2EX 232

Perhach, William

From: Conover, David [David.Conover@hq.doe.gov]

Sent: Tuesday, March 01, 2005 12:06 PM

To: Hannegan, Bryan J.

Subject: FW: Action Alert: Keep Early Action Credits out of Clear Skies

Are you on Myron's email distribution?

-----Original Message-----
From: Cobb, Al
Sent: Tuesday, March 01, 2005 11:31 AM
To: Conover, David
Subject: FW: Action Alert: Keep Early Action Credits out of Clear Skies

The plot thickens ....

-----Original Message-----
From: Myron Ebell [mailto:mebell@cei.org]
Sent: Tuesday, March 01, 2005 11:09 AM
To: Myron Ebell
Subject: Action Alert: Keep Early Action Credits out of Clear Skies

Dear Cooler Heads and Allies,

It has been reported that Members of the EPW Committee are continuing to meet to discuss how to break the 9-9 impasse on Clear Skies and that some Senators may be willing to support Clear Skies if the Hagel climate bills are attached. Unfortunately, the Hagel bills contain one especially objectionable provision to create a transferable early action credit for reducing greenhouse gas emissions (Section 1612 of S. 388). It is that provision that these Senators are interested in because it would be the first step to creating an emissions cap (that is, energy rationing). As my colleague Marlo Lewis has demonstrated in detail and conclusively, early action credits would be a disastrous concession to climate alarmism because they would create a powerful industry constituency to lobby for a cap on emissions so that the credits would have value and could be cashed in. Please contact offices of Members of the EPW Committee to let them know that you oppose Section 1612 of S. 388 to create transferable credits for early reductions of greenhouse gas emissions. This provision should be seen as a poison pill that will sink Clear Skies. A committee list is below and Marlo's best short piece on early action credits and the text of Section 1612.

Thanks,
Myron.

109th Congress
Environment and Public Works Committee
Committee Members

James M. Inhofe,
R-Oklahoma

John W. Warner,
R-Virginia

Christopher S. Bond,

James M. Jeffords,
I-Vermont

Max Baucus,
D-Montana

Joseph I. Lieberman,

R-Missouri

George V. Voinovich,
R-Ohio

Lincoln Chafee,
R-Rhode Island

Lisa Murkowski,
R-Alaska

John Thune,
R-South Dakota

Jim DeMint,
R-South Carolina

Johnny Isakson
R-Georgia

David Vitter,
R-Louisiana

D-Connecticut

Barbara Boxer,
D-California

Thomas R. Carper,
D-Delaware

Hillary Rodham Clinton,
D-New York

Frank Lautenberg,
D-New Jersey

Barack Obama
D-Illinois

Et Tu, Edison?

Lewis Op Ed in Tech Central Station

Op-Eds & Articles
by Marlo Lewis, Jr.
April 27, 2004

The Edison Electric Institute (EEI), the association of shareholder-owned electric power companies, opposes the Kyoto Protocol, the McCain-Lieberman Climate Stewardship Act, and kindred proposals to regulate carbon dioxide (CO_2), the inescapable byproduct of the carbon-based fuels—coal, oil, and natural gas—that supply 86 percent of all the energy Americans use. Why, then, is EEI pressing the Bush Administration to institute an "early credit" program—the accounting framework and political setup for Kyoto-style energy rationing? Edison has a lot of explaining to do.

Lieberman's Ploy

Although the implementing rules of an early credit program can be bewilderingly complex, the basic idea is simple. Under such programs, companies that take steps now to reduce emissions of greenhouse gases—chiefly CO_2 from fossil energy use—earn credits (emission allowances) they can use later to comply with Kyoto or a similar compulsory regime.

All such schemes are Trojan horses for Kyoto-type policies. Credits awarded for "early" reductions are assets that mature and attain full market value *only* under a mandatory emissions reduction target or "cap." Consequently, every credit holder acquires an incentive to lobby for emission caps.

Unsurprisingly, credit for early reductions originated as a brainchild of the Green Left. Senator Joseph Lieberman (D-Conn.), Environmental Defense, and the Pew Center on Global Climate Change championed early credit legislation during the 105th and 106th Congresses. Lieberman's bill went nowhere, attracting only 12 co-sponsors on its second go-round. Similarly, a House companion bill in the 106th Congress garnered a mere 15 co-sponsors. Neither bill saw floor action or even made it to the committee markup stage. By mid-2000, credit for early

reductions was politically defunct.

So why is this an issue today? On Valentine's Day 2002, the Bush Administration naively resuscitated Lieberman's ploy. President Bush directed the Department of Energy (DOE) to "enhance" the "measurement accuracy, reliability, and verifiability" of the Voluntary Reporting of Greenhouse Gases Program (VRGGP), established under Section 1605(b) of the 1992 Energy Policy Act. More importantly, Bush tasked DOE to "develop recommendations to give transferable credits to companies that can show real emissions reductions" under a revised, more rigorous reporting system.

To carry out those directives, DOE in May 2002 launched an extensive "stakeholder" dialogue, which has included three public comment periods, four regional workshops in November-December 2002, and a national workshop in Washington, D.C. on January 12, 2004. A fourth comment period is planned for this summer, and DOE may host another workshop as well.

Legally Challenged

Scores of industry representatives have spent literally thousands of hours helping DOE "enhance" the VRGGP, and will likely spend thousands more before the year's end. Alas, Bush officials not only endorsed early credits without thinking through the political ramifications, they also never bothered to check whether current law allows DOE to set up a credit program in the first place.

This was not a difficult topic to research. Section 1605(b) is only one and a half pages long. It makes no reference, or even allusion, to tradable credits. Similarly, the Conference Report's discussion of 1605(b) does not say or imply anything about credits. Equally telling, when House and Senate conferees produced the final version of 1605(b), they considered and rejected language that would have established a credit program.

During the first (May 6-June 5, 2002) comment period, several "stakeholders" who support early credits in principle—the Pew Center on Global Climate Change, the Northeast States for Coordinated Air Use Management, and a coalition of environmental groups led by the Natural Resources Defense Council—cautioned DOE that it lacks statutory authority to implement a credit program. During the second (September 2002-October 2003) comment period, the Competitive Enterprise Institute debated the issue at length with the Electric Power Industry Climate Initiative, an association of which EEI is a member. In all that time, DOE declined to explain its understanding of the law.

On November 26, 2003, DOE released its proposed revised general guidelines to make voluntary emissions reporting more rigorous, consistent, and auditable. Startlingly, the guidelines said not a word about credits, even though whole point of the exercise was to build the accounting system for a credit program. Pressed for an explanation at the D.C. "stakeholder" workshop this past January, a DOE official stated, sheepishly and without elaboration: "DOE has determined it doesn't have explicit authority now to issue transferable credits."

An EEI representative at the workshop chided DOE for waiting so long to address this matter and never requesting the legal authority it now believes it lacks. Behind the scenes, EEI has been advising the White House to move ahead with a credit program notwithstanding DOE's legal qualms.

Case Against Credits

Several free market organizations—the Competitive Enterprise Institute, American Conservative Union, Americans for Tax Reform, American Legislative Exchange Council, Citizens Against Government Waste, Citizens for a Sound Economy, Consumer Alert, Frontiers of Freedom, National Taxpayers Union, Small Business Survival Committee, and 60-Plus Association—have repeatedly warned the Administration about the political and economic perils of early credit programs. Not once has any Bush official attempted to rebut their arguments. However, EEI and its member companies spend millions of dollars on campaign contributions, and in politics, money talks.[1][1] Unless conservatives on Capitol Hill quickly weigh in, Lieberman, Pew, and Environmental Defense may achieve under Bush-Cheney what they could not under Clinton-Gore. In their conversations with DOE and White House officials, the friends of affordable energy in Congress should stress the following points:

(1) Transferable Credits Will Mobilize Pro-Kyoto Lobbying.

Transferable credit programs are inherently mischievous. Credits awarded for "early" reductions become valuable assets *only* under a legally binding emissions cap. That is because, although many companies would like to sell carbon credits—especially if they can "earn" the credits by reducing or, easier still, "avoiding" emissions they

would reduce or "avoid" anyway, in the normal course of business operations—no company will *buy* credits unless faced with a cap or the threat of a cap. Without buyers, there are no sellers and, hence, no market.

Consider the embarrassingly low opening bids at the Chicago Climate Exchange (CCE). The *Greenwire* news service reported that, at the first auction, the exchange's 22 member companies and municipalities "paid an average of less than $1 for the right to emit one ton of CO_2."[2][2] Why? Former CCE senior vice president for sales and marketing Ethan Hodel explained: "Without regulation and governmentally imposed sanctions, the early evidence ... is that the American business community is not very interested in a voluntary greenhouse gas cap-and-trade program." Were it not for the risk that Congress may cap carbon emissions in the future, the "bid" price for credits today would be zero.

Enacting a cap would instantly pump up demand, boosting credit prices by orders of magnitude. For example, according to the Energy Information Administration (EIA), carbon equivalent credits that sell for next to nothing today would fetch $93-$122 per ton under Sen. James Jeffords's (I-Vt.) Clean Power Act, $79-$223 per ton under McCain-Lieberman, and $67-$348 per ton under Kyoto.[3][3] Clearly, credit holders must lobby for "regulation and governmentally imposed sanctions" if they want to turn "voluntary" reductions into real money.

(2) A Credit Program Will Coerce Companies to "Volunteer."

Proponents are fond of describing credits as "voluntary" and "win-win" (good for business, good for the environment). In reality, transferable credits would set up a coercive zero-sum game in which one company's gain is another's loss.

As explained above, credits have no value apart from an actual or anticipated emissions cap—a legal limit on the quantity of emissions a firm, sector, or nation may release. The cap makes credits valuable by creating an artificial scarcity in the right to produce or use carbon-based energy. Both the market value of the credits and the program's environmental integrity absolutely depend on enforcement of the cap.

And there's the rub. If the cap is not to be broken, then the quantity of credits allocated to companies in the mandatory period must be reduced by the exact number awarded for "early" reductions in the "voluntary" period. Thus, for every company that earns a credit for early action, there must be another that loses a credit under the cap. Companies that do not "volunteer" will be penalized—forced in the mandatory period to make deeper emission cuts than the cap itself would require, or pay higher credit prices than would otherwise prevail.

The coercive, zero-sum nature of an early credit program is easily illustrated. Assume for simplicity's sake that there are only four companies in the United States (A, B, C, and D), each emitting 25 metric tons (MT) of CO_2, for a national total of 100 MT. Also assume that Congress enacts a mandatory emissions reduction target of 80 MT, and authorizes the Environmental Protection Agency to issue 80 tradable allowances or credits (1 credit being an authorization to emit 1 MT). Absent an early credit program, each company would receive 20 allowances during the compliance period, and have to reduce its emissions by 5 MT.

Now assume there is an early action program that sets aside 20 allowances for reductions achieved before the compliance period. That reduces each company's compliance period allocation from 20 credits to 15 (4 companies X 15 credits each = 60 + 20 early action credits = 80, the total U.S. emissions budget). Finally, assume that Companies A and B each earns 10 credits for early reductions. In the compliance period, A and B will have 25 credits apiece (10 + 15), which is 5 more (25 instead of 20) than an equal share under the cap would give them. In contrast, C and D will each have 5 fewer credits (15 instead of 20). C and D must make deeper reductions than the cap would otherwise require—or they must purchase additional credits from A and B. Either way, the early reducers gain at the expense of non-participants.

Programs that penalize non-participants are coercive, not "voluntary." Programs that enrich participants at the expense of non-participants are zero-sum, not "win-win."

(3) Credits Will Corrupt the Politics of Energy Policy.

Once companies figure out that the program will transfer wealth—in the form of tradable emission allowances—from those who do not "act early" to those who do, many will "volunteer" just to avoid getting stuck in the shallow end of the credit pool later on. The predictable outcome is a surge in the number of companies holding conditional energy rationing coupons—assets worth little or nothing under current law but worth millions or billions of dollars under Kyoto, McCain-Lieberman, or the Clean Power Act. Credits will swell the ranks of companies lobbying for

anti-consumer, anti-energy policies.

(4) Credits Will Limit Fuel Diversity.

Coal is the most carbon-intensive fuel (CO_2 emissions per unit of energy obtained from coal are nearly 80 percent higher than those from natural gas and about 35 percent higher than those from gasoline).[4][4] Consequently, Kyoto-type policies can easily decimate coal as a fuel source for electric power generation. For example, according to EIA's analysis, the McCain-Lieberman bill would reduce U.S. coal-fired electric generation in 2025 by *80 percent*—from 2,803 billion kilowatt hours to 560 billion kilowatt hours.[5][5]

A transferable credit program will send a political signal that mandatory reductions are in the offing and, hence, that coal's days are numbered. As environmental lawyer William Pedersen observes, the Administration's plan to develop "company-by-company greenhouse emissions accounts" makes little sense "except as a step towards legally binding controls." Indeed, why would firms go to the trouble and expense of earning offsets applicable to a future regulatory program "unless they believed such a program was coming?"[6][6] DOE cannot issue or certify early credits without ratifying the opinion, tirelessly asserted by green groups, that some form of carbon regulation is "inevitable." Anticipating such constraints, many companies will make plans to switch from coal to natural gas. That, in turn, will put additional pressure on already tight natural gas supplies.

According to a recent study by the Industrial Energy Consumers of America, the 46-month natural gas supply crunch has increased average natural gas prices by 86 percent, costing residential and industrial consumers $130 billion. High gas prices have also contributed to job and export losses, because many manufacturing firms use natural gas both as a feedstock and as fuel to power their plants.[7][7]

However unfairly, Democratic candidates blame Bush and the GOP for the loss of 2.8 million manufacturing jobs since January 2001. Politically speaking, the last thing the Administration can afford to do is imperil additional manufacturing jobs by driving up further the demand for and cost of natural gas. An early credit program would have exactly those effects.

(5) Credits Have No Redeeming Environmental Value.

A study in the November 1, 2002 issue of the journal *Science* examined possible technology options that might be used in coming decades to stabilize atmospheric CO_2 concentrations.[8][8] Such options include wind and solar energy, nuclear fission and fusion, biomass fuels, efficiency improvements, carbon sequestration, and hydrogen fuel cells. The report found that, "All these approaches currently have severe deficiencies that limit their ability to stabilize global climate." It specifically disagreed with the U.N. Intergovernmental Panel on Climate Change's claim that, "known technological options could achieve a broad range of atmospheric CO_2 stabilization levels, such as 550 ppm, 450 ppm or below over the next 100 years."

As the study noted, world energy demand could triple by 2050. Yet, "Energy sources that can produce 100 to 300 percent of present world power consumption without greenhouse emissions do not exist operationally or as pilot plants." The bottom line: "CO_2 is a combustion product vital to how civilization is powered; it cannot be regulated away."

Given current and foreseeable technological capabilities, any serious attempt to stabilize CO_2 levels via regulation would be economically devastating and, thus, politically unsustainable.

Why is this relevant to the debate on early credits? No good purpose is served by creating the pre-regulatory ramp-up to unsustainable regulation. An early start on a journey one cannot complete and should not take is not progress; it is wasted effort.

Insuring Disaster

The rejoinder to the foregoing criticisms is that companies participating in the Administration's voluntary climate programs need credits as an "insurance policy," "hedging strategy," or "baseline protection mechanism" so that they will not have to do double duty (reduce emissions from already lowered baselines) under a future climate policy.

However, an "insurance" policy that makes the insured-against event much likelier to happen is a prescription for

disaster. "Kyoto insurance" in the form of early credits would do exactly that. To repeat, credits worth little or nothing under current law would be worth big bucks under a carbon cap-and-trade program. Early credit holders stand to gain windfall profits *if* they successfully lobby for mandatory reductions. A Kyoto "hedge fund" dramatically increases the odds that Congress will enact Kyoto-like policies.

Not all hedging strategies deserve approbation and support. A prizefighter caught placing bets on his opponent might say—and possibly even believe—that he was just hedging. However, most people would conclude the fix was in. That early credits are part and parcel of a "Kyoto fix" for U.S. energy markets may be inferred not only from the cap-and-trade clientele such a program would build, but also from the fact that "Kyoto insurance" salesmen work both sides of the street.

Many leading proponents of early credits—Sen. Lieberman, Environmental Defense, the Pew Center on Global Climate Change, Resources for the Future, Dupont Co., British Petroleum, and the Clean Energy Group—are also among the leading proponents of emissions cap-and-trade programs. They are in the odd position of advocating a hedge against, or demanding baseline protection from, the very policies they promote!

The U.S. Senate would never ratify Kyoto, nor would Congress ever enact McCain-Lieberman or the Clean Power Act, unless pushed to do so by many of the same policymakers, companies, and activist groups advocating credit for early reductions. If they really wanted to, Sen. Lieberman, Pew, Dupont, et al. could easily ensure that "good corporate citizens" are not "penalized" in the future for "voluntary" reductions today. All they would need to do is disavow their support for cap-and-trade!

Instead, those worthies try to sell "protection" from a threat they have in large measure created. Moreover, they do so knowing full well that "Kyoto insurance" would (a) make the threat of carbon suppression more imminent and certain, and (b) penalize firms whose only "offense" is not complying in advance with emission control requirements that Congress has not yet enacted.

Economy in the balance

The carbon in coal, oil, and natural gas is not an impurity or contaminant but an intrinsic component of their chemistry as fuels. That is why carbon dioxide is an unavoidable combustion byproduct of those fuels, why capping CO_2 emissions is a form of energy rationing, and why there is no logical stopping point short of total suppression once government starts to regulate energy production based on the carbon content of emissions or fuels.

The core issue underlying all climate policy debates is whether politicians and bureaucrats should have the power to regulate America into a condition of energy poverty. The Edison Electric Institute surely believes government should not have such power, which is why it opposes Kyoto and other carbon cap-and-trade schemes. Yet EEI, beguiled by the prospect of turning "voluntary" reductions into easy cash, is leading the charge for transferable credits—a political force multiplier for the Kyoto agenda of climate alarmism and energy suppression. This is about as sensible as selling the rope by which one will be hanged. The nation's premier electric industry lobby can and should do better.

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S.388
(the other two Hagel climate bills are S. 386 and S. 387)
Title: A bill to amend the Energy Policy Act of 1992 to direct the Secretary of Energy to carry out activities that promote the adoption of technologies that reduce greenhouse gas intensity and to provide credit-based financial assistance and investment protection for projects that employ advanced climate technologies or systems, to provide for the establishment of a national greenhouse gas registry, and for other purposes.
Sponsor: Sen Hagel, Chuck [NE] (introduced 2/15/2005) Cosponsors (3)
Latest Major Action: 2/15/2005 Referred to Senate committee. Status: Read twice and referred to the

Committee on Energy and Natural Resources.
COSPONSORS(3), ALPHABETICAL [followed by Cosponsors withdrawn]: (Sort: by date)
Sen Alexander, Lamar [TN] - 2/15/2005 Sen Craig, Larry E. [ID] - 2/15/2005
Sen Dole, Elizabeth [NC] - 2/15/2005

S.388

Climate Change Technology Deployment and Infrastructure Credit Act of 2005

SEC. 1612. NATIONAL CLIMATE REGISTRY INITIATIVE.

`(a) Purpose- The purpose of this section is to establish a new national greenhouse gas registry--

`(1) to further encourage voluntary efforts, by persons and entities conducting business and other operations in the United States, to implement actions, projects, and measures that reduce greenhouse gas emissions;

`(2) to encourage those persons and entities to monitor and voluntarily report direct or indirect greenhouse gas emissions from--

`(A) the facilities of the persons and entities; and

`(B) to the maximum extent practicable, other types of sources;

`(3) to adopt a procedure and uniform format for use by the persons and entities in establishing and voluntarily reporting greenhouse gas emission baselines in connection with, and furtherance of, reductions of greenhouse gas emissions;

`(4) to provide verification mechanisms to ensure, for participants and the public, a high level of confidence in accuracy and verifiability of reports made to a national greenhouse gas registry;

`(5) to encourage persons and entities, through voluntary agreements entered into with the Secretary, to annually report greenhouse gas emissions from the facilities of the persons and entities;

`(6) to provide to persons and entities that enter into those voluntary agreements and reduce greenhouse gas emissions transferable credits that may be used for any incentive, market-based, or regulatory program determined by Congress to be necessary and feasible to reduce the risk of climate change and effects of climate change; and

`(7) to provide for the registration, transfer, and tracking of the ownership or holding of those credits for purposes of facilitating voluntary trading among persons and entities.

`(b) Definitions- In this section:

`(1) COMMITTEE- The term `Committee' means the Interagency Coordinating Committee on Climate Change Technology established under section 1610(c)(1).

`(2) ENTITY- The term `entity' means--

`(A) a public person;

`(B) a Federal, State, interstate, or local governmental agency, department, or corporation; and

`(C) any other publicly-owned organization.

`(3) FACILITY- The term `facility' means 2 or more buildings, structures, or installations, or 2 or more units of a building, structure, or installation, that--

`(A) are located on contiguous or adjacent parcels of land;

`(B) are under common control of the same person or entity; and

`(C) are a source of greenhouse gas emissions in excess of a limitation established under this section.

`(4) GREENHOUSE GAS- The term `greenhouse gas' means--

`(A) an anthropogenic gaseous constituent of the atmosphere (including carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride) that--

`(i) absorbs and reemits infrared radiation; and

`(ii) influences climate; and

`(B) an anthropogenic aerosol (such as black soot) that--

`(i) absorbs solar radiation; and

`(ii) influences climate.

`(5) PERSON- The term `person' means an individual, corporation, association, joint venture, cooperative, or partnership.

`(6) REDUCTION- The term `reduction' means an action, project, or measure carried out, within or outside the United States, by a person or entity to directly or indirectly reduce, avoid, or sequester emissions of 1 or more greenhouse gases.

`(7) REGISTRY- The term `registry' means the national greenhouse gas registry established under subsection (c)(1)(A).

`(8) SECRETARY- The term `Secretary' means the Secretary of Energy, acting through the Administrator of the Energy Information Administration.

`(c) National Greenhouse Gas Registry-

`(1) ESTABLISHMENT-

`(A) IN GENERAL- Not later than 1 year after the enactment of this section, the President, in consultation with the Committee, shall establish a national greenhouse gas registry.

`(B) ADMINISTRATION- The registry shall be administered by the Secretary in accordance with applicable provisions of--

`(i) this section; and

`(ii) the Department of Energy Organization Act (42 U.S.C. 7101 et seq.).

`(2) DESIGNATION- On establishment of the registry under paragraph (1) and issuance of the guidelines in accordance with subsection (d)(1), the registry shall serve as the depository for the United States for data on greenhouse gas emissions and emission reductions that are collected from and reported by persons or entities that own, or conduct business and other operations at, 1 or more facilities in the United States.

`(3) PARTICIPATION-

`(A) IN GENERAL- Any person or entity conducting business or other activities in the United States may, in accordance with the guidelines issued under subsection (d)(1) and the conditions described in subparagraph (B), voluntarily report to the registry--

`(i) total levels of greenhouse gas emissions of the person or entity; and

`(ii) certified emission reductions of the person or entity.

`(B) CONDITIONS- The conditions described in this subparagraph are that--

`(i) with respect to a report described in subparagraph (A)(i), the report represents a complete and accurate inventory of--

`(I) greenhouse gas emissions from facilities of, and operations conducted by, the person or entity within the United States; and

`(II) any domestic or international greenhouse gas emission reduction activities of the person or entity; and

`(ii) with respect to a report described in subparagraph (A)(ii), the reductions have been verified by an independent third-party or other process--

`(I) in accordance with the guidelines issued under subsection (d) (1)(B)(ii); or

`(II) by other means determined to be appropriate by the Secretary.

`(4) CONFIDENTIALITY OF INFORMATION- Trade secret information, and commercial and financial information that is privileged and confidential, that is submitted to the registry under paragraph (3) or otherwise made available under any other provision of this section may be disclosed by the registry only in accordance with section 552(b)(4) of title 5, United States Code.

`(d) Implementation-

`(1) GUIDELINES-

`(A) IN GENERAL- Not later than 1 year after the date of establishment of the registry under subsection (c)(1)(A), the Secretary, in consultation with the Committee, shall issue guidelines establishing procedures for the administration of the registry.

`(B) CONTENTS- The guidelines issued under subparagraph (A) shall include--

`(i) means and methods by which a person or entity may determine, quantify, and report, by appropriate and credible means, annual baseline emission levels of the person or entity, taking into consideration any reports made by the person or entity under other Federal programs;

`(ii) procedures for the use of an independent third-party or other effective verification process for emission levels and reductions reported under subsection (c)(3)(A) that are developed--

`(I) in accordance with authority available to the Secretary under this section and other applicable provisions of law; and

`(II) by taking into consideration, to the maximum extent practicable--

`(aa) the costs, risks, and voluntary nature of the registry; and

`(bb) other relevant factors;

`(iii)(I) a range of reference cases for reporting of project-based emission reductions in various sectors; and

`(II) any benchmark and default methodologies and practices that may be used as reference cases for eligible projects;

`(iv) safeguards--

`(I) to prevent and address duplicative reporting (including inadvertent reporting) of the same greenhouse gas emissions or emission reductions by more than 1 reporting person or entity; and

`(II) to provide for corrections and adjustments in data, as necessary, in cases of duplicative reporting;

`(v) procedures and criteria for the review and registration of ownership or holding of all or any portion of a reported, independently-verified emission reduction project, action, or measure;

`(vi) measures, or a process, for providing to a person or entity participating in the registry such appropriate number of transferable credits with unique serial numbers as reflects the verified greenhouse gas emission reductions accomplished by the person or entity; and

`(vii) such accounting provisions as are necessary to permit any change in registration or transfer of ownership of a credit described in clause (vi) that results from a voluntary, private transaction between 1 or more persons or entities, including the requirement that the Secretary shall be notified of any such change or transfer not later than 30 days after the date on which the change or transfer is effectuated.

`(2) CONSIDERATION- In developing the guidelines under paragraph (1), the Secretary shall take into consideration--

`(A)(i) the guidelines for voluntary emission reporting issued under section 1605 (b), as in effect as of the date of enactment of this section;

`(ii) the experience of the Secretary in applying those guidelines; and

`(iii) any revision to those guidelines initiated by the Secretary in response to any directive of the President issued before the date of enactment of this section;

`(B) protocols and guidelines developed under any Federal, State, local, or private voluntary greenhouse gas emission reporting or reduction program;

`(C) the differences between, and potential uniqueness of the facilities, operations, and business and other relevant practices of, persons and entities in the private and public sectors that the Secretary expects to participate in the registry;

`(D) issues, such as comparability, that are associated with the reporting of emission baselines and reductions for various projects and activities;

`(E) the appropriate level or threshold of emissions applicable to a facility, project, or activity of a person or entity that may be reasonably and cost-effectively identified, measured, and voluntarily reported, taking into consideration--

`(i) different types of facilities, projects, and activities; and

`(ii) the de minimis nature, and sources, of certain emissions; and

`(F) any other factor that the Secretary determines to be appropriate.

`(3) EXPERTS AND CONSULTANTS-

`(A) IN GENERAL- In accordance with section 3109 of title 5, United Sates Code, the Secretary and any member of the Committee may secure the services of 1 or more experts or consultants in the private and nonprofit sectors in the areas of greenhouse gas measurement, certification, and emission trading.

`(B) GRANTS, CONTRACTS, AND AGREEMENTS- In securing a service under subparagraph (A), the Secretary or the member of the Committee securing the service may use any grant, contract, cooperative agreement, or other arrangement authorized by applicable law and available to the Secretary or the member of the Committee.

`(4) TRANSFERABILITY OF PRIOR REPORTS- An emission report or reduction made by a person or entity under section 1605(b), or under any other Federal or State voluntary greenhouse gas emission reduction program, may be independently verified and reported to the registry in accordance with the guidelines issued under paragraph (1).

`(5) PUBLIC COMMENT- The Secretary shall--

`(A) make the guidelines issued under paragraph (1) available in draft form for public notice and opportunity for comment for a period of at least 90 days; and

`(B) after that 90-day period, adopt the guidelines for use in implementing this section.

`(6) REVIEW AND REVISION- The Secretary, through the Committee, shall periodically review and, as necessary, revise, in accordance with paragraph (5), the guidelines issued under paragraph (1).

`(e) Voluntary Agreements-

`(1) IN GENERAL- Any person or entity may voluntarily enter into an agreement with the Secretary to provide that--

`(A) the person or entity (or any successor of the person or entity) shall annually report to the registry the greenhouse gas emissions of the person or entity (including the sources of those emissions) that--

`(i) are from applicable facilities and operations of the person or entity; and

`(ii) generate net emissions at a level above any de minimis threshold specified in the guidelines issued by the Secretary under subsection (d)(1);

`(B) the person or entity (or any successor of the person or entity)--

`(i) commits to report to, and participate in, the registry for a period of at least 5 calendar years; and

`(ii) any agreement for such a commitment may be renewed by consent of the person or entity and the Secretary;

`(C) for purposes of measuring performance under the agreement, the person or entity (or any successor of the person or entity) and the Secretary shall determine--

`(i) in accordance with the guidelines issued under subsection (d)(1), a baseline emission level of the person or entity for a representative period preceding the effective date of the agreement; and

`(ii) emission reduction goals of the person or entity, taking into consideration--

`(I) the baseline emission level determined under clause (i); and

`(II) any relevant economic and operational factors that may affect the baseline emission level throughout the term of the agreement; and

`(D) for certified emission reductions made relative to the baseline emission level, the Secretary shall provide, to the person or entity, at the request of the person or entity, transferable credits with unique assigned serial numbers that--

`(i) may be used by the person or entity toward meeting emission reduction goals established under the agreement;

`(ii) may be transferred, through a voluntary, private transaction, to any other person or entity; or

`(iii) shall be applicable toward any incentive, market-based, or regulatory program determined by Congress to be necessary and feasible to reduce the risk of climate change and effects of climate change.

`(2) PUBLIC NOTICE AND COMMENT-

`(A) IN GENERAL- Not later than 30 days before the date on which an agreement described in paragraph (1) is finalized, the Secretary shall--

`(i) publish in the Federal Register a notice of finalization for the agreement; and

`(ii) provide an opportunity for written public comment.

`(B) COMMENTS- The Secretary--

`(i) shall review each comment received under subparagraph (A)(ii); and

`(ii) after reviewing the comments, may--

`(I) withdraw the agreement described in paragraph (1); or

`(II) agree with each person or entity that is a party to the agreement to--

`(aa) revise and finalize the agreement; or

`(bb) finalize the agreement without substantive change.

`(C) AVAILABILITY- An agreement described in paragraph (1) shall be--

`(i) maintained in the registry; and

`(ii) made available to the public.

`(3) EMISSIONS IN EXCESS- If a person or entity fails to certify that emissions from applicable facilities of the person or entity are less than the emission reduction goals of

the person or entity contained in an agreement described in paragraph (1), the person or entity shall take such actions as are necessary to reduce the emissions of the person or entity, including--

`(A) the redemption of any transferable credits of the person or entity that were acquired in previous years;

`(B) the acquisition, through private, voluntary agreements, of transferable credits from other persons or entities participating in the registry; or

`(C) the undertaking of additional emission reduction activities in subsequent years, as determined in accordance with an agreement between the person or entity and the Secretary.

`(4) NO NEW AUTHORITY- Nothing in this subsection provides any regulatory or other authority regarding the reporting of greenhouse gas emissions or reductions in those emissions.

`(f) Measurement and Verification-

`(1) STANDARDS AND PRACTICES-

`(A) IN GENERAL- The Secretary of Commerce, acting through the Director of the National Institute of Standards and Technology and in consultation with the Secretary, shall develop standards and best practices for accurate measurement and verification of greenhouse gas emissions and emission reductions.

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[1][1] For a list of EEI members, see http://www.eei.org/about_EEI/membership/US_Shareholder-Owned_Electric_Companies/index.htm. For information on their 2004 election cycle campaign contributions, see http://www.opensecrets.org/industries/contrib.asp?Ind=E08.

[2][2] Lauren Miura, "Voluntary emissions trading draws mild interest, criticism," *Greenwire*, October 3, 2003.

[3][3] Energy Information Administration, *Analysis of Strategies for Reducing Multiple Emissions from Electric Power Plants with Advanced Technology Scenarios*, October 2001, Table 4, p. 22; *Analysis of S. 139, The Climate Stewardship Act of 2003*, June 2003, p. 65; *Impacts of the Kyoto Protocol on U.S. Energy Markets and Economic Activity*, October 1998, p. xiv.

[4][4] EIA, *Analysis of S. 139*, p. 173.

[5][5] EIA, *Analysis of S. 139*, p. 176.

[6][6] William Pedersen, "Inside the Bush Greenhouse," *The Weekly Standard*, October 27, 2003.

[7][7] Industrial Energy Consumers of America, *46 Month Natural Gas Crisis Has Cost Consumers Over $130 Billion*, March 23, 2004, http://www.ieca-us.com/downloads/natgas/$130billion.doc.

[8][8] Martin I. Hoffert et al., "Advanced Technology Paths to Global Climate Stability: Energy for a Greenhouse Planet," *Science*, Vol. 298, 1 November 2002, 981-987.