AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
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110TH CONGRESS
1ST SESSION

S. 183

To require the establishment of a corporate average fuel economy standard for passenger automobiles of 40 miles per gallon by 2017, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 4, 2007

Mr. STEVENS introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

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A BILL

To require the establishment of a corporate average fuel economy standard for passenger automobiles of 40 miles per gallon by 2017, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Improved Passenger Automobile Fuel Economy Act of 2007".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—40 MPG STANDARD BY 2017

Sec. 101. Cafe standards for passenger automobiles.
Sec. 102. Fuel economy standard credits.
Sec. 103. Authorization of appropriations.
Sec. 104. Effective date.

TITLE II—MARKET-BASED INITIATIVES FOR GREENHOUSE GAS REDUCTION

Sec. 201. Market-based initiatives.
Sec. 202. Implementing panel.
Sec. 203. Definitions.

TITLE I—40 MPG STANDARD BY 2017

SEC. 101. CAFE STANDARDS FOR PASSENGER AUTOMOBILES.

(a) AVERAGE FUEL ECONOMY STANDARDS FOR AUTOMOBILES.—Section 32902 of title 49, United States Code, is amended—

(1) by striking subsections (b) and (c) and inserting the following:

''(b) PASSENGER AUTOMOBILES.—

''(1) IN GENERAL.—At least 18 months before the beginning of each model year, the Secretary of Transportation shall prescribe by regulation average fuel economy standards for passenger automobiles manufactured by a manufacturer in that model year. Each standard shall be the maximum feasible average fuel economy level that the Secretary decides the manufacturers can achieve in that model year. The

Secretary may prescribe separate standards for different classes of passenger automobiles.

"(2) MINIMUM STANDARD.—Except as provided in paragraph (3), in prescribing a standard under paragraph (1), the Secretary shall ensure that no manufacturer's standard for a particular model year is less than the greater of—

"(A) the standard in effect on the date of enactment of the Improved Passenger Automobile Fuel Economy Act of 2007; or

"(B) a standard established in accordance with the requirement of section 104(c)(2) of that Act.

"(3) 40 MILES PER GALLON STANDARD FOR MODEL YEAR 2017.—The Secretary shall prescribe an average fuel economy standard for passenger automobiles manufactured by a manufacturer in model year 2017 of 40 miles per gallon. If the Secretary determines that more than 1 manufacturer is not reasonably expected to achieve that standard, the Secretary shall notify the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Energy and Commerce of that determination.

"(c) FLEXIBILITY OF AUTHORITY.—

"(1) IN GENERAL.—The authority of the Secretary to prescribe by regulation average fuel economy standards for automobiles under this section includes the authority to prescribe standards based on one or more vehicle attributes that relate to fuel economy, and to express the standards in the form of a mathematical function. The Secretary may issue a regulation prescribing standards for one or more model years.

"(2) REQUIRED LEAD-TIME.—When the Secretary prescribes an amendment to a standard under this section that makes an average fuel economy standard more stringent, the Secretary shall prescribe the amendment at least 18 months before the beginning of the model year to which the amendment applies.

"(3) NO ACROSS-THE-BOARD INCREASES.—When the Secretary prescribes a standard, or prescribes an amendment under this section that changes a standard, the standard may not be expressed as a uniform percentage increase from the fuel-economy performance of automobile classes or categories already achieved in a model year by a manufacturer.";

(2) by inserting ''motor vehicle safety, emissions,'' in subsection (f) after ''economy,'';

(3) by striking ''energy.'' in subsection (f) and inserting ''energy and reduce its dependence on oil for transportation.'';

(4) by striking subsection (j) and inserting the following:

''(j) NOTICE OF FINAL RULE.—Before taking final action on a standard or an exemption from a standard under this section, the Secretary of Transportation shall notify the Secretary of Energy and the Administrator of the Environmental Protection Agency and provide them a reasonable time to comment on the standard or exemption.''; and

(5) by adding at the end thereof the following:

''(k) COSTS-BENEFITS.—The Secretary of Transportation may not prescribe an average fuel economy standard under this section that imposes marginal costs that exceed marginal benefits, as determined at the time any change in the standard is promulgated.''.

(b) EXEMPTION CRITERIA.—The first sentence of section 32904(b)(6)(B) of title 49, United States Code, is amended—

(1) by striking ''exemption would result in reduced'' and inserting ''manufacturer requesting the exemption will transfer'';

(2) by striking ''in the United States'' and inserting ''from the United States''; and

(3) by inserting ''because of the grant of the exemption'' after ''manufacturing''.

(c) CONFORMING AMENDMENTS.—

(1) Section 32902 of title 49, United States Code, is amended—

(A) by striking ''or (c)'' in subsection (d)(1);

(B) by striking ''(c),'' in subsection (e)(2);

(C) by striking ''subsection (a) or (d)'' each place it appears in subsection (g)(1) and inserting ''subsection (a), (b), or (d)'';

(D) by striking ''(1) The'' in subsection (g)(1) and inserting ''The'';

(E) by striking subsection (g)(2); and

(F) by striking ''(c),'' in subsection (h) and inserting ''(b),''.

(2) Section 32903 of such title is amended by striking ''section 32902(b)–(d)'' each place it appears and inserting ''subsection (b) or (d) of section 32902''.

(3) Section 32904(a)(1)(B) of such title is amended by striking ''section 32902(b)–(d)'' and inserting ''subsection (b) or (d) of section 32902''.

(4) The first sentence of section 32909(b) of such title is amended to read ''The petition must be filed not later than 59 days after the regulation is prescribed.''.

(5) Section 32917(b)(1)(B) of such title is amended by striking ''or (c)''.

SEC. 102. FUEL ECONOMY STANDARD CREDITS.

(a) IN GENERAL.—Section 32903 of title 49, United States Code, is amended by striking the second sentence of subsection (a) and inserting ''The credits—

''(1) may be applied to any of the 3 model years immediately following the model year for which the credits are earned; or

''(2) transferred to the registry established under section 201 of the Improved Passenger Automobile Fuel Economy Act of 2007.''.

(b) GREENHOUSE GAS CREDITS APPLIED TO CAFE STANDARDS.—Section 32903 of title 49, United States Code, is amended by adding at the end the following:

''(g) GREENHOUSE GAS CREDITS.—

''(1) IN GENERAL.—A manufacturer may apply credits purchased through the registry established by

section 201 of the Improved Passenger Automobile Fuel Economy Act of 2007 toward any model year after model year 2010 under subsection (d), subsection (e), or both.

"(2) LIMITATION.—A manufacturer may not use credits purchased through the registry to offset more than 10 percent of the fuel economy standard applicable to any model year.".

SEC. 103. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary of Transportation such sums as may be necessary to carry out this title and chapter 329 of title 49, United States Code, as amended by this title.

SEC. 104. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), this title, and the amendments made by this title, take effect on the date of enactment of this Act.

(b) TRANSITION FOR PASSENGER AUTOMOBILE STANDARD.—Notwithstanding subsection (a), and except as provided in subsection (c)(2), until the effective date of a standard for passenger automobiles that is issued under the authority of section 32902(b) of title 49, United States Code, as amended by this Act, the standard or standards in place for passenger automobiles under the authority of section 32902 of that title, as that section

was in effect on the day before the date of enactment of this Act, shall remain in effect.

(c) RULEMAKING.—

(1) INITIATION OF RULEMAKING UNDER AMENDED LAW.—Within 60 days after the date of enactment of this Act, the Secretary of Transportation shall initiate a rulemaking for passenger automobiles under section 32902(b) of title 49, United States Code, as amended by this Act.

(2) AMENDMENT OF EXISTING STANDARD.—Until the Secretary issues a final rule pursuant to the rulemaking initiated in accordance with paragraph (1), the Secretary shall amend the average fuel economy standard prescribed pursuant to section 32092(b) of title 49, United States Code, with respect to passenger automobiles in model years to which the standard adopted by such final rule does not apply.

TITLE II—MARKET-BASED INITIATIVES FOR GREENHOUSE GAS REDUCTION

SEC. 201. MARKET-BASED INITIATIVES.

(a) ESTABLISHMENT OF REGISTRY FOR VOLUNTARY TRADING SYSTEMS.—The Secretary of Commerce shall establish a national registry system for greenhouse gas

trading among industry under which emission reductions from the applicable baseline are assigned unique identifying numerical codes by the registry. Participation in the registry is voluntary. Any entity conducting business in the United States may register its emission results, including emissions generated outside of the United States, on an entity-wide basis with the registry, and may utilize the services of the registry.

(b) PURPOSES.—The purposes of the national registry are—

(1) to encourage voluntary actions to reduce greenhouse gas emissions and increase energy efficiency, including increasing the fuel economy of passenger automobiles and light trucks and reducing the reliance by United States markets on petroleum produced outside the United States used to provide vehicular fuel;

(2) to enable participating entities to record voluntary greenhouse gas emissions reductions; in a consistent format that is supported by third party verification;

(3) to encourage participants involved in existing partnerships to be able to trade emissions reductions among partnerships;

(4) to further recognize, publicize, and promote registrants making voluntary and mandatory reductions;

(5) to recruit more participants in the program; and

(6) to help various entities in the nation establish emissions baselines.

(c) FUNCTIONS.—The national registry shall carry out the following functions:

(1) REFERRALS.—Provide referrals to approved providers for advice on—

(A) designing programs to establish emissions baselines and to monitor and track greenhouse gas emissions; and

(B) establishing emissions reduction goals based on international best practices for specific industries and economic sectors.

(2) UNIFORM REPORTING FORMAT.—Adopt a uniform format for reporting emissions baselines and reductions established through—

(A) the Director of the National Institute of Standards and Technology for greenhouse gas baselines and reductions generally; and

(B) the Secretary of Transportation for credits under section 32903 of title 49, United States Code.

(3) RECORD MAINTENANCE.—Maintain a record of all emission baselines and reductions verified by qualified independent auditors.

(4) ENCOURAGE PARTICIPATION.—Encourage organizations from various sectors to monitor emissions, establish baselines and reduction targets, and implement efficiency improvement and renewable energy programs to achieve those targets.

(5) PUBLIC AWARENESS.—Recognize, publicize, and promote participants that—

(A) commit to monitor their emissions and set reduction targets;

(B) establish emission baselines; and

(C) report on the amount of progress made on their annual emissions.

(d) TRANSFER OF REDUCTIONS.—The registry shall—

(1) allow for the transfer of ownership of any reductions realized in accordance with the program; and

(2) require that the registry be notified of any such transfer within 30 days after the transfer is effected.

(e) FUTURE CONSIDERATIONS.—Any reductions achieved under this program shall be credited against any future mandatory greenhouse gas reductions required by the government. Final approval of the amount and value of credits shall be determined by the agency responsible for the implementation of the mandatory greenhouse gas emission reduction program, except that credits under section 32903 of title 49, United States Code, shall be determined by the Secretary of Transportation. The Secretary of Commerce shall by rule establish an appeals process, that may incorporate an arbitration option, for resolving any dispute arising out of such a determination made by that agency.

(f) CAFE STANDARDS CREDITS.—The Secretary of Transportation shall work with the Secretary of Commerce and the implementing panel established by section 202 to determine the equivalency of credits earned under section 32903 of title 49, United States Code, for inclusion in the registry. The Secretary shall by rule establish an appeals process, that may incorporate an arbitration option, for resolving any dispute arising out of such a determination.

SEC. 202. IMPLEMENTING PANEL.

(a) ESTABLISHMENT.—There is established within the Department of Commerce an implementing panel.

(b) COMPOSITION.—The panel shall consist of—

(1) the Secretary of Commerce or the Secretary's designee, who shall serve as Chairperson;

(2) the Secretary of Transportation or the Secretary's designee; and

(3) 1 expert in the field of greenhouse gas emissions reduction, certification, or trading from each of the following agencies—

(A) the Department of Energy;

(B) the Environmental Protection Agency;

(C) the Department of Agriculture;

(D) the National Aeronautics and Space Administration;

(E) the Department of Commerce; and

(F) the Department of Transportation.

(c) EXPERTS AND CONSULTANTS.—Any member of the panel may secure the services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code, for greenhouse gas reduction, certification, and trading experts in the private and nonprofit sectors and may also utilize any grant, contract, cooperative agreement, or other arrangement authorized by law to carry out its activities under this subsection.

(d) DUTIES.—The panel shall—

(1) implement and oversee the implementation of this section;

(2) promulgate—

(A) standards for certification of registries and operation of certified registries; and

(B) standards for measurement, verification, and recording of greenhouse gas emissions and greenhouse gas emission reductions by certified registries;

(3) maintain, and make available to the public, a list of certified registries; and

(4) issue rulemakings on standards for measuring, verifying, and recording greenhouse gas emissions and greenhouse gas emission reductions proposed to the panel by certified registries, through a standard process of issuing a proposed rule, taking public comment for no less than 30 days, then finalizing regulations to implement this act, which will provide for recognizing new forms of acceptable greenhouse gas reduction certification procedures.

(e) CERTIFICATION AND OPERATION STANDARDS.—The standards promulgated by the panel shall include—

(1) standards for ensuring that certified registries do not have any conflicts of interest, including standards that prohibit a certified registry from—

(A) owning greenhouse gas emission reductions recorded in any certified registry; or

(B) receiving compensation in the form of a commission where sources receive money for the total number of tons certified;

(2) standards for authorizing certified registries to enter into agreements with for-profit persons engaged in trading of greenhouse gas emission reductions, subject to paragraph (1); and

(3) such other standards for certification of registries and operation of certified registries as the panel determines to be appropriate.

(f) MEASUREMENT, VERIFICATION, AND RECORDING STANDARDS.—The standards promulgated by the panel shall provide for, in the case of certified registries—

(1) ensuring that certified registries accurately measure, verify, and record greenhouse gas emissions and greenhouse gas emission reductions, taking into account—

(A) boundary issues such as leakage and shifted utilization; and

(B) such other factors as the panel determines to be appropriate;

(2) ensuring that—

(A) certified registries do not double-count greenhouse gas emission reductions; and

(B) if greenhouse gas emission reductions are recorded in more than 1 certified registry, such double-recording is clearly indicated;

(3) determining the ownership of greenhouse gas emission reductions and recording and tracking the transfer of greenhouse gas emission reductions among entities (such as through assignment of serial numbers to greenhouse gas emission reductions);

(4) measuring the results of the use of carbon sequestration and carbon recapture technologies;

(5) measuring greenhouse gas emission reductions resulting from improvements in—

(A) power plants;

(B) automobiles (including types of passenger automobiles and light trucks, as defined in section 32901(a)(16) and (17) respectively, produced in the same model year);

(C) carbon re-capture, storage and sequestration, including organic sequestration and

manufactured emissions injection, and or storage; and

(D) other sources;

(6) measuring prevented greenhouse gas emissions through the rulemaking process and based on the latest scientific data, sampling, expert analysis related to measurement and projections for prevented greenhouse gas emissions in tons including—

(A) organic soil carbon sequestration practices;

(B) forest preservation and re-forestation activities which adequately address the issues of permanence, leakage and verification; and

(7) such other measurement, verification, and recording standards as the panel determines to be appropriate.

(g) CERTIFICATION OF REGISTRIES.—Except as provided in subsection (h), a registrant that desires to be a certified registry shall submit to the panel an application that—

(1) demonstrates that the registrant meets each of the certification standards established by the panel under subsections (d) and (e); and

(2) meets such other requirements as the panel may establish.

(h) AUTOMOBILE INDUSTRY.—The Secretary of Transportation is deemed to be the certified registrant for credits earned under section 32903 of title 49, United States Code.

(i) ANNUAL REPORT.—Within 1 year after the date after the date of enactment of this Act and biennially thereafter, the panel shall report to the Congress on the status of the program established under this section. The report shall include an assessment of the level of participation in the program and amount of progress being made on emission reduction targets.

SEC. 203. DEFINITIONS.

In this title:

(1) GREENHOUSE GAS.—The term ''greenhouse gas'' includes—

(A) carbon dioxide;

(B) methane;

(C) hydro fluorocarbons;

(D) perfluorocarbons;

(E) nitrous oxide; and

(F) sulfur hexafluoride.

(2) BASELINE.—The term ''baseline'' means—

(A) the greenhouse gas emissions, determined on an entity-wide basis for the participant's most recent previous 3-year annual aver-

age of greenhouse gas emissions prior to the date of enactment of this Act; or

(B) if data is unavailable for that 3-year period, the greenhouse gas emissions as of September 30, 2004, (or as close to that date as such emission levels can reasonably be determined). In promulgating regulations under this title, the panel shall take into account greenhouse gas emission reductions or off-setting actions taken by any entity before the date on which the registry is established.

(3) CERTIFIED REGISTRY.—The term ''certified registry'' means a registry that has been certified by the panel as meeting the standards promulgated under section 202(e) and (f) and, for the automobile industry, the Secretary of Transportation.

(4) GREENHOUSE GAS EMISSIONS.—The term ''greenhouse gas emissions'' means the quantity of greenhouse gases emitted by a source during a period, measured in tons of greenhouse gases.

(5) GREENHOUSE GAS EMISSION REDUCTION.—The term ''greenhouse gas emission reduction'' means a quantity equal to the difference between—

(A) the greenhouse gas emissions of a source during a period; and

(B) the greenhouse gas emissions of the source during a baseline period of the same duration as determined by registries and entities defined as owners of emission sources.

(6) KYOTO PROTOCOL.—The term ''Kyoto protocol'' means the Kyoto Protocol to the United Nations Framework Convention on Climate Change (including the Montreal Protocol to the Convention on Substances that Deplete the Ozone Layer).

(7) PANEL.—The term ''panel'' means the implementing panel established by section 202(a).

(8) REGISTRANT.—The term ''registrant'' means a private person that operates a database recording quantified and verified greenhouse gas emissions and emissions reductions of sources owned by other entities.

(9) SOURCE.—The term ''source'' means a source of greenhouse gas emissions.

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