To authorize the President to enter into agreements to provide regulatory credit for voluntary early action to mitigate potential environmental impacts from greenhouse gas emissions.

IN THE SENATE OF THE UNITED STATES
MARCH 4, 1999

Mr. CHAFEE (for himself, Mr. MACK, Mr. LIEBERMAN, Mr. WARNER, Mr. MOYNIHAN, Mr. REID, Mr. JEFFORDS, Mr. WYDEN, Mr. BIDEN, Ms. COLLINS, Mr. BAUCUS, and Mr. VOINOVICH) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

A BILL
To authorize the President to enter into agreements to provide regulatory credit for voluntary early action to mitigate potential environmental impacts from greenhouse gas emissions.

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

2 SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

3 (a) Short Title.—This Act may be cited as the “Credit for Voluntary Reductions Act”.

3 (b) Table of Contents.—The table of contents of this Act is as follows:
Sec. 1. Short title; table of contents.
Sec. 2. Purpose.
Sec. 3. Definitions.
Sec. 4. Authority for early action agreements.
Sec. 5. Entitlement to greenhouse gas reduction credit for early action.
Sec. 6. Baseline and base period.
Sec. 7. Sources and carbon reservoirs covered by early action agreements.
Sec. 8. Measurement and verification.
Sec. 9. Authority to enter into agreements that achieve comparable reductions.
Sec. 10. Trading and pooling.
Sec. 11. Relationship to future domestic greenhouse gas regulatory statute.

SEC. 2. PURPOSE.

The purpose of this Act is to encourage voluntary actions to mitigate potential environmental impacts of greenhouse gas emissions by authorizing the President to enter into binding agreements under which entities operating in the United States will receive credit, usable in any future domestic program that requires mitigation of greenhouse gas emissions, for voluntary mitigation actions taken before the end of the credit period.

SEC. 3. DEFINITIONS.

In this Act:

(1) Carbon reservoir.—The term “carbon reservoir” means quantifiable nonfossil storage of carbon in a natural or managed ecosystem or other reservoir.

(2) Compliance period.—The term “compliance period” means any period during which a domestic greenhouse gas regulatory statute is in effect.

(3) Credit period.—The term “credit period” means—
(A) the period of January 1, 1999, through the earlier of—

(i) the day before the beginning of the compliance period; or

(ii) the end of the ninth calendar year that begins after the date of enactment of this Act; or

(B) if a different period is determined for a participant under section 5(e) or 6(e)(4), the period so determined.

(4) **DOMESTIC.**—The term “domestic” means within the territorial jurisdiction of the United States.

(5) **DOMESTIC GREENHOUSE GAS REGULATORY STATUTE.**—The term “domestic greenhouse gas regulatory statute” means a Federal statute, enacted after the date of enactment of this Act, that imposes a quantitative limitation on domestic greenhouse gas emissions, or taxes such emissions.

(6) **EARLY ACTION AGREEMENT.**—The term “early action agreement” means an agreement with the United States entered into under section 4(a).

(7) **EXISTING SOURCE.**—The term “existing source” means a source that emitted greenhouse
gases during the participant’s base period determined under section 6.

(8) GREENHOUSE GAS.—The term “greenhouse gas” means—

(A) carbon dioxide; and

(B) to the extent provided by an early action agreement—

(i) methane;

(ii) nitrous oxide;

(iii) hydrofluorocarbons;

(iv) perfluorocarbons; and

(v) sulfur hexafluoride.

(9) GREENHOUSE GAS REDUCTION CREDIT.—The term “greenhouse gas reduction credit” means an authorization under a domestic greenhouse gas regulatory statute to emit 1 metric ton of greenhouse gas (expressed in terms of carbon dioxide equivalent) that is provided because of greenhouse gas emission reductions or carbon sequestration carried out before the compliance period.

(10) NEW SOURCE.—The term “new source” means—

(A) a source other than an existing source; and
(B) a facility that would be a source but

for the facility’s use of renewable energy.

(11) OWN.—The term “own” means to have di-
rect or indirect ownership of an undivided interest in
an asset.

(12) PARTICIPANT.—The term “participant”
means a person that enters into an early action
agreement with the United States under this Act.

(13) PERSON.—The term “person” includes a
governmental entity.

(14) SOURCE.—The term “source” means a
source of greenhouse gas emissions.

SEC. 4. AUTHORITY FOR EARLY ACTION AGREEMENTS.

(a) Authority.—

(1) IN GENERAL.—The President may enter
into a legally binding early action agreement with
any person under which the United States agrees to
provide greenhouse gas reduction credit usable be-
ginning in the compliance period, if the person takes
an action described in section 5 that reduces green-
house gas emissions or sequesters carbon before the
end of the credit period.

(2) REQUIREMENTS.—An early action agree-
ment entered into under paragraph (1) shall meet
either—
(A) the requirements for early action agreements under sections 5 through 8; or

(B) in the case of a participant described in section 9, the requirements of that section.

(b) Delegation.—The President may delegate any authority under this Act to any Federal department or agency.

(c) Regulations.—The President may promulgate such regulations (including guidelines) as are appropriate to carry out this Act.

SEC. 5. ENTITLEMENT TO GREENHOUSE GAS REDUCTION CREDIT FOR EARLY ACTION.

(a) Internationally Creditable Actions.—A participant shall receive greenhouse gas reduction credit under an early action agreement if the participant takes an action that—

(1) reduces greenhouse gas emissions or sequesters carbon before the end of the credit period; and

(2) under any applicable international agreement, will result in an addition to the United States quantified emission limitation for the compliance period.

(b) United States Initiative for Joint Implementation.—
(1) IN GENERAL.—Subject to paragraph (2), an early action agreement may provide that a participant shall be entitled to receive greenhouse gas reduction credit for a greenhouse gas emission reduction or carbon sequestration that—

(A) is not creditable under subsection (a); and

(B) is for a project—

(i) accepted before December 31, 2000, under the United States Initiative for Joint Implementation; and

(ii) financing for which was provided or construction of which was commenced before that date.

(2) LIMITATION ON PERIOD DURING WHICH CREDIT MAY BE EARNED.—No greenhouse gas reduction credit may be earned under this subsection after the earlier of—

(A) the earliest date on which credit may be earned for a greenhouse gas emission reduction, carbon sequestration, or comparable project under an applicable international agreement; or

(B) the end of the credit period.

(c) PROSPECTIVE DOMESTIC ACTIONS.—
(1) **Emission Reductions.**—A participant shall receive greenhouse gas reduction credit under an early action agreement if, during the credit period—

(A) the participant’s aggregate greenhouse gas emissions from domestic sources that are covered by the early action agreement; are less than

(B) the sum of the participant’s annual source baselines during that period (as determined under section 6 and adjusted under subsections (a)(2), (c)(1), and (c)(2) of section 7).

(2) **Sequestration.**—For the purpose of receiving greenhouse gas reduction credit under paragraph (1), the amount by which aggregate net carbon sequestration for the credit period in a participant’s domestic carbon reservoirs covered by an early action agreement exceeds the sum of the participant’s annual reservoir baselines for the credit period (as determined under section 6 and adjusted under section 7(c)(1)(B)) shall be treated as a greenhouse gas emission reduction.

(d) **Domestic Section 1605 Actions.**—

(1) **Credit.**—An early action agreement may provide that a participant shall be entitled to receive
1 ton of greenhouse gas reduction credit for each ton of greenhouse gas emission reductions or carbon sequestration for the 1991 through 1998 period from domestic actions that are—

(A) reported before January 1, 1999, under section 1605 of the Energy Policy Act of 1992 (42 U.S.C. 13385); or

(B) carried out and reported before January 1, 1999, under a Federal agency program to implement the Climate Change Action Plan.

(2) VERIFICATION.—The participant shall provide information sufficient to verify to the satisfaction of the President (in accordance with section 8 and the regulations promulgated under section 4(c)) that actions reported under paragraph (1)—

(A) have been accurately reported;

(B) are not double-counted; and

(C) represent actual reductions in greenhouse gas emissions or actual increases in net carbon sequestration.

(e) EXTENSION.—The parties to an early action agreement may extend the credit period during which greenhouse gas reduction credit may be earned under the early action agreement, if Congress permits such an exten-
sion by law enacted after the date of enactment of this Act.

(f) Award of Greenhouse Gas Reduction Credit.—

(1) Annual Notification of Cumulative Balances.—After the end of each calendar year, the President shall notify each participant of the cumulative balance (if any) of greenhouse gas reduction credit earned under an early action agreement as of the end of the calendar year.

(2) Award of Final Credit.—Effective at the end of the credit period, a participant shall have a contractual entitlement, to the extent provided in the participant’s early action agreement, to receive 1 ton of greenhouse gas reduction credit for each 1 ton that is creditable under subsections (a) through (d).

SEC. 6. Baseline and Base Period.

(a) Source Baseline.—A participant’s annual source baseline for each of the calendar years in the credit period shall be equal to the participant’s average annual greenhouse gas emissions from domestic sources covered by the participant’s early action agreement during the participant’s base period, adjusted for the calendar year as provided in subsections (a)(2), (c)(1), and (c)(2) of section 7.
(b) Reservoir Baseline.—A participant’s annual reservoir baseline for each of the calendar years in the credit period shall be equal to the average level of carbon stocks in carbon reservoirs covered by the participant’s early action agreement for the participant’s base period, adjusted for the calendar year as provided in section 7(c)(1).

(c) Base Period.—

(1) In General.—Except as provided in paragraphs (2) and (3), a participant’s base period shall be 1996 through 1998.

(2) Data Unavailable or Unrepresentative.—The regulations promulgated under section 4(c) may specify a base period other than 1996 through 1998 that will be applicable if adequate data are not available to determine a 1996 through 1998 baseline or if such data are unrepresentative.

(3) Elections.—The regulations promulgated under section 4(c) may permit a participant to elect a base period earlier than 1996 (not to include any year earlier than 1990) to reflect voluntary reductions made before January 1, 1996.

(4) Adjustment of Period During Which Credit May Be Earned.—Notwithstanding subsections (c) and (d) of section 5, except as otherwise
provided by the regulations promulgated under section 4(c), if an election is made for a base period earlier than 1996—

(A) greenhouse gas reduction credit shall be available under section 5(c) for the calendar year that begins after the end of the base period and any calendar year thereafter through the end of the credit period; and

(B) greenhouse gas reduction credit shall be available under section 5(d) only through the end of the base period.

SEC. 7. SOURCES AND CARBON RESERVOIRS COVERED BY EARLY ACTION AGREEMENTS.

(a) SOURCES.—

(1) IN GENERAL.—

(A) COVERED SOURCES.—Except as otherwise provided in this subsection, a participant’s early action agreement shall cover all domestic greenhouse gas sources that the participant owns as of the date on which the early action agreement is entered into.

(B) EXCLUSIONS.—The regulations promulgated under section 4(c) (or the terms of an early action agreement) may exclude from coverage under an early action agreement—
(i) small or diverse sources owned by
the participant; and
(ii) sources owned by more than 1
person.

(2) NEW SOURCES.—

(A) IN GENERAL.—The regulations pro-
mulgated under section 4(c) may provide that
an early action agreement may provide for an
annual addition to a participant’s source base-
line to account for new sources owned by the
participant.

(B) AMOUNT OF ADDITION.—The amount
of an addition under subparagraph (A) shall re-
fect the emission performance of the most effi-
cient commercially available technology for
sources that produce the same or similar output
as the new source (determined as of the date on
which the early action agreement is entered
into).

(b) OPT-IN PROVISIONS.—

(1) OPT-IN FOR OTHER OWNED SOURCES.—Do-
mestic sources owned by a participant that are not
required to be covered under subsection (a) may be
covered under an early action agreement at the elec-
tion of the participant.
(2) Opt-in for carbon reservoirs.—
   
   (A) In general.—An early action agreement may provide that domestic carbon reservoirs owned by a participant may be covered under the early action agreement at the election of the participant.

   (B) Coverage.—Except in the case of small or diverse carbon reservoirs owned by the participant (as provided in the regulations promulgated under section 4(e)), if a participant elects to have domestic carbon reservoirs covered under the early action agreement, all of the participant’s domestic carbon reservoirs shall be covered under the early action agreement.

(3) Opt-in for sources and carbon reservoirs not owned by participant.—Any source or carbon reservoir not owned by the participant, or any project that decreases greenhouse gas emissions from or sequesters carbon in such a source or carbon reservoir, may be covered by an early action agreement—

   (A) in the case of a source or carbon reservoir that is covered by another early action agreement, if each owner of the source or car-
bon reservoir agrees to exclude the source or reservoir from coverage by the owner’s early action agreement; and

(B) in accordance with the regulations promulgated under section 4(c).

(c) ACCOUNTING RULES.—

(1) TRANSFERS.—If ownership of a source or carbon reservoir covered by an early action agreement is transferred to or from the participant—

(A) in the case of a source, the source’s emissions shall be adjusted to reflect the transfer for the base period and each year for which greenhouse gas reduction credit is claimed; and

(B) in the case of a carbon reservoir—

(i) the carbon reservoir’s carbon stocks shall be adjusted to reflect the transfer for the participant’s base period; and

(ii) the carbon reservoir’s net carbon sequestration shall be adjusted to reflect the transfer for each year for which greenhouse gas reduction credit is claimed.

(2) DISPLACEMENT OF EMISSIONS.—An early action agreement shall contain effective and workable provisions that ensure that only net emission
reductions will be credited under section 5 in circumstances in which emissions are displaced from sources covered by an early action agreement to sources not covered by an early action agreement.

(3) Period of Coverage.—Emissions from sources and net carbon sequestration in carbon reservoirs shall be covered by an early action agreement for the credit period, except as provided under paragraph (1) or by the regulations promulgated under section 4(c).

(4) Partial Years.—An early action agreement shall contain appropriate provisions for any partial year of coverage of a source or carbon reservoir.

SEC. 8. MEASUREMENT AND VERIFICATION.

(a) In General.—In accordance with the regulations promulgated under section 4(c), an early action agreement shall—

(1) provide that, for each calendar year during which the early action agreement is in effect, the participant shall report to the United States, as applicable—

(A) the participant’s annual source baseline and greenhouse gas emissions for the calendar year; and
(B) the participant’s annual reservoir baseline and net carbon sequestration for the calendar year;

(2) establish procedures under which the participant will measure, track, and report the information required by paragraph (1);

(3) establish requirements for maintenance of records by the participant and provisions for inspection of the records by representatives of the United States; and

(4) permit qualified independent third party entities to measure, track, and report the information required by paragraph (1) on behalf of the participant.

(b) Availability of reports to the public.—Reports required to be made under subsection (a)(1) shall be available to the public.

(c) Confidentiality.—The regulations promulgated under section 4(c) shall make appropriate provision for protection of confidential commercial and financial information.

SEC. 9. AUTHORITY TO ENTER INTO AGREEMENTS THAT ACHIEVE COMPARABLE REDUCTIONS.

In the case of a participant that manufactures or constructs for sale to end-users equipment or facilities that
emitting greenhouse gases, the President may enter into an early action agreement that does not meet the requirements of sections 5 through 7, if the President determines that—

(1) an early action agreement that meets the requirements of those sections is infeasible;

(2) an alternative form of agreement would better carry out this Act; and

(3) an agreement under this section would achieve tonnage reductions of greenhouse gas emissions that are comparable to reductions that would be achieved under an agreement that meets the requirements of those sections.

SEC. 10. TRADING AND POOLING.

(a) TRADING.—A participant may—

(1) purchase earned greenhouse gas reduction credit from and sell the credit to any other participant; and

(2) sell the credit to any person that is not a participant.

(b) POOLING.—The regulations promulgated under section 4(c) may permit pooling arrangements under which a group of participants agrees to act as a single participant for the purpose of entering into an early action agreement.
SEC. 11. RELATIONSHIP TO FUTURE DOMESTIC GREENHOUSE GAS REGULATORY STATUTE.

(a) In General.—An early action agreement shall not bind the United States to adopt (or not to adopt) any particular form of domestic greenhouse gas regulatory statute, except that an early action agreement shall provide that—

(1) greenhouse gas reduction credit earned by a participant under an early action agreement shall be provided to the participant in addition to any otherwise available authorizations of the participant to emit greenhouse gases during the compliance period under a domestic greenhouse gas regulatory statute; and

(2) if the allocation of authorizations under a domestic greenhouse gas regulatory statute to emit greenhouse gases during the compliance period is based on the level of a participant’s emissions during a historic period that is later than the participant’s base period under the participant’s early action agreement, any greenhouse gas reduction credit to which the participant was entitled under the early action agreement for domestic greenhouse gas reductions during that historic period shall, for the purpose of that allocation, be added back to the partici-
pant’s greenhouse gas emissions level for the historic period.

(b) LIMITATION.—Nothing in this Act authorizes aggregate greenhouse gas emissions from domestic sources in an amount that exceeds any greenhouse gas emission limitation applicable to the United States under an international agreement that has been ratified by the United States and has entered into force.