

112TH CONGRESS  
2D SESSION

# H. R. 6338

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 covered substances, reduce the deficit, and return funds to the American people.

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## IN THE HOUSE OF REPRESENTATIVES

AUGUST 2, 2012

Mr. McDERMOTT (for himself, Mr. BLUMENAUER, Mr. STARK, Mr. LARSON of Connecticut, and Mr. RANGEL) 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 covered substances, reduce the deficit, and return funds to the American people.

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 “Managed Carbon Price  
5 Act of 2012”.

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. Information reporting requirements.

“Sec. 9905. 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 natural gas, the first seller  
2 of such natural gas,

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

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

12           “(c) USE TREATED AS SALE.—

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

21           “(2) EXEMPTION FOR USE IN FURTHER MANU-  
22 FACTURE.—Paragraph (1) shall not apply to use of  
23 a greenhouse gas emission substance as material in  
24 the manufacture or production of, or as a component

1 part of, another article to be manufactured or pro-  
2 duced by such person.

3 “(d) EXCEPTIONS.—Subsection (a) shall not apply  
4 to—

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

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

10 “(e) IMPORTATION OF CARBON INTENSIVE GOODS.—

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

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

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

1           “(2) EXPIRATION.—Paragraph (1) and 6433(b)  
2 shall cease to have effect at such time as and to the  
3 extent that—

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

9           “(B) the country of export has imple-  
10 mented equivalent measures, and the actions  
11 provided for by paragraph (1) and 6433(b) are  
12 no longer appropriate.

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

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

18           “(b) RULES RELATING TO PERMITS.—For purposes  
19 of this subtitle—

20           “(1) Each Federal emission permit shall be de-  
21 nominated in one-quarter carbon dioxide equivalents.

22           “(2) A Federal emission permit may only be  
23 purchased within fourteen calendar days before or  
24 after a greenhouse gas emission substance is pro-

1       duced or entered into the United States, as the case  
2       may be.

3           “(3) Except as provided in subsection (a), a  
4       Federal emission permit may not be sold, exchanged,  
5       or otherwise transferred.

6       “(c) PERMIT PRICE.—

7           “(1) IN GENERAL.—The Secretary, after con-  
8       sultation with the Administrator of the Environ-  
9       mental Protection Agency and the Secretary of En-  
10      ergy, shall establish the price of obtaining a Federal  
11      emission permit for a calendar year based on a de-  
12      termination of the dollar amount necessary to meet  
13      the emissions reductions targets specified in sub-  
14      section (d).

15      “(2) 5-YEAR PRICE SCHEDULE.—

16           “(A) IN GENERAL.—Not later than Janu-  
17      ary 1, 2014, the Secretary shall publish a  
18      schedule of the prices determined under para-  
19      graph (1) for obtaining a Federal emission per-  
20      mit during each of the five years from 2015 to  
21      2019. The Secretary shall publish the price for  
22      obtaining a Federal emission permit in each  
23      year after 2018 no later than five years before  
24      January 1 of the applicable year.

1           “(B) REDUCTION IN PRICE IF TARGET RE-  
2           DUCTIONS BEING EXCEEDED.—If the Secretary  
3           determines—

4                   “(i) that greenhouse gas emissions are  
5                   being reduced at a rate that exceeds the  
6                   reduction expected in national greenhouse  
7                   gas emissions for the year, and

8                   “(ii) that the Federal permit price can  
9                   be reduced while still attaining the national  
10                  greenhouse gas emission target reductions  
11                  specified in subsection (d) for the year,  
12                  the Secretary may, at any time before the be-  
13                  ginning of the year, reduce the Federal permit  
14                  price for that year.

15           “(3) INCREASE IN PRICE IF TARGET REDUC-  
16           TIONS NOT BEING MET.—If the Secretary deter-  
17           mines that the reduction of greenhouse gas emis-  
18           sions is failing to meet the target reductions speci-  
19           fied in subsection (d) for a year in such period, the  
20           Secretary may increase the Federal permit price for  
21           permits no earlier than 2 years after the year for  
22           which the determination is made.

23           “(4) MAXIMUM AND MINIMUM PRICE.—

24                   “(A) IN GENERAL.—Not later than Janu-  
25                  ary 1, 2021, and every 10 years thereafter, the

1 Secretary, after consultation with the Adminis-  
 2 trator of the Environmental Protection Agency  
 3 and the Secretary of Energy, shall publish a  
 4 10-year schedule of the minimum and max-  
 5 imum prices for Federal emissions permits.

6 “(B) PRICES SPECIFIED.—The maximum  
 7 and minimum price for a Federal emission per-  
 8 mit issued by the Secretary in a year may not  
 9 be below the minimum price or the maximum  
 10 price for the corresponding year specified in the  
 11 following table:

“Year:	Minimum Price is:	Maximum Price is:
2015 .....	\$6.25	\$18.75
2016 .....	\$18.75	\$31.25
2017 .....	\$31.25	\$43.75
2018 .....	\$43.75	\$56.25
2019 .....	\$56.25	\$68.75
2020 .....	\$68.75	\$82.25
2021 .....	\$81.25	\$93.75
2022 .....	\$93.75	\$106.25
2023 .....	\$106.25	\$118.75
2024 .....	\$118.75	\$131.25.

12 “(C) ADJUSTMENT FOR INFLATION.—In  
 13 the case of any calendar year beginning after  
 14 2015, each dollar amount contained in the table  
 15 in subparagraph (B) shall be increased by an  
 16 amount equal to—

17 “(i) such dollar amount, multiplied by

18 “(ii) the cost of living adjustment de-  
 19 termined under section 1(f)(3) for the cal-  
 20 endar year, determined by substituting



1           ‘calendar year 2014’ for ‘calendar year  
2           1992’ in subparagraph (B) thereof.

3           “(d) NATIONAL LIMITATION.—

4           “(1) TARGETS.—For purposes of this section—

5           “(A) 2015 THROUGH 2019.—The average  
6           emissions for the period 2015 through 2019  
7           shall be no more than the carbon dioxide  
8           equivalents emitted in the United States in  
9           2005.

10          “(B) 2025 THROUGH 2029.—The average  
11          emissions for the period 2025 through 2029  
12          shall be no more than 70 percent of the carbon  
13          dioxide equivalents emitted in the United States  
14          in 2005.

15          “(C) 2035 THROUGH 2039.—The average  
16          emissions for the period 2035 through 2039  
17          shall be no more than 50 percent of the carbon  
18          dioxide equivalents emitted in the United States  
19          in 2005.

20          “(D) 2045 THROUGH 2049.—The average  
21          emissions for the period 2045 through 2049  
22          shall be no more than 30 percent of the carbon  
23          dioxide equivalents emitted in the United States  
24          in 2005.

1           “(E) 2055 THROUGH 2059.—The average  
2           emissions for the period 2055 through 2059  
3           shall be no more than 20 percent of the carbon  
4           dioxide equivalents emitted in the United States  
5           in 2005.

6           “(2) DETERMINATION OF 2005 LEVELS.—For  
7           purposes of subparagraph (A), the number of metric  
8           tons of carbon dioxide equivalents emitted in the  
9           United States in 2005 shall be the number deter-  
10          mined under section 1605(a) of the Energy Policy  
11          Act of 1992 and published by the Energy Informa-  
12          tion Administration.

13          “(e) REPORT.—

14                 “(1) IN GENERAL.—Not later than the second  
15          March 1 after the date of the enactment of the Man-  
16          aged Carbon Price Act of 2012, and annually there-  
17          after, the Secretary shall publish a report describ-  
18          ing—

19                         “(A) the extent to which the United States  
20          greenhouse gas emission limitations specified  
21          under subsection (d) are being achieved,

22                         “(B) the United States greenhouse gas  
23          emission permits sold during the previous cal-  
24          endar year and the impact of the number of

1 such permits on greenhouse gas emissions in  
2 the United States, and

3 “(C) the total greenhouse gas emissions  
4 worldwide for the previous calendar year in re-  
5 lation to such emissions for 2005.

6 “(2) REPORT DETAILS.—Such report shall in-  
7 clude—

8 “(A) an explanation of the methodology  
9 and assumptions the Secretary has used in es-  
10 tablishing prices under this section, and

11 “(B) an estimation, or range of esti-  
12 mations, of the price of permits for the 10-year  
13 period following the current prices published  
14 under subsection (c).

15 **“SEC. 9903. DEFINITIONS.**

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

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

20 “(2) CARBON DIOXIDE EQUIVALENT.—The  
21 term ‘carbon dioxide equivalent’ means, for each  
22 greenhouse gas emission substance, the quantity of  
23 the greenhouse gas emission substance that the Ad-  
24 ministrator determines makes the same contribution  
25 to global warming as 1 metric ton of carbon dioxide.

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

4                   “(A) coal (including lignite, peat, and de-  
5                   rivatives of coal), to be used as a combustion  
6                   fuel,

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

9                   “(C) natural gas (including the gasses re-  
10                  leased as a result of flaring or venting such nat-  
11                  ural gas),

12                  “(D) methane,

13                  “(E) nitrous oxide,

14                  “(F) sulfur hexafluoride,

15                  “(G) a perfluorocarbon,

16                  “(H) a hydrofluorocarbon, and

17                  “(I) any other substance that is deter-  
18                  mined by the Administrator to contribute to  
19                  global warming to a nonnegligible degree.

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

23           “(5) CARBON INTENSIVE GOOD.—The term  
24           ‘carbon intensive good’ means—

1           “(A)(i) iron, steel, any steel mill product  
2           (including pipe and tube), aluminum, cement,  
3           glass (including flat, container, and specialty  
4           glass and fiberglass), pulp, paper, chemicals,  
5           and industrial ceramics, and

6           “(ii) any other manufactured product that  
7           the Secretary determines—

8                   “(I) is sold for purposes of further  
9                   manufacture, and

10                   “(II) generates, in the course of the  
11                   manufacture of the product, direct and in-  
12                   direct greenhouse gas emissions that are  
13                   comparable (on an emissions per dollar of  
14                   output basis) to emissions generated in the  
15                   manufacture or production of a good iden-  
16                   tified in clause (i), and

17           “(B) a manufactured item in which one or  
18           more goods identified under subparagraph (A)  
19           are inputs and the cost of production of which  
20           in the United States the Secretary determines  
21           is significantly increased by this subtitle.

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

1       “(b) IDENTIFICATION OF CARBON INTENSIVE  
2 GOODS.—The determinations by the Secretary required by  
3 subsection (a)(5) shall be by rule.

4       “(c) PUBLICATION OF SCHEDULE.—Not later than  
5 one year after the date of the enactment of the Managed  
6 Carbon Price Act of 2012, the Administrator, in consulta-  
7 tion with the Secretary and the Secretary of Energy, shall  
8 publish a schedule listing each greenhouse gas emission  
9 substance and the quantity of each substance required to  
10 make 1 metric ton of carbon dioxide. The Administrator,  
11 in consultation with the Secretary and the Secretary of  
12 Energy, may update such schedule from time to time.

13 **“SEC. 9904. INFORMATION REPORTING REQUIREMENTS.**

14       “Secretary may solicit information from covered per-  
15 sons regarding estimated future use of greenhouse gas  
16 emissions substances.

17 **“SEC. 9905. REGULATIONS.**

18       “‘The Secretary shall issue such regulations as may  
19 be necessary or appropriate to carry out this subtitle, in-  
20 cluding regulations relating to the timely and efficient  
21 issuance of permits and collection of payments for such  
22 permits.’”.

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

1 **“SEC. 6433. REFUNDS OF FEDERAL EMISSION PERMIT FEE**  
2 **FOR CERTAIN USES.**

3 “(a) IN GENERAL.—If a Federal emission permit has  
4 been acquired with respect to a greenhouse gas emission  
5 substance pursuant to section 9902 and the acquirer of  
6 such permit uses such substance in a manner that will  
7 make a negligible or no contribution to global warming,  
8 as determined by the Secretary in consultation with the  
9 Administrator of the Environmental Protection Agency,  
10 the Secretary shall pay (without interest) to the acquirer  
11 of such substance pursuant to such permit an amount  
12 equal to the amount paid for the applicable Federal emis-  
13 sion permit.

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

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

23 “(2) greenhouse gas emission permit equiva-  
24 lency fees paid under section 9901(e) by importers  
25 of carbon intensive goods used in the production of  
26 the comparable carbon intensive goods in question.”.

1 (c) FAILURE TO OBTAIN PERMIT.—Chapter 38 of  
 2 the Internal Revenue Code of 1986 is amended by adding  
 3 at the end the following new subchapter:

4 **“Subchapter E—Greenhouse Gas Emission**  
 5 **Substances**

“Sec. 4691. Greenhouse gas emission substances.

6 **“SEC. 4691. GREENHOUSE GAS EMISSION SUBSTANCES.**

7 “(a) IMPOSITION OF TAX.—There is hereby imposed  
 8 on any covered person who fails to obtain a Federal emis-  
 9 sion permit pursuant to subtitle L a tax equal to 100 per-  
 10 cent of the dollar amount of the fee that would have been  
 11 charged for such permit but for such failure.

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

14 “(c) FEDERAL EMISSION PERMIT.—The term ‘Fed-  
 15 eral emission permit’ means a permit required under sec-  
 16 tion 9901.

17 “(d) COORDINATION.—The tax imposed under this  
 18 section is in addition to the fee imposed under subtitle  
 19 L.”.

20 (d) ESTABLISHMENT OF ENERGY AND ECONOMIC  
 21 SECURITY TRUST FUND.—

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



1 (A) to facilitate economic growth and clean  
2 energy production, and

3 (B) to protect the economic security of  
4 American families and communities.

5 (2) ESTABLISHMENT OF TRUST FUND.—Sub-  
6 chapter A of chapter 98 of such Code (relating to  
7 trust fund code) is amended by adding at the end  
8 the following:

9 **“SEC. 9512. ENERGY AND ECONOMIC SECURITY TRUST**  
10 **FUND.**

11 “(a) CREATION OF TRUST FUND.—There is estab-  
12 lished in the Treasury of the United States a trust fund  
13 to be known as the ‘Energy and Economic Security Trust  
14 Fund’ (referred to in this section as the ‘Trust Fund’),  
15 consisting of such amounts as may be appropriated or  
16 credited to the Trust Fund as provided in this section or  
17 section 9602(b).

18 “(b) TRANSFERS TO TRUST FUND.—There is hereby  
19 appropriated to the Trust Fund an amount equivalent to  
20 75 percent of the amounts received in the Treasury pursu-  
21 ant to subtitle L. The remaining 25 percent of such  
22 amounts shall be retained in the Treasury for deficit re-  
23 duction.

24 “(c) EXPENDITURES FROM TRUST FUND.—

1           “(1) IN GENERAL.—The Secretary shall pay  
2           monthly from the Trust Fund the dividend amount  
3           to each taxpayer.

4           “(2) DIVIDEND AMOUNT.—For purposes of  
5           paragraph (1), the term ‘dividend amount’ means  
6           the sum of—

7                   “(A)(i) in the case of the taxpayer filing a  
8                   joint return, the individual share for the hus-  
9                   band and the individual share for the wife, and

10                   “(ii) in the case of a taxpayer other than  
11                   a taxpayer described in subparagraph (A), the  
12                   individual share, and

13                   “(B) in the case of an individual who is a  
14                   dependent (as defined in section 152) of the  
15                   taxpayer,  $\frac{1}{2}$  of the individual share.

16           For purposes of subparagraph (B), not more than 2  
17           dependents may be taken into account for each tax-  
18           payer.

19           “(3) INDIVIDUAL SHARE.—For purposes of this  
20           subsection, the term ‘individual share’ means the  
21           amount determined by the Secretary by dividing the  
22           total amount deposited in the Trust Fund for the  
23           month by the total number of individual shares pay-  
24           able at the end of such month.

1           “(4) LIMITATION.—For purposes of this sub-  
2 section—

3           “(A) IN GENERAL.—No amount is payable  
4 under this subsection with respect to an indi-  
5 vidual unless the individual is a qualified indi-  
6 vidual.

7           “(B) QUALIFIED INDIVIDUAL.—The term  
8 ‘qualified individual’ means an individual who is  
9 a lawful resident of the United States on the  
10 date of such payment. For purposes of ensuring  
11 that payments are made under this subsection  
12 to all qualified individuals, the Secretary shall  
13 consult with such other Federal and State offi-  
14 cials as the Secretary determines necessary or  
15 appropriate.

16           “(C) UNITED STATES.—For purposes of  
17 subparagraph (B), the United States includes  
18 the District of Columbia, the Commonwealth of  
19 Puerto Rico, the Virgin Islands, Guam, Amer-  
20 ican Samoa, and the Commonwealth of the  
21 Northern Mariana Islands.”.

22 (e) CONFORMING AND CLERICAL AMENDMENTS.—

23           (1) The table of subchapters for chapter 38 of  
24 such Code is amended by adding at the end the fol-  
25 lowing new item:

“SUBCHAPTER E. GREENHOUSE GAS EMISSION SUBSTANCES.”.

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

                  “Subtitle L. Greenhouse Gas Emission Substances.”.

4           (3) The table of sections for subchapter B of  
5           chapter 65 of such Code is amended by adding at  
6           the end the following new item:

                  “Sec. 6433. Refunds of Federal emission permit fee for certain uses.”.

7           (4) The table of sections for subchapter A of  
8           chapter 98 of such Code is amended by adding at  
9           the end the following:

                  “Sec. 9512. Energy and Economic Security Trust Fund.”.

10          (f) **EFFECTIVE DATE.**—The amendments made by  
11 this section shall apply with respect to the sale of any  
12 greenhouse gas emission substance after **【December 31,**  
13 **2013】**.

○