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110TH CONGRESS
1ST SESSION

H. R. 2635

[Report No. 110-297, Part I]

To reduce the Federal Government's contribution to global warming through measures that promote efficiency in the Federal Government's management and operations, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 7, 2007

Mr. WAXMAN introduced the following bill; which was referred to the Committee on Oversight and Government Reform, and in addition to the Committees on Energy and Commerce, Armed Services, Transportation and Infrastructure, Natural Resources, and Agriculture, 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

AUGUST 3, 2007

Additional sponsors: Mr. BRALEY of Iowa, Mr. CLAY, Mr. CUMMINGS, Mr. HODES, Mr. KUCINICH, Mr. LYNCH, Mrs. MALONEY of New York, Ms. MCCOLLUM of Minnesota, Ms. NORTON, Mr. SARBANES, Mr. VAN HOLLEN, Ms. WATSON, Mr. WELCH of Vermont, and Mr. YARMUTH

AUGUST 3, 2007

Reported from the Committee on Oversight and Government Reform with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

AUGUST 3, 2007

Committees on Energy and Commerce, Armed Services, Transportation and Infrastructure, Natural Resources, and Agriculture discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

A BILL

To reduce the Federal Government’s contribution to global warming through measures that promote efficiency in the Federal Government’s management and operations, and for other purposes.

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; TABLE OF CONTENTS.**

4 (a) *SHORT TITLE.*—*This Act may be cited as the*
 5 *“Carbon-Neutral Government Act of 2007”.*

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

Sec. 1. Short title; table of contents.

Sec. 2. Findings.

**TITLE I—FEDERAL GOVERNMENT INVENTORY AND MANAGEMENT
OF GREENHOUSE GAS EMISSIONS**

Sec. 101. Inventory of Federal Government Greenhouse Gas Emissions.

Sec. 102. Management of Federal Government Greenhouse Gas Emissions.

Sec. 103. Pilot project for purchase of offsets and certificates.

Sec. 104. Savings Clause.

Sec. 105. Definitions.

Sec. 106. Authorization of appropriations.

TITLE II—FEDERAL GOVERNMENT ENERGY EFFICIENCY

Sec. 201. Federal vehicle fleets.

Sec. 202. Agency analyses for mobility acquisitions.

Sec. 203. Federal procurement of energy efficient products.

Sec. 204. Federal building energy efficiency performance standards.

Sec. 205. Management of Federal building efficiency.

Sec. 206. Leasing.

Sec. 207. Procurement and acquisition of alternative fuels.

Sec. 208. Contracts for renewable energy for executive agencies.

Sec. 209. Government Efficiency Status Reports.

Sec. 210. OMB Government Efficiency Reports and Scorecards.

Sec. 211. Authorization of appropriations.

Sec. 212. Judicial review.

1 **SEC. 2. FINDINGS.**

2 *The Congress finds the following:*

3 *(1) The harms associated with global warming*
4 *are serious and well recognized. These include the*
5 *global retreat of mountain glaciers, reduction in snow*
6 *cover extent, the earlier spring melting of rivers and*
7 *lakes, the accelerated rate of rise of sea levels during*
8 *the 20th century relative to the past few thousand*
9 *years, and increased intensity of hurricanes and ty-*
10 *phoons.*

11 *(2) The risks associated with a global mean sur-*
12 *face temperature increase above 2 °C (36 °F) above*
13 *preindustrial temperature are grave. According to the*
14 *Intergovernmental Panel on Climate Change, such*
15 *temperature increases would increase the severity of*
16 *ongoing alterations of terrestrial and marine environ-*
17 *ments, with potentially catastrophic results. Ongoing*
18 *and projected effects include more prevalent droughts*
19 *in dry regions, an increase in the spread of disease,*
20 *a significant reduction in water storage in winter*
21 *snowpack in mountainous regions with direct and*
22 *important economic consequences, a precipitous rise*
23 *in sea levels by the end of the century, the potential*
24 *devastation of coastal communities, severe and irre-*

1 *versible changes to natural ecosystems such as the*
2 *bleaching and destruction of much of the world's*
3 *coral, and the potential extinction of 30 percent of all*
4 *living species.*

5 *(3) That these climate change risks are widely*
6 *shared does not minimize the adverse effects indi-*
7 *vidual persons have suffered and will suffer because of*
8 *global warming.*

9 *(4) To preserve the ability to stabilize atmos-*
10 *pheric greenhouse gas concentrations at levels likely to*
11 *protect against a temperature rise above 2 °C (36 °F)*
12 *will require reductions of greenhouse gas emissions of*
13 *50 percent to 85 percent globally.*

14 *(5) Achieving such reductions will require a*
15 *multitude of actions across the global economy that*
16 *may each address a relatively minute quantity of*
17 *emissions, but will be cumulatively significant.*

18 *(6) With only 5 percent of the world population,*
19 *the United States emits approximately 20 percent of*
20 *the world's total greenhouse gas emissions, and must*
21 *be a leader in addressing global warming.*

22 *(7) The United States Government is the largest*
23 *energy consumer in the United States and is respon-*
24 *sible for roughly 100,000,000 metric tons of CO₂-*
25 *equivalent emissions annually.*

1 (8) *A reduction in greenhouse gas emissions by*
2 *Federal agencies would slow the increase of global*
3 *emissions and hence of global warming. In addition,*
4 *Federal action would accelerate the pace of develop-*
5 *ment and adoption of technologies that will be critical*
6 *to addressing global warming in the United States*
7 *and worldwide.*

8 (9) *A failure by any Federal agency to comply*
9 *with the provisions of this Act requiring reductions in*
10 *its greenhouse gas emissions would exacerbate the*
11 *pace and extent of global warming and the harms*
12 *caused by the agency beyond what would otherwise*
13 *occur. Although the emissions increments involved*
14 *could be relatively small, such a failure allowing in-*
15 *crementally greater emissions would injure all United*
16 *States citizens.*

17 (10) *Improved management of Government oper-*
18 *ations, including acquisitions and procurement and*
19 *operation of Government facilities, can maximize the*
20 *use of existing energy efficiency and renewable energy*
21 *technologies to reduce global warming pollution, while*
22 *saving taxpayers' money, reducing our dependence on*
23 *oil, enhancing national security, cleaning the air, and*
24 *protecting pristine places from drilling and mining.*

1 (11) *Enhancing the accountability and trans-*
2 *parency of Government operations through setting*
3 *milestones for agency activities, planning, measuring*
4 *results, tracking results over time, and public report-*
5 *ing can improve Government management and make*
6 *Government operations more efficient and cost effec-*
7 *tive.*

8 ***TITLE I—FEDERAL GOVERN-***
9 ***MENT INVENTORY AND MAN-***
10 ***AGEMENT OF GREENHOUSE***
11 ***GAS EMISSIONS***

12 ***SEC. 101. INVENTORY OF FEDERAL GOVERNMENT GREEN-***
13 ***HOUSE GAS EMISSIONS.***

14 (a) *IN GENERAL.*—*Each agency shall, in accordance*
15 *with the guidance issued under subsection (b), annually in-*
16 *ventory and report its greenhouse gas emissions for the pre-*
17 *ceding fiscal year. Each such inventory and report shall*
18 *indicate as discrete categories—*

19 (1) *any direct emission of greenhouse gas as a*
20 *result of an activity of the agency;*

21 (2) *the quantity of indirect emissions of green-*
22 *house gases attributable to the generation of electricity*
23 *used by the agency and commercial air travel by*
24 *agency personnel; and*

1 (3) *the quantity of emissions of greenhouse gases*
2 *associated with the work performed for the agency by*
3 *Federal contractors, comprising direct emissions and*
4 *indirect emissions associated with electricity used by,*
5 *and commercial air travel by, such contractors.*

6 (b) *GUIDANCE; ASSISTANCE.—Not later than 3 months*
7 *after the date of the enactment of this Act, the Adminis-*
8 *trator shall issue guidance for agencies for conducting in-*
9 *ventories under this section and reporting under section*
10 *102. Such guidance shall establish inventory and reporting*
11 *procedures that are at least as rigorous as the inventory*
12 *procedures established under the Environmental Protection*
13 *Agency’s Climate Leaders program and shall define the*
14 *scope of the inventories of direct emissions described in sub-*
15 *section (a)(1) to be complete and consistent with the na-*
16 *tional obligation for reporting inventories under the United*
17 *Nations Framework Convention on Climate Change. The*
18 *Administrator shall provide assistance to agencies in pre-*
19 *paring their inventories.*

20 (c) *INITIAL INVENTORY BY AGENCIES.—*

21 (1) *SUBMISSION.—Not later than 1 year after*
22 *the date of the enactment of this Act, each agency*
23 *shall submit to the Administrator and make publicly*
24 *available on the agency’s website an initial inventory*

1 of the agency's greenhouse gas emissions for the pre-
2 ceding fiscal year.

3 (2) *CERTIFICATION.*—Not later than 6 months
4 after an agency submits an initial inventory under
5 paragraph (1), the Administrator shall review the in-
6 ventory for compliance with the guidance issued
7 under subsection (b) and—

8 (A) certify that the inventory is technically
9 valid; or

10 (B) decline to certify the inventory and pro-
11 vide an explanation of the actions or revisions
12 that are necessary for the inventory to be cer-
13 tified under subparagraph (A).

14 (3) *REVISION.*—If the Administrator declines to
15 certify the inventory of an agency under paragraph
16 (2)(B), the agency shall submit to the Administrator
17 and make publicly available on the agency's website
18 a revised inventory not later than 6 months after the
19 date on which the Administrator provides the agency
20 with the explanation required by such paragraph.

21 (d) *FEDERAL LAND MANAGEMENT.*—Beginning not
22 later than 2 years after the date of enactment of this Act,
23 the Secretary of the Interior and the Secretary of Agri-
24 culture shall include as a discrete category in any inventory
25 under this section any emission of greenhouse gas and any

1 *biological sequestration of greenhouse gases associated with*
2 *land managed by the Bureau of Land Management or the*
3 *Forest Service. Such emissions and biological sequestration*
4 *of greenhouse gases shall not be considered for the purposes*
5 *of setting or measuring progress toward targets under sec-*
6 *tion 102.*

7 **SEC. 102. MANAGEMENT OF FEDERAL GOVERNMENT**
8 **GREENHOUSE GAS EMISSIONS.**

9 (a) *EMISSION REDUCTION TARGETS.*—*Not later than*
10 *18 months after the date of the enactment of this Act, the*
11 *Administrator shall promulgate annual reduction targets*
12 *for the total quantity of greenhouse gas emissions described*
13 *in section 101(a), expressed as carbon dioxide equivalents,*
14 *of all agencies, taken collectively, for each of fiscal years*
15 *2010 through 2050.*

16 (b) *GOALS.*—*The targets promulgated under subsection*
17 *(a) shall be calculated so as—*

18 (1) *to prevent the total quantity of greenhouse*
19 *gas emissions of all agencies in fiscal year 2011 and*
20 *each subsequent fiscal year from exceeding the total*
21 *quantity of such emissions in fiscal year 2010; and*

22 (2) *to reduce such greenhouse gas emissions as*
23 *rapidly as possible, but at a minimum by a quantity*
24 *equal to 2 percent of projected fiscal year 2010 emis-*
25 *sions each fiscal year, so as to achieve zero net annual*

1 *greenhouse gas emissions from the agencies by fiscal*
2 *year 2050.*

3 *(c) PROPORTIONATE SHARE.—Each agency shall limit*
4 *the quantity of its greenhouse gas emissions described in*
5 *section 101(a) to its proportionate share so as to enable the*
6 *agencies to achieve the targets promulgated under sub-*
7 *section (a). The Administrator shall promulgate annual re-*
8 *duction targets to be met by each agency to comply with*
9 *this subsection.*

10 *(d) AGENCY PLANS FOR MANAGING EMISSIONS.—*

11 *(1) SUBMISSION.—Not later than 2 years after*
12 *the date of the enactment of this Act, each agency*
13 *shall develop, submit to the Administrator, and make*
14 *publicly available on the agency’s website a plan for*
15 *achieving the annual reduction targets applicable to*
16 *such agency under this section through fiscal year*
17 *2020. Not later than 2 years before the 10-year period*
18 *beginning in 2021 and each subsequent 10-year pe-*
19 *riod, the agency shall develop, submit to the Adminis-*
20 *trator, and make publicly available an updated plan*
21 *for achieving such targets for the respective period.*

22 *Each plan developed under this paragraph shall—*

23 *(A) identify the specific actions to be taken*
24 *by the agency; and*

1 (B) estimate the quantity of reductions of
2 greenhouse gas emissions to be achieved through
3 each such action.

4 (2) *CERTIFICATION.*—Not later than 6 months
5 after an agency submits a plan under paragraph (1),
6 the Administrator shall—

7 (A) certify that the plan is technically
8 sound and, if implemented, is expected to limit
9 the quantity of the agency’s greenhouse gas emis-
10 sions to its proportionate share under subsection
11 (c); or

12 (B) decline to certify the plan and provide
13 an explanation of the revisions that are nec-
14 essary for the plan to be certified under subpara-
15 graph (A).

16 (3) *REVISION.*—If the Administrator declines to
17 certify the plan of an agency under paragraph (2),
18 the agency shall submit to the Administrator and
19 make publicly available on the agency’s website a re-
20 vised plan not later than 6 months after the date on
21 which the Administrator provides the agency with the
22 explanation required by paragraph (2)(B).

23 (e) *EMISSIONS MANAGEMENT.*—

24 (1) *REQUIREMENT.*—Each agency shall manage
25 its greenhouse gas emissions to meet the annual re-

1 *duction targets applicable to such agency under this*
2 *section.*

3 (2) *REVISION OF PLAN.*—*If any agency fails to*
4 *meet such targets for a fiscal year, as indicated by the*
5 *inventory and report prepared by the agency for such*
6 *fiscal year, the agency shall submit to the Adminis-*
7 *trator and make publicly available on the agency’s*
8 *website a revised plan under subsection (d) not later*
9 *than March 31 of the following fiscal year. The Ad-*
10 *ministrator shall certify or decline to certify the re-*
11 *vised plan in accordance with subsection (d)(2) not*
12 *later than 3 months after receipt of the revised plan.*

13 (3) *OFFSETS.*—

14 (A) *PROPOSAL.*—*If no national mandatory*
15 *economy-wide cap-and-trade program for green-*
16 *house gases has been enacted by fiscal year 2010,*
17 *the Administrator shall develop and submit to*
18 *the Congress by 2011 a proposal to allow agen-*
19 *cies to meet the annual reduction targets appli-*
20 *cable to such agencies under this section in part*
21 *through emissions offsets, beginning in fiscal*
22 *year 2015.*

23 (B) *CONTENTS.*—*The proposal developed*
24 *under subparagraph (A) shall ensure that emis-*
25 *sions offsets are—*

1 (i) *real, surplus, verifiable, permanent,*
2 *and enforceable; and*

3 (ii) *additional for both regulatory and*
4 *financial purposes (such that the generator*
5 *of the offset is not receiving credit or com-*
6 *ensation for the offset in another regu-*
7 *latory or market context).*

8 (C) *RULEMAKING.—If by 2012 the Congress*
9 *has not enacted a statute for the express purpose*
10 *of codifying the proposal developed under sub-*
11 *paragraph (A) or an alternative to such pro-*
12 *posal, the Administrator shall implement the*
13 *proposal through rulemaking.*

14 (f) *MANAGEMENT STRATEGIES FOR LARGE TRACTS OF*
15 *PUBLIC LANDS.—The Forest Service, the Bureau of Land*
16 *Management, the National Park Service, and the United*
17 *States Fish and Wildlife Service shall—*

18 (1) *within 2 years after the date of the enact-*
19 *ment of this Act, conduct studies of the opportunities*
20 *for management strategies, and identify those man-*
21 *agement strategies with the greatest potential, to—*

22 (A) *enhance net biological sequestration of*
23 *greenhouse gases on Federal lands they manage*
24 *while avoiding harmful effects on other environ-*
25 *mental values; and*

1 (B) reduce negative impacts of global
2 warming on biodiversity, water supplies, forest
3 health, biological sequestration and storage, and
4 related values;

5 (2) within 3 years after the date of the enact-
6 ment of this Act, implement programs on selected
7 land management units in different parts of the Na-
8 tion to test the management strategies identified as
9 having the greatest potential to achieve the benefits
10 described in paragraph (1); and

11 (3) report to the Congress on the results of the
12 studies and the management strategies identified.

13 (g) *STUDY ON URBAN AND WILDLAND-URBAN FOR-*
14 *ESTRY PROGRAMS.*—Within 2 years of the date of enact-
15 ment of this Act, the Forest Service, in consultation with
16 appropriate State and local agencies, shall conduct a study
17 of the opportunities of urban and wildland-urban interface
18 forestry programs to enhance net biological sequestration of
19 greenhouse gases and achieve other benefits.

20 (h) *REPORTING.*—

21 (1) *REPORTS BY AGENCIES.*—Not later than De-
22 cember 31 each fiscal year, each agency shall submit
23 to the Administrator and make publicly available on
24 the agency's website a report on the agency's imple-
25 mentation of its plan required by subsection (d) for

1 *the preceding fiscal year, including the inventory of*
2 *greenhouse gas emissions of the agency during such*
3 *fiscal year.*

4 (2) *ANNUAL REPORT TO CONGRESS.—The Ad-*
5 *ministrator shall review each report submitted under*
6 *paragraph (1) for technical validity and compile such*
7 *reports in an annual report on the Federal Govern-*
8 *ment’s progress toward carbon neutrality. The Ad-*
9 *ministrator shall submit such annual report to the*
10 *Committee on Oversight and Government Reform of*
11 *the House of Representatives and the Committee on*
12 *Governmental Affairs of the Senate and make such*
13 *annual report publicly available on the Environ-*
14 *mental Protection Agency’s website.*

15 (3) *ELECTRONIC SUBMISSION.—In complying*
16 *with any requirement of this title for submission of*
17 *inventories, plans, or reports, an agency shall use*
18 *electronic reporting in lieu of paper copy reports.*

19 **SEC. 103. PILOT PROJECT FOR PURCHASE OF OFFSETS AND**
20 **CERTIFICATES.**

21 (a) *GAO STUDY.—No later than April 1, 2008, the*
22 *Comptroller General of the United States shall issue the re-*
23 *port requested by the Congress on May 17, 2007, regarding*
24 *markets for greenhouse gas emissions offsets.*

1 **(b) PILOT PROJECT.**—*Executive agencies and legisla-*
2 *tive branch offices may purchase qualified greenhouse gas*
3 *offsets and qualified renewable energy certificates in any*
4 *open market transaction that complies with all applicable*
5 *procurement rules and regulations.*

6 **(c) QUALIFIED GREENHOUSE GAS OFFSETS.**—*For*
7 *purposes of this section, the term “qualified greenhouse gas*
8 *offset” means a real, additional, verifiable, enforceable, and*
9 *permanent domestic—*

10 (1) *reduction of greenhouse gas emissions; or*

11 (2) *sequestration of greenhouse gases.*

12 **(d) QUALIFIED RENEWABLE ENERGY CERTIFI-**
13 *CATES.*—*For purposes of this section, the term “qualified*
14 *renewable energy certificate” means a certificate rep-*
15 *resenting a specific amount of energy generated by a renew-*
16 *able energy project that is real, additional, and verifiable.*

17 **(e) GUIDANCE.**—*No later than September 30, 2008, the*
18 *Administrator shall issue guidelines, for Executive agencies,*
19 *establishing criteria for qualified greenhouse gas offsets and*
20 *qualified renewable energy certificates. Such guidelines*
21 *shall take into account the findings and recommendations*
22 *of the report issued under subsection (a) and shall—*

23 (1) *establish performance standards for green-*
24 *house gas offset projects that benchmark reliably ex-*
25 *pected greenhouse gas reductions from identified cat-*

1 *egories of projects that reduce greenhouse gas emis-*
2 *sions or sequester carbon in accordance with sub-*
3 *section (c); and*

4 *(2) establish criteria for qualified renewable en-*
5 *ergy certificates to ensure that energy generated is re-*
6 *newable and is in accordance with subsection (d).*

7 *(f) REPORT.—The Comptroller General of the United*
8 *States shall evaluate the pilot program established by this*
9 *section, including identifying environmental and other ben-*
10 *efits of the program, as well as its financial costs and any*
11 *disadvantages associated with the program. No later than*
12 *April 1, 2011, the Comptroller General shall provide a re-*
13 *port to the Committee on Oversight and Government Re-*
14 *form of the House of Representatives and the Committee*
15 *on Homeland Security and Governmental Affairs of the*
16 *Senate providing the details of the evaluation and any rec-*
17 *ommendations for improvement.*

18 *(g) ADDITIONAL DEFINITIONS.—In this section:*

19 *(1) Notwithstanding section 105(3) of this Act,*
20 *the term “Executive agency” has the meaning given*
21 *to such term in section 105 of title 5, United States*
22 *Code.*

23 *(2) The term “renewable energy” has the mean-*
24 *ing given that term in section 203(b) of the Energy*
25 *Policy Act of 2005 (42 U.S.C. 15852(b)(2)), except*

1 *that energy generated from municipal solid waste*
2 *shall not be renewable energy.*

3 *(h) AUTHORIZATION.—Of the amount of discretionary*
4 *funds available to each Executive agency or legislative*
5 *branch office for each of fiscal years 2009 and 2010, not*
6 *more than 0.01 percent of such amount may be used for*
7 *the purpose of carrying out this section. Such funding shall*
8 *be in addition to any other funds available to the Executive*
9 *agency or legislative branch office for such purpose.*

10 *(i) SUNSET CLAUSE.—This section ceases to be effec-*
11 *tive at the end of fiscal year 2010.*

12 **SEC. 104. SAVINGS CLAUSE.**

13 *Nothing in this Act or any amendment made by this*
14 *Act shall be interpreted to preempt or limit the authority*
15 *of a State to take any action to address global warming.*

16 **SEC. 105. DEFINITIONS.**

17 *In this title:*

18 *(1) The term “Administrator” means the Admin-*
19 *istrator of the Environmental Protection Agency.*

20 *(2) The term “carbon dioxide equivalent” means,*
21 *for each greenhouse gas, the quantity of the green-*
22 *house gas that makes the same contribution to global*
23 *warming as 1 metric ton of carbon dioxide, as deter-*
24 *mined by the Administrator, taking into account the*

1 *global warming potentials published by the Intergov-*
 2 *ernmental Panel on Climate Change.*

3 (3) *The term “agency” has the meaning given to*
 4 *that term in section 551 of the National Energy Con-*
 5 *servaion Policy Act (42 U.S.C. 8259).*

6 (4) *The term “greenhouse gas” means—*

7 (A) *carbon dioxide;*

8 (B) *methane;*

9 (C) *nitrous oxide;*

10 (D) *hydrofluorocarbons;*

11 (E) *perfluorocarbons;*

12 (F) *sulfur hexafluoride; or*

13 (G) *any other anthropogenically-emitted gas*
 14 *that the Administrator, after notice and com-*
 15 *ment, determines contributes to global warming*
 16 *to a non-negligible degree.*

17 **SEC. 106. AUTHORIZATION OF APPROPRIATIONS.**

18 *There are authorized to be appropriated such sums as*
 19 *may be necessary to implement this title.*

20 **TITLE II—FEDERAL GOVERN-**
 21 **MENT ENERGY EFFICIENCY**

22 **SEC. 201. FEDERAL VEHICLE FLEETS.**

23 *Section 303 of the Energy Policy Act of 1992 (42*
 24 *U.S.C. 13212) is amended—*

1 (1) *by redesignating subsection (f) as subsection*
2 *(g); and*

3 (2) *by inserting after subsection (e) the following*
4 *new subsection:*

5 “(f) *VEHICLE EMISSION REQUIREMENTS.—*

6 “(1) *PROHIBITION.—No Federal agency shall ac-*
7 *quire a light duty motor vehicle or medium duty pas-*
8 *senger vehicle that is not a low greenhouse gas emit-*
9 *ting vehicle.*

10 “(2) *GUIDANCE.—Each year, the Administrator*
11 *of the Environmental Protection Agency shall issue*
12 *guidance identifying the makes and model numbers of*
13 *vehicles that are low greenhouse gas emitting vehicles.*
14 *In identifying such vehicles, the Administrator shall*
15 *take into account the most stringent standards for ve-*
16 *hicle greenhouse gas emissions applicable to and en-*
17 *forceable against motor vehicle manufacturers for ve-*
18 *hicles sold anywhere in the United States. The Ad-*
19 *ministrator shall not identify any vehicle as a low*
20 *greenhouse gas emitting vehicle if the vehicle emits*
21 *greenhouse gases at a higher rate than such standards*
22 *allow for the manufacturer’s fleet average grams per*
23 *mile of carbon dioxide-equivalent emissions for that*
24 *class of vehicle, taking into account any emissions al-*

1 *lowances and adjustment factors such standards pro-*
2 *vide.*

3 “(3) *DEFINITION.*—*For purposes of this sub-*
4 *section, the term ‘medium duty passenger vehicle’ has*
5 *the meaning given that term section 523.2 of title 49*
6 *of the Code of Federal Regulations.’”.*

7 **SEC. 202. AGENCY ANALYSES FOR MOBILITY ACQUISITIONS.**

8 (a) *COST ESTIMATE REQUIREMENT.*—*Each Federal*
9 *agency that owns, operates, maintains, or otherwise funds*
10 *infrastructure, assets, or personnel to provide delivery of*
11 *fuel to its operations shall apply activity based cost ac-*
12 *counting principles to estimate the fully burdened cost of*
13 *fuel.*

14 (b) *USE OF COST ESTIMATE.*—*Each agency shall use*
15 *the fully burdened cost of fuel, as estimated under subsection*
16 (a), *in conducting analyses and making decisions regarding*
17 *its activities that create a demand for energy. Such analyses*
18 *and decisions shall include—*

19 (1) *the use of models, simulations, wargames,*
20 *and other analytical tools to determine the types of*
21 *energy consuming equipment that an agency needs to*
22 *conduct its missions;*

23 (2) *life-cycle cost benefit analyses and other*
24 *trade-off analyses for determining the cost effective-*

1 (1) *in subsection (b)(1), by inserting “in a prod-*
2 *uct category covered by the Energy Star program or*
3 *the Federal Energy Management Program for des-*
4 *ignated products” after “energy consuming product”;*

5 (2) *in subsection (b)(2)—*

6 (A) *by striking “in writing that” and all*
7 *that follows through “(A) an Energy Star” and*
8 *inserting “in writing that an Energy Star”;* and

9 (B) *by striking “account; or” and all that*
10 *follows through “requirements of the agency” and*
11 *inserting “account”;* and

12 (3) *in subsection (c)—*

13 (A) *by inserting “list in their catalogues,*
14 *represent as available, and” after “Logistics*
15 *Agency shall”;*

16 (B) *by striking “where the agency” and in-*
17 *serting “where the head of the agency”;* and

18 (C) *by striking “writing that no Energy*
19 *Star product” and all that follows through “re-*
20 *quirements, or” and inserting “writing”.*

21 (b) *CATALOGUE LISTING DEADLINE.—Not later than*
22 *6 months after the date of enactment of this Act, the General*
23 *Services Administration and the Defense Logistics Agency*
24 *shall ensure that the prohibition in the amendment made*
25 *under subsection (a)(2)(A) has been fully complied with.*

1 **SEC. 204. FEDERAL BUILDING ENERGY EFFICIENCY PER-**
 2 **FORMANCE STANDARDS.**

3 (a) *STANDARDS.*—Section 305(a)(3) of the Energy
 4 Conservation and Production Act (42 U.S.C. 6834(a)(3))
 5 is amended by adding at the end the following new subpara-
 6 graph:

7 “(D) Not later than 1 year after the date of enactment
 8 of the Carbon-Neutral Government Act of 2007, the Sec-
 9 retary shall establish, by rule, revised Federal building en-
 10 ergy efficiency performance standards that require that:

11 “(i) For new Federal buildings and Federal
 12 buildings undergoing major renovations:

13 “(I) The buildings shall be designed so that
 14 the fossil fuel-generated energy consumption of
 15 the buildings is reduced, as compared with such
 16 energy consumption by a similar building in fis-
 17 cal year 2003 (as measured by Commercial
 18 Buildings Energy Consumption Survey or Resi-
 19 dential Energy Consumption Survey data from
 20 the Energy Information Agency), by the percent-
 21 age specified in the following table:

| <i>“Fiscal Year</i> | <i>Percentage Reduction</i> |
|---------------------|-----------------------------|
| 2010 | 60 |
| 2015 | 70 |
| 2020 | 80 |
| 2025 | 90 |
| 2030 | 100. |

1 “(II) Sustainable design principles shall be
2 applied to the siting, design, and construction of
3 such buildings. For building types for which the
4 United States Green Building Council Leader-
5 ship in Energy and Environmental Design
6 (LEED) certification for New Construction and
7 Major Renovation is applicable, such buildings
8 shall be designed to meet, at a minimum, the
9 LEED silver level standard (or any successor
10 standard thereto), or if any additional capital
11 cost is projected to be recoverable through energy
12 and other operational cost savings within 10
13 years, the LEED gold level standard (or any
14 successor standard thereto).

15 “(i) In addition to any use of water conserva-
16 tion technologies otherwise required by this section,
17 water conservation technologies shall be applied to the
18 extent that the technologies are life-cycle cost-effec-
19 tive.”.

20 (b) *DEFINITIONS.*—Section 303 of the Energy Con-
21 servation and Production Act (42 U.S.C. 6832) is amend-
22 ed—

23 (1) in paragraph (6), by striking “which is not
24 legally subject to State or local building codes or simi-
25 lar requirements.” and inserting “. Such term shall

1 *include buildings built for the purpose of being leased*
2 *by a Federal agency, and privatized military hous-*
3 *ing.”; and*

4 *(2) by adding at the end the following new para-*
5 *graph:*

6 *“(17) The term ‘major renovation’ means the*
7 *renovation of a major component or substantial struc-*
8 *tural part of a building that materially increases the*
9 *value of the building, substantially prolongs the useful*
10 *life of the building, or adapts the building to a new*
11 *or different use.”.*

12 **SEC. 205. MANAGEMENT OF FEDERAL BUILDING EFFI-**
13 **CIENCY.**

14 *(a) BENCHMARKING AND RECOMMISSIONING.—Section*
15 *543 of the National Energy Conservation Policy Act (42*
16 *U.S.C. 8253) is amended by adding at the end the following*
17 *new subsections:*

18 *“(f) ENERGY PERFORMANCE BENCHMARKING.—*

19 *“(1) REQUIREMENTS.—Each Federal agency*
20 *shall, with respect to each of its Federal buildings*
21 *with greater than 40,000 square feet of space or great-*
22 *er than \$75,000 per year in energy costs, annually*
23 *benchmark the energy efficiency performance of the*
24 *building and, where feasible, rate that performance*
25 *compared to similar buildings.*

1 “(2) *BENCHMARKING AND RATING TOOL.*—A
2 *Federal agency shall use the Energy Star Portfolio*
3 *Manager Buildings Benchmark Tool in carrying out*
4 *paragraph (1). If the building is a type of building*
5 *for which that tool does not allow rating the build-*
6 *ing’s comparative performance, and the Federal En-*
7 *ergy Management Program has identified an appro-*
8 *priate tool for rating the building’s comparative per-*
9 *formance, the agency may use such tool to benchmark*
10 *and rate the building’s performance.*

11 “(3) *USE OF INFORMATION TO ENHANCE BUILD-*
12 *ING MANAGEMENT.*—*The Federal facilities manager*
13 *for each building subject to the requirements in para-*
14 *graph (1) shall use the benchmark performance, rat-*
15 *ing, and annual energy costs to identify and evaluate*
16 *opportunities for improving the building’s energy effi-*
17 *ciency performance and reducing costs.*

18 “(4) *PUBLIC DISCLOSURE.*—*Each Federal agen-*
19 *cy shall post the benchmarking information generated*
20 *under this subsection, along with each building’s an-*
21 *nuual energy use per square foot and energy costs, on*
22 *the agency’s website. The agency shall update such in-*
23 *formation each year, and shall include in such report-*
24 *ing previous years’ information to allow changes in*
25 *building performance to be tracked over time.*

1 “(g) *RECOMMISSIONING AND DIAGNOSTIC ENERGY*
2 *AUDIT.*—

3 “(1) *REQUIREMENT.*—*Each Federal agency shall*
4 *each year recommission or retrocommission, as appli-*
5 *cable, and conduct a diagnostic energy audit with re-*
6 *spect to, approximately 20 percent of its Federal*
7 *buildings with greater than 40,000 square feet of*
8 *space or greater than \$75,000 per year in energy*
9 *costs, so that all such buildings are recommissioned or*
10 *retrocommissioned, as applicable, and audited at least*
11 *once every 5 years.*

12 “(2) *USE OF INFORMATION TO ENHANCE BUILD-*
13 *ING MANAGEMENT.*—*The Federal facilities manager*
14 *for each building and the agency official responsible*
15 *for facilities management shall use the information*
16 *produced from the energy audits under paragraph (1)*
17 *as a management tool for prioritizing capital expend-*
18 *itures for maintenance and building upgrades and al-*
19 *locating such expenditures within a facility and*
20 *across all of the agency’s facilities, as applicable.*

21 “(h) *LARGE CAPITAL ENERGY INVESTMENTS.*—*Each*
22 *Federal agency shall ensure that any large capital energy*
23 *investment in an existing building that is not a major ren-*
24 *ovation but involves replacement of installed equipment,*
25 *such as heating and cooling systems, or involves renovation,*

1 *rehabilitation, expansion, or remodeling of existing space,*
2 *employs the most energy efficient designs, systems, equip-*
3 *ment, and controls that are life-cycle cost effective. Not later*
4 *than 6 months after the date of enactment of the Carbon-*
5 *Neutral Government Act of 2007, each Federal agency shall*
6 *develop a process for reviewing each such large capital en-*
7 *ergy investment decision to ensure that the requirement of*
8 *this subsection is met, and shall report to the Office of Man-*
9 *agement and Budget on the process established. This process*
10 *shall incorporate the information produced under sub-*
11 *sections (f) and (g). Not later than one year after the date*
12 *of enactment of the Carbon-Neutral Government Act of*
13 *2007, the Office of Management and Budget shall evaluate*
14 *and report to Congress on each agency’s compliance with*
15 *this subsection.”.*

16 *(b) METERING.—Section 543(e)(1) of the National En-*
17 *ergy Conservation Policy Act (42 U.S.C. 8253(e)(1)) is*
18 *amended by inserting “By October 1, 2016, each agency*
19 *shall also provide for equivalent metering of natural gas,*
20 *steam, chilled water, and water, in accordance with guide-*
21 *lines established by the Secretary under paragraph (2).”*
22 *after “buildings of the agency.”.*

23 **SEC. 206. LEASING.**

24 *(a) IN GENERAL.—Except as provided in subsection*
25 *(b), effective 3 years after the date of enactment of this Act,*

1 *no Federal agency shall enter into a new contract to lease*
2 *space in a building that has not earned the Energy Star*
3 *label in the most recent year.*

4 (b) *EXCEPTION.—If—*

5 (1) *no space is available in such a building that*
6 *meets an agency’s functional requirements, including*
7 *locational needs; or*

8 (2) *the agency is proposing to remain in a*
9 *building that the agency has occupied previously,*
10 *the agency may enter into a contract to lease space in a*
11 *building that has not earned the Energy Star label in the*
12 *most recent year if the lease contract includes provisions*
13 *requiring that, prior to occupancy, or in the case of a con-*
14 *tract described in paragraph (2) not later than 6 months*
15 *after signing the contract, the space will be renovated for*
16 *all energy efficiency improvements that would be cost effec-*
17 *tive over a 5-year period or the life of the lease, whichever*
18 *is greater, including improvements in lighting, windows,*
19 *and heating, ventilation, and air conditioning systems.*

20 **SEC. 207. PROCUREMENT AND ACQUISITION OF ALTER-**
21 **NATIVE FUELS.**

22 *No Federal agency shall enter into a contract for pro-*
23 *curement of an alternative or synthetic fuel, including a*
24 *fuel produced from non-conventional petroleum sources, for*
25 *any mobility-related use, other than for research or testing,*

1 *unless the contract specifies that the lifecycle greenhouse gas*
2 *emissions associated with the production and combustion*
3 *of the fuel supplied under the contract must, on an ongoing*
4 *basis, be less than or equal to such emissions from the equiv-*
5 *alent conventional fuel produced from conventional petro-*
6 *leum sources.*

7 **SEC. 208. CONTRACTS FOR RENEWABLE ENERGY FOR EXEC-**
8 **UTIVE AGENCIES.**

9 *Section 501(b)(1) of title 40, United States Code, is*
10 *amended—*

11 *(1) in subparagraph (B), by striking “A con-*
12 *tract” and inserting “Except as provided in subpara-*
13 *graph (C), a contract”; and*

14 *(2) by adding at the end the following new sub-*
15 *paragraph:*

16 *“(C) RENEWABLE ENERGY CONTRACTS.—A*
17 *contract for renewable energy may be made for*
18 *a period of not more than 20 years. For the pur-*
19 *poses of this subparagraph, the term ‘renewable*
20 *energy’ has the meaning given that term in sec-*
21 *tion 203(b) of the Energy Policy Act of 2005 (42*
22 *U.S.C. 15852(b)(2)), except that energy gen-*
23 *erated from municipal solid waste shall not be*
24 *considered renewable energy.”.*

1 **SEC. 209. GOVERNMENT EFFICIENCY STATUS REPORTS.**

2 (a) *IN GENERAL.*—*Each Federal agency subject to any*
3 *of the requirements of this Act and the amendments made*
4 *by this Act shall compile and submit to the Director of the*
5 *Office of Management and Budget an annual Government*
6 *efficiency status report on—*

7 (1) *compliance by the agency with each of the re-*
8 *quirements of this Act and the amendments made by*
9 *this Act;*

10 (2) *the status of the implementation by the agen-*
11 *cy of initiatives to improve energy efficiency, reduce*
12 *energy costs, and reduce emissions of greenhouse*
13 *gases; and*

14 (3) *savings to American taxpayers resulting*
15 *from mandated improvements under this Act and the*
16 *amendments made by this Act.*

17 (b) *SUBMISSION.*—*Such report shall be submitted—*

18 (1) *to the Director at such time as the Director*
19 *requires;*

20 (2) *in electronic, not paper, format; and*

21 (3) *consistent with related reporting require-*
22 *ments.*

23 **SEC. 210. OMB GOVERNMENT EFFICIENCY REPORTS AND**
24 **SCORECARDS.**

25 (a) *REPORTS.*—*Not later than April 1 of each year,*
26 *the Director of the Office of Management and Budget shall*

1 *submit an Annual Government Efficiency report to the*
2 *Committee on Oversight and Government Reform of the*
3 *House of Representatives and the Committee on Govern-*
4 *mental Affairs of the Senate, which shall contain—*

5 (1) *a summary of the information reported by*
6 *agencies under section 209;*

7 (2) *an evaluation of the Government’s overall*
8 *progress toward achieving the goals of this Act and*
9 *the amendments made by this Act; and*

10 (3) *recommendations for additional actions nec-*
11 *essary to meet the goals of this Act and the amend-*
12 *ments made by this Act.*

13 (b) *SCORECARDS.—The Office of Management and*
14 *Budget shall include in any annual energy scorecard it is*
15 *otherwise required to submit a description of each agency’s*
16 *compliance with the requirements of this Act and the*
17 *amendments made by this Act.*

18 **SEC. 211. AUTHORIZATION OF APPROPRIATIONS.**

19 *There are authorized to be appropriated such sums as*
20 *may be necessary to implement this title.*

21 **SEC. 212. JUDICIAL REVIEW.**

22 (a) *FINAL AGENCY ACTION.—Any nondiscretionary*
23 *act or duty under this Act or any amendment made by this*
24 *Act is a final agency action for the purposes of judicial*
25 *review under chapter 7 of title 5, United States Code.*

1 (b) *VENUE FOR CERTAIN ACTIONS.*—*The United*
2 *States Court of Appeals for the District of Columbia Circuit*
3 *shall have exclusive jurisdiction over any petition for review*
4 *of action of the Administrator in promulgating any rule*
5 *under title I of this Act.*

6 (c) *LIMITATIONS.*—*No action under chapter 7 of title*
7 *5, United States Code, may be commenced prior to 60 days*
8 *after the date on which the plaintiff has given notice to the*
9 *Federal agency concerned of the alleged violation of this Act*
10 *or any amendment made by this Act.*

11 (d) *COMMON CLAIMS.*—*When civil actions arising*
12 *under this Act or any amendment made by this Act are*
13 *pending in the same court and involve one or more common*
14 *questions of fact or common claims regarding the same al-*
15 *leged Federal agency failure or failures to act, the court*
16 *may consolidate such claims into a single action for judicial*
17 *review. When civil actions arising under this Act or any*
18 *amendment made by this Act are pending in different dis-*
19 *tricts and involve one or more common questions of fact*
20 *or common claims regarding the same alleged Federal agen-*
21 *cy failure or failures to act, such actions may be consoli-*
22 *dated pursuant to section 1407 of title 28, United States*
23 *Code.*

24 (e) *AGGRIEVED PERSONS.*—*A person shall be consid-*
25 *ered aggrieved within the meaning of this Act or any*

1 *amendment made by this Act for purposes of obtaining ju-*
2 *dicial review under chapter 7 of title 5, United States Code,*
3 *if the person alleges—*

4 (1) *harm attributable to a Federal agency’s fail-*
5 *ure to reduce its greenhouse gas emissions in accord-*
6 *ance with the requirements under this Act or any*
7 *amendment made by this Act, or take other actions*
8 *required under this Act or any amendment made by*
9 *this Act; or*

10 (2) *a Federal agency’s failure to collect and pro-*
11 *vide information to the public as required by this Act*
12 *or any amendment made by this Act.*

13 *For purposes of this section, the term “harm” includes any*
14 *effect of global warming, currently occurring or at risk of*
15 *occurring, and the incremental exacerbation of any such ef-*
16 *fect or risk that is associated with relatively small incre-*
17 *ments of greenhouse gas emissions, even if the effect or risk*
18 *is widely shared. An effect or risk associated with global*
19 *warming is “attributable” to a Federal agency’s failure to*
20 *act as described in paragraph (1) if the failure to act results*
21 *in larger emissions of greenhouse gases than would have*
22 *been emitted had the Federal agency followed the require-*
23 *ments of this Act or any amendment made by this Act, as*
24 *any such incremental additional emissions will exacerbate*
25 *the pace, extent, and risks of global warming.*

1 (f) *REMEDY.*—

2 (1) *IN GENERAL.*—*In addition to the remedies*
3 *available under chapter 7 of title 5, United States*
4 *Code, a court may provide the remedies specified in*
5 *this subsection.*

6 (2) *PAYMENT.*—*In any civil action alleging a*
7 *violation of this Act, if the court finds that an agency*
8 *has significantly violated this Act in its failure to*
9 *perform any nondiscretionary act or duty under this*
10 *Act or any amendment made by this Act, the court*
11 *may award a payment, payable by the United States*
12 *Treasury, to be used for a beneficial mitigation*
13 *project recommended by the plaintiff or to compensate*
14 *the plaintiff for any impact from global warming suf-*
15 *fered by the plaintiff. The total payment for all*
16 *claims by all plaintiffs in any such action shall not*
17 *exceed the amount provided in section 1332(b) of title*
18 *28, United States Code. A court may deny a second*
19 *payment under this section if the court determines*
20 *that the plaintiff has filed multiple separate actions*
21 *that could reasonably have been combined into a sin-*
22 *gle action. No payment may be awarded under this*
23 *paragraph for violations of an agency's obligation to*
24 *collect or report information to the public. No court*
25 *may award any payment under this paragraph in*

1 *any given year if the cumulative payments awarded*
2 *by courts under this paragraph in such year are*
3 *equal to or greater than \$1,500,000.*

4 (3) *COSTS.*—*A court may award costs of litigation*
5 *to any substantially prevailing plaintiff or to*
6 *any other plaintiff whenever the court determines*
7 *such an award is appropriate. Such an award is ap-*
8 *propriate when such litigation contributes to the Fed-*
9 *eral agency’s compliance with this Act or any amend-*
10 *ment made by this Act. Costs of litigation include*
11 *reasonable attorney fees and expert fees.*

12 (4) *EXCLUSIVE REMEDY.*—*Notwithstanding any*
13 *other provision of Federal law—*

14 (A) *no plaintiff who is awarded a payment*
15 *under this subsection for a failure to perform a*
16 *mandatory duty under this Act or any amend-*
17 *ment made by this Act may be awarded a pay-*
18 *ment for such failure under any other Federal*
19 *law; and*

20 (B) *no plaintiff may be awarded a payment*
21 *under this subsection for a failure to perform a*
22 *mandatory duty under this Act or any amend-*
23 *ment made by this Act if the plaintiff has been*
24 *awarded a payment for such failure under any*
25 *other Federal law.*

1 (g) *NO STATE COURT ACTION.*—No person may bring
2 any action in State court alleging a violation of this Act
3 or any amendment made by this Act.

4 (h) *DEFINITION.*—In this section, the term “person”
5 means a United States person. In the case of an individual,
6 such term means a citizen or national of the United States.

Union Calendar No. 187

110TH CONGRESS
1ST Session

H. R. 2635

[Report No. 110-297, Part I]

A BILL

To reduce the Federal Government's contribution to global warming through measures that promote efficiency in the Federal Government's management and operations, and for other purposes.

AUGUST 3, 2007

Reported from the Committee on Oversight and
Government Reform with an amendment

AUGUST 3, 2007

Committees on Energy and Commerce, Armed Services,
Transportation and Infrastructure, Natural Resources,
and Agriculture discharged; committed to the Com-
mittee of the Whole House on the State of the Union
and ordered to be printed