

118TH CONGRESS
2D SESSION

S. 5630

To amend the Clean Air Act to modify the Methane Emissions Reduction Program, and for other purposes.

IN THE SENATE OF THE UNITED STATES

DECEMBER 19 (legislative day, DECEMBER 16), 2024

Mr. LANKFORD introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

A BILL

To amend the Clean Air Act to modify the Methane Emissions Reduction Program, 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.**

4 This Act may be cited as the “Methane Emissions
5 Reduction Program Clarifications Act of 2024” or the
6 “MERP Clarifications Act of 2024”.

1 **SEC. 2. METHANE EMISSIONS AND WASTE REDUCTION IN-**
 2 **CENTIVE PROGRAM FOR PETROLEUM AND**
 3 **NATURAL GAS SYSTEMS.**

4 (a) AMENDMENTS.—Section 136 of the Clean Air Act
 5 (42 U.S.C. 7436) is amended—

6 (1) in subsection (f), by adding at the end the
 7 following:

8 “(8) EXEMPTION FOR SMALL UPSTREAM PRO-
 9 DUCERS.—

10 “(A) IN GENERAL.—The Administrator
 11 may not, pursuant to any requirement under
 12 this section, impose a reporting requirement or
 13 a charge under this section on an applicable fa-
 14 cility described in subparagraph (B).

15 “(B) APPLICABLE FACILITIES DE-
 16 SCRIBED.—An applicable facility referred to in
 17 subparagraphs (A), (C), and (D) is an applica-
 18 ble facility that, as of August 16, 2022—

19 “(i) was generating less than 25,000
 20 metric tons of carbon dioxide equivalent of
 21 greenhouse gases emitted per year; and

22 “(ii) had 2,500 or fewer full-time em-
 23 ployees.

24 “(C) NO REQUIREMENT TO DEM-
 25 ONSTRATE.—The Administrator may not im-
 26 pose a requirement that an applicable facility

described in subparagraph (B) demonstrate to the Administrator that the applicable facility meets the requirements described in that subparagraph.

“(D) NOTIFICATION.—

“(i) NOTICE TO FACILITY.—Not later than 60 days after the date of enactment of this paragraph, the Administrator shall provide written notice to each applicable facility described in subparagraph (B) that the applicable facility is not subject to the reporting requirements or charges imposed under this section.

“(ii) PUBLICATION.—The Administrator shall communicate publicly (including through press releases and messages on the website of the Environmental Protection Agency) that the applicable facilities described in subparagraph (B) are not subject to the reporting requirements or charges imposed under this section.

“(9) EXEMPTION FOR CERTAIN PRODUCERS.—

Notwithstanding any other requirement of this section, the Administrator may not impose a charge

1 under this section on an applicable facility during
 2 any period in which the applicable facility—

3 “(A) complies with subpart OOOOb and
 4 OOOOc, as applicable, of part 60 of title 40,
 5 Code of Federal Regulations (or successor regu-
 6 lations); and

7 “(B) is located in a State in compliance
 8 with the applicable State implementation plan
 9 required under subpart OOOOc of that part (or
 10 successor regulations).”;

11 (2) by striking subsection (g) and inserting the
 12 following:

13 “(g) PERIOD.—The Administrator may not impose or
 14 collect the charge under subsection (c) until January 1
 15 of the first calendar year that begins after the date on
 16 which the Administrator submits to the Committee on En-
 17 vironment and Public Works of the Senate and the Com-
 18 mittee on Energy and Commerce of the House of Rep-
 19 resentatives a written notice that each of the following re-
 20 quirements has been met for a period of not less than 1
 21 year before that January 1:

22 “(1) The grants authorized under subsections
 23 (a) and (b) have been fully disbursed to all eligible
 24 recipients.

1 “(2) The revisions to subpart W of part 98 of
2 title 40, Code of Federal Regulations, that are re-
3 quired under this section—

4 “(A) ensure the use of emissions factors
5 that have been validated by the Administrator
6 and posted to the website of the Administrator;
7 and

8 “(B) have been finalized.”;

9 (3) by redesignating subsection (i) as subsection
10 (k);

11 (4) by inserting after subsection (h) the fol-
12 lowing:

13 “(i) PUBLIC COMMENT PERIOD.—Except as provided
14 in section 2(c) of the MERP Clarifications Act of 2024,
15 any proposed regulation, rule, guidance, or directive with
16 respect to the implementation of this section from the Ad-
17 ministrator, the Executive Office of the President, or an-
18 other Federal agency shall, consistent with subchapter II
19 of chapter 5, and chapter 7, of title 5, United States Code
20 (commonly known as the ‘Administrative Procedure Act’),
21 be subject to a period of public comment of not less than
22 90 days.

23 “(j) DISPUTE RESOLUTION PROCEDURE.—Not later
24 than 60 days after the date of enactment of this sub-
25 section, the Administrator shall, consistent with sub-

1 chapter II of chapter 5, and chapter 7, of title 5, United
 2 States Code (commonly known as the ‘Administrative Pro-
 3 cedure Act’), propose a rule establishing an expedited
 4 process for an applicable facility to appeal or dispute the
 5 amount of a charge imposed under this section that is sep-
 6 arate and apart from any other such process under this
 7 Act.”; and

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

9 “(I) SUNSET.—

10 “(1) TERMINATION OF EFFECTIVENESS.—

11 “(A) IN GENERAL.—The authority pro-
 12 vided under this section terminates on Decem-
 13 ber 31, 2034.

14 “(B) LIMITATIONS.—

15 “(i) REAUTHORIZATION PERIOD.—

16 Notwithstanding any other provision of law
 17 or rule of the Senate or House of Rep-
 18 resentatives, Congress may only amend the
 19 date described in subparagraph (A)—

20 “(I) through a standalone bill
 21 that—

22 “(aa) is adopted by a $\frac{2}{3}$
 23 majority in each chamber, based
 24 on the whole number of all mem-
 25 bers of the chamber; and

1 “(bb) for the adoption of
 2 which proxy voting shall not be
 3 allowed; and

4 “(II) by extending the authoriza-
 5 tion period for this section in 3-year
 6 intervals.

7 “(ii) NO SHORT-TERM EXTENSION.—
 8 Congress may not extend the authorization
 9 period for this section for any period less
 10 than the period described in clause (i)(II).

11 “(2) CONTINUED IMPOSITION OF WASTE
 12 CHARGE.—

13 “(A) IN GENERAL.—If this section is not
 14 reauthorized by December 31, 2034, the Ad-
 15 ministrator shall immediately cease all activities
 16 with respect to the imposition of the charge
 17 under this section.

18 “(B) ENFORCEMENT.—

19 “(i) IN GENERAL.—If the Adminis-
 20 trator or the head of any other applicable
 21 Federal agency carries out any authority
 22 under this section after the date described
 23 in subparagraph (A), a party that suffers
 24 likely harm from the carrying out of that
 25 authority may seek financial compensation

1 from the Federal Government in the ap-
2 propriate Federal district court.

3 “(ii) EXPEDITED RELIEF.—A Federal
4 district court shall expedite the consider-
5 ation of an action described in clause (i)
6 brought by the owner of an applicable fa-
7 cility with 2,500 or fewer full-time employ-
8 ees.

9 “(3) RESCISSION.—On December 31, 2034,
10 there is rescinded the unobligated balance of
11 amounts made available under subsections (a) and
12 (b) as of that date.”.

13 (b) DESCRIPTION OF REQUIREMENTS AND CALCULA-
14 TIONS.—

15 (1) IN GENERAL.—Not later than 60 days after
16 the date of enactment of this Act, the Administrator
17 of the Environmental Protection Agency (referred to
18 in this section as the “Administrator”) shall make
19 publicly available, including on the website of the
20 Environmental Protection Agency, an Administra-
21 tor’s Order that includes the following information:

22 (A) Consistent with the Plain Writing Act
23 of 2010 (5 U.S.C. 301 note; Public Law 111–
24 274) and Executive Orders 12866 (5 U.S.C.
25 601 note; relating to regulatory planning and

1 review), 12988 (28 U.S.C. 519 note; relating to
2 civil justice reform), and 13563 (5 U.S.C. 601
3 note; relating to improving regulation and regu-
4 latory review), an easily understandable expla-
5 nation of—

6 (i) the methods used for calculating,
7 for purposes of section 136 of the Clean
8 Air Act (42 U.S.C. 7436)—

9 (I) the carbon dioxide equivalent
10 of greenhouse gases emitted;

11 (II) methane intensity; and

12 (III) other emissions factors; and

13 (ii) the key calculations necessary to
14 understand the requirements of the pro-
15 gram under that section, including the con-
16 version from carbon dioxide emissions to
17 methane emissions necessary for deter-
18 mining the amount of the charge imposed
19 and collected under that section.

20 (B) The methods and mechanisms (includ-
21 ing the methods and mechanisms described in
22 subparagraph (A)(i), as applicable) used to cal-
23 culate, for each category described in para-
24 graphs (1) through (9) of subsection (d) of that

1 section, the charge imposed and collected pursu-
2 ant to subsection (c) of that section.

3 (C) With respect to the development of any
4 information described in subparagraphs (A)(i)
5 and (B)—

6 (i) a list of the names, including titles,
7 occupations, and biographies, of all con-
8 sultants (including international and do-
9 mestic consultants) that assisted in that
10 development;

11 (ii)(I) a list of the academic institu-
12 tions (including any international and do-
13 mestic academic institutions) that assisted
14 in that development; and

15 (II) points of contact for each such
16 academic institution;

17 (iii)(I) a list of the nongovernmental
18 institutions (including any international
19 and domestic nongovernmental institu-
20 tions) that assisted in that development;
21 and

22 (II) points of contact for each such
23 nongovernmental institution; and

1 (iv) a list of any other organizations
2 the resources or personnel of which were
3 used in any way in that development.

4 (D) A description, including citations and
5 hyperlinks, of all studies used by the Adminis-
6 trator to develop the information described in
7 subparagraphs (A)(i) and (B).

8 (E) A summary of all other information
9 collected and used by the Administrator to de-
10 velop the information described in subpara-
11 graphs (A)(i) and (B).

12 (2) REQUIREMENTS.—In carrying out para-
13 graph (1), the Administrator shall, in consultation
14 with the owners and operators of applicable facilities
15 (as defined in section 136(d) of the Clean Air Act
16 (42 U.S.C. 7436(d)) with fewer than 2,500 full-time
17 employees, ensure that the documentation required
18 under that paragraph will allow operators subject to
19 a reporting requirement or charge under section 136
20 of the Clean Air Act (42 U.S.C. 7436) to clearly un-
21 derstand the reporting requirements and calculations
22 required under that section.

23 (c) RULEMAKING REQUIREMENTS.—Except as other-
24 wise provided in this section or an amendment made by
25 this section, any proposed regulation, rule, guidance, or

1 other document required under this section or an amend-
2 ment made by this section shall be subject to, as applica-
3 ble—

4 (1) except as provided for in paragraph (2), the
5 notice and comment provisions of section 553 of title
6 5, United States Code; and

7 (2) a public comment period of not less than
8 120 days.

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