

110TH CONGRESS  
1ST SESSION

# S. 1387

To amend the Emergency Planning and Community Right-to-Know Act of 1986 to provide for greenhouse gases.

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IN THE SENATE OF THE UNITED STATES

MAY 14, 2007

Ms. KLOBUCHAR (for herself and Ms. SNOWE) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

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## A BILL

To amend the Emergency Planning and Community Right-to-Know Act of 1986 to provide for greenhouse gases.

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 “National Greenhouse  
5 Gas Registry Act of 2007”.

6 **SEC. 2. FINDINGS AND PURPOSE.**

7 (a) FINDINGS.—Congress finds that—

8 (1) global climate change poses a significant  
9 threat to national security, the United States econ-

1 omy, public health and welfare, and the global envi-  
2 ronment;

3 (2) high-quality data will be an important fac-  
4 tor in successfully implementing a green house gas  
5 regulatory framework; and

6 (3) to begin to manage climate change risks,  
7 public and private entities will need a comprehen-  
8 sive, accurate inventory, registry, and information  
9 system of the sources and quantities of United  
10 States greenhouse gas emissions.

11 (b) PURPOSE.—The purpose of this Act is to estab-  
12 lish a mandatory greenhouse gas inventory, registry, and  
13 information system that—

14 (1) is complete, consistent, transparent, and ac-  
15 curate;

16 (2) will provide accurate data that can be used  
17 by public and private entities to design efficient and  
18 effective greenhouse gas emission reduction strate-  
19 gies; and

20 (3) will provide the appropriate high-quality  
21 data to be used in any future greenhouse gas regu-  
22 latory framework.

1 **SEC. 3. INCLUSION OF GREENHOUSE GASES IN EMER-**  
 2 **GENCY PLANNING AND COMMUNITY RIGHT-**  
 3 **TO-KNOW ACT OF 1986.**

4 (a) INCLUSION ON LIST OF GREENHOUSE GASES.—  
 5 Section 302 of the Emergency Planning and Community  
 6 Right-to-Know Act of 1986 (42 U.S.C. 11002) is amend-  
 7 ed—

8 (1) in subsection (a)—

9 (A) in paragraph (2)—

10 (i) in the first sentence, by striking  
 11 “Within” and inserting the following:

12 “(A) IN GENERAL.—Not later than”;

13 (ii) in the second sentence, by striking  
 14 “The list” and inserting the following:

15 “(B) CONTENTS.—

16 “(i) IN GENERAL.—Subject to clause  
 17 (ii), the list”; and

18 (iii) by adding at the end the fol-  
 19 lowing:

20 “(ii) INCLUSION OF GREENHOUSE  
 21 GASES.—Notwithstanding clause (i), the  
 22 Administrator shall include greenhouse  
 23 gases on the list under this paragraph.”;  
 24 and

25 (B) in paragraph (3), by adding at the end  
 26 the following:

1           “(D) GREENHOUSE GASES.—Notwith-  
 2 standing any other provision of this section, the  
 3 Administrator—

4           “(i) shall establish a threshold plan-  
 5 ning quantity for greenhouse gases under  
 6 subparagraph (A) of 1 metric ton for each  
 7 greenhouse gas; and

8           “(ii) shall not be required to comply  
 9 with subparagraph (A) for purposes of es-  
 10 tablishing the threshold planning quantity  
 11 for greenhouse gases under clause (i).”;  
 12 and

13           (2) by adding at the end the following:

14           “(e) GREENHOUSE GAS EMISSIONS.—

15           “(1) DEFINITION OF AFFECTED FACILITY.—In  
 16 this subsection:

17           “(A) IN GENERAL.—The term ‘affected fa-  
 18 cility’ means—

19           “(i) a major emitting facility (as de-  
 20 fined in section 169 of the Clean Air Act  
 21 (42 U.S.C. 7479));

22           “(ii) a major stationary source (as de-  
 23 fined in section 169A(g) of that Act (42  
 24 U.S.C. 7491(g));

1           “(iii) an electricity generator or elec-  
2           tric utility that emits a greenhouse gas;

3           “(iv) a facility that manufactures or  
4           imports a greenhouse gas;

5           “(v) a facility that emits nitrous ox-  
6           ides associated with the manufacture of  
7           adipic or nitric acid;

8           “(vi) an aluminum smelter that emits  
9           a greenhouse gas;

10          “(vii) an underground coal mine that  
11          emitted more than 35,000,000 cubic feet  
12          of methane during calendar year 2004 or  
13          thereafter;

14          “(viii) a facility that emits  
15          hydrofluorocarbon-23 as a byproduct of  
16          hydrochlorofluorocarbon-22; and

17          “(ix) any other facility of appropriate  
18          size, as determined by the Administrator,  
19          that emits a greenhouse gas.

20          “(B) EXCLUSION.—The term ‘affected fa-  
21          cility’ does not include any small business (as  
22          described in part 121 of title 13, Code of Fed-  
23          eral Regulations (or a successor regulation))  
24          that generates fewer than 10,000 metric tons of  
25          greenhouse gas emissions during a calendar

1 year unless the small business elects to be con-  
2 sidered for a de minimis exemption under this  
3 subsection, or elects to voluntarily participate in  
4 the reporting and registry under section 314, as  
5 an affected facility.

6 “(2) DE MINIMIS EXEMPTIONS.—As soon as  
7 practicable after the date of enactment of this sub-  
8 section, the Administrator may determine the level  
9 of global warming pollution emissions from a source  
10 within an affected facility that shall be considered to  
11 be eligible for a de minimis exemption from a re-  
12 quirement under this section.

13 “(3) REQUIREMENTS.—In making a determina-  
14 tion pursuant to paragraph (2), the Administrator  
15 shall—

16 “(A) take into consideration the avail-  
17 ability and suitability of simplified techniques  
18 and tools;

19 “(B) establish criteria under which, begin-  
20 ning in calendar year 2010, a third-party entity  
21 may be qualified by the Administrator to certify  
22 reported greenhouse gas emissions and emission  
23 baselines of affected facilities; and

24 “(C) to the maximum extent practicable,  
25 integrate into any applicable reporting and cer-

1           tification procedure each State administering a  
2           mandatory carbon registry system, as deter-  
3           mined by the Administrator.”.

4           (b) COMMISSIONS, DISTRICTS, AND COMMITTEES.—  
5 Section 301 of the Emergency Planning and Community  
6 Right-to-Know Act of 1986 (42 U.S.C. 11001) is amended  
7 by adding at the end the following:

8           “(e) GREENHOUSE GASES.—Notwithstanding any  
9 other provision of this Act, the establishment of a State  
10 emergency response commission, an emergency planning  
11 district, or an emergency planning committee under this  
12 section shall not be required with respect to any green-  
13 house gas.”.

14           (c) GREENHOUSE GAS RECORDS.—Subtitle B of the  
15 Emergency Planning and Community Right-to-Know Act  
16 of 1986 (42 U.S.C. 11021 et seq.) is amended by adding  
17 at the end the following:

18 **“SEC. 314. GREENHOUSE GAS REPORTS AND REGISTRY.**

19           “(a) REPORTS.—

20           “(1) IN GENERAL.—Subject to section 301(e),  
21 each affected facility (as defined in section  
22 302(e)(1)) shall submit to the appropriate State  
23 emergency response commission under section 301  
24 an annual report describing the greenhouse gas

1 emissions and applicable emission baselines of the  
2 affected facility during the preceding calendar year.

3 “(2) REQUIREMENT.—Each report submitted  
4 under paragraph (1) shall express the greenhouse  
5 gas emissions of an affected facility—

6 “(A) in metric tons of each greenhouse gas  
7 emitted by the affected facility; and

8 “(B) in metric tons of the carbon dioxide  
9 equivalent of each greenhouse gas so emitted.

10 “(b) ACTION BY COMMISSION.—Each State emer-  
11 gency response commission that receives a report under  
12 subsection (a) shall—

13 “(1) ensure that the report is certified in ac-  
14 cordance with regulations of the Administrator;

15 “(2) for calendar year 2010 and each calendar  
16 year thereafter, ensure that the report is certified by  
17 a third-party entity as described in section  
18 302(e)(3)(B);

19 “(3) submit to the Administrator a copy of each  
20 report for inclusion in the greenhouse gas registry  
21 under subsection (d); and

22 “(4) establish and maintain in the office of the  
23 commission a record of each report submitted to the  
24 commission under subsection (a) for each calendar  
25 year.

1       “(c) PUBLIC ACCESS.—A State emergency response  
2 commission shall ensure public access to the records main-  
3 tained under subsection (b)(3), except to the extent that  
4 information contained in such a record is otherwise pro-  
5 tected from public access under this Act.

6       “(d) NATIONAL GREENHOUSE GAS REGISTRY.—

7           “(1) ESTABLISHMENT.—The Administrator, in  
8 consultation with the Secretary of Commerce, the  
9 Secretary of Agriculture, the Secretary of Energy,  
10 States, the private sector, and nongovernmental or-  
11 ganizations concerned with establishing standards  
12 for the reporting of greenhouse gas emissions, shall  
13 establish and maintain a national greenhouse gas  
14 emissions registry (referred to in this subsection as  
15 the ‘registry’).

16           “(2) INCLUSIONS.—The Administrator shall in-  
17 clude in the registry—

18           “(A) each report received from a State  
19 emergency response commission under sub-  
20 section (b)(3);

21           “(B) for each greenhouse gas emitted, ac-  
22 cording to the reports, an estimate of the quan-  
23 tity of emissions of the greenhouse gas by each  
24 category of source;

1           “(C) a detailed analysis of trends in the  
2           quantity, composition, and sources of green-  
3           house gas emissions in the United States; and

4           “(D) an estimate of—

5           “(i) mobile source emissions of the  
6           greenhouse gas emitted as a result of com-  
7           bustion of fuels in transportation equip-  
8           ment, such as automobiles, trucks, trains,  
9           airplanes, and vessels;

10          “(ii) direct stationary combustion  
11          source emissions;

12          “(iii) the total quantity of direct  
13          greenhouse gas emissions from stationary  
14          sources, expressed in units of carbon diox-  
15          ide equivalent;

16          “(iv) the quantity of petroleum prod-  
17          ucts sold or imported by each affected fa-  
18          cility, and the quantity of greenhouse  
19          gases, expressed in units of carbon dioxide  
20          equivalent, that would be emitted when  
21          those products are used for transportation  
22          in the United States, as determined by the  
23          Administrator;

1           “(v) the total quantity of reductions  
2           in greenhouse gas emissions created by  
3           greenhouse gas offsets;

4           “(vi) the quantity of  
5           hydrofluorocarbons, perfluorocarbons, and  
6           sulfur hexafluoride (expressed in units of  
7           carbon dioxide equivalent) that—

8                   “(I) are sold or imported by each  
9                   affected facility; and

10                   “(II) will ultimately be emitted in  
11                   the United States, as determined by  
12                   the Administrator; and

13           “(vii) such other categories of emis-  
14           sions as the Administrator determines may  
15           be practicable and useful for the purposes  
16           of this Act, such as—

17                   “(I) indirect emissions from im-  
18                   ported electricity, heat, and steam;

19                   “(II) process and fugitive emis-  
20                   sions; and

21                   “(III) production or importation  
22                   of greenhouse gases.

23           “(3) PUBLIC AVAILABILITY.—The Adminis-  
24           trator shall publish on the website of the Environ-  
25           mental Protection Agency all information contained

1 in the registry, except in any case in which pub-  
2 lishing the information would result in a disclosure  
3 of information vital to national security, as deter-  
4 mined by the Administrator.

5 “(4) INTEGRATION.—The Administrator shall  
6 integrate, to the maximum extent practicable, infor-  
7 mation contained in the registry with any other envi-  
8 ronmental information system maintained by the  
9 Administrator.

10 “(e) NEW REPORTING SYSTEM.—

11 “(1) IN GENERAL.—On or after the date that  
12 is 3 years after the date of enactment of this sec-  
13 tion, the Administrator, in consultation with each  
14 party described in subsection (d)(1), may, on the  
15 record, after providing for a public hearing and op-  
16 portunity to comment, and accordance with this Act  
17 or the authority of the Administrator under any  
18 other law administered by the Administrator, estab-  
19 lish a new reporting system for greenhouse gases.

20 “(2) REQUIREMENTS.—A new reporting system  
21 established under this subsection shall, as compared  
22 with the registry established under subsection (d)—

23 “(A) incorporate and apply to the same af-  
24 fected facilities, gases, sources, and economic  
25 sectors; and

1                   “(B) at a minimum, be equally as com-  
2                   prehensive.

3           “(f) REGULATIONS.—Regulations promulgated under  
4 this section may be enforced pursuant to section 113 of  
5 the Clean Air Act (42 U.S.C. 7413) with respect to any  
6 person that—

7                   “(1) fails to submit a report under this section;

8           or

9                   “(2) otherwise fails to comply with those regu-  
10           lations.”.

11           (d) DEFINITION OF GREENHOUSE GAS.—Section  
12 329 of the Emergency Planning and Community Right-  
13 to-Know Act of 1986 (42 U.S.C. 11049) is amended—

14                   (1) by redesignating paragraphs (5) through  
15           (10) as paragraphs (6) through (11), respectively;

16           and

17                   (2) by inserting after paragraph (4) the fol-  
18           lowing:

19                   “(5) GREENHOUSE GAS.—The term ‘greenhouse  
20           gas’ means any of—

21                           “(A) carbon dioxide;

22                           “(B) mercury;

23                           “(C) methane;

24                           “(D) nitrous oxides;

25                           “(E) hydrofluorocarbons;

1                   “(F) perfluorocarbons;  
2                   “(G) sulfur hexafluoride; and  
3                   “(H) any other anthropogenically-emitted  
4                   gas that the Administrator, after notice and  
5                   comment, determines to contribute to global  
6                   warming.”.

7           (e) EFFECT OF SECTION.—Nothing in this section or  
8           an amendment made by this section requires the labeling  
9           of a greenhouse gas (as defined in paragraph (5) of section  
10          329 of the Emergency Planning and Community Right-  
11          to-Know Act of 1986 (42 U.S.C. 11049) (as amended by  
12          subsection (d))) as a toxic substance for purposes of any  
13          other Federal law (including regulations).

○