quantity of carbon pollution that would be emitted from combustion or use of a product produced or imported by a covered entity under the reporting rule.

Defines “carbon dioxide equivalent” as the quantity of any greenhouse gas that has a global warming potential equivalent to one metric ton of carbon dioxide, as defined in Table A-1 to Subpart A of the reporting rule.

Defines “carbon pollution” as any greenhouse gas identified in Table A-1 to Subpart A of the reporting rule.

Defines “compliance year” as the calendar year in or for which a ton of carbon pollution is emitted or attributed, and for which a carbon pollution permit may be used.

Defines “fluorinated greenhouse gases” as the definition given in the reporting rule.

Defines “reporting rule” as 40 CFR part 98, including any revisions to those regulations, except to the extent that the Administrator of the Environmental Protection Agency, in consultation with the Secretary of the Treasury, determines that it would not be appropriate to apply a particular revision in implementing this Act.

Defines “Secretary” as the Secretary of the Treasury.

Defines “ton of carbon pollution” as a carbon dioxide equivalent of carbon pollution.