

This document has been prepared as part of the implementation project of Legal Pathways to Deep Decarbonization (Michael B. Gerrard and John C. Dernbach, eds. Environmental Law Institute [2019]) (LPDD). For background information on the project, see <https://lpdd.org>

[X]th CONGRESS
[X] Session

H. R. [XXXX]

To amend the Internal Revenue Code of 1986 to institute a tax on the greenhouse gas content of fossil fuels used by commercial shipping vessels engaged in international shipping in Arctic Circle waters in the thirty (30) days prior to calling at a United States port.

IN THE HOUSE OF REPRESENTATIVES
[DATE]

[Mr/Ms Congressperson] introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to institute a tax on the greenhouse gas content of fossil fuels used by commercial shipping vessels in Arctic Circle waters in the thirty (30) days prior to calling at a United States port.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “Arctic Shipping Tax Act of [202X].”

SECTION 2. ARCTIC SHIPPING TAX.

(a) Chapter 36 of the Internal Revenue Code of 1986 (26 USC § 4461) is amended by inserting after § 4472 the following new sections:

§ 4473. Imposition of Tax

(a) In general

There is hereby imposed a tax on the greenhouse gas content of covered fuels used by covered vessels in Arctic Circle waters in the thirty (30) days prior to calling at a United States port. The tax will be exclusively imposed on covered vessels engaged in international shipping.

In this section, the term “international shipping” means all ships calling at United States ports that have called at the port of any other country prior to calling at a U.S. port.

(b) Amount of Tax

The tax imposed by this section is an amount equal to—

- (1) the greenhouse gas content of the covered fuel, multiplied by

(2) the carbon tax rate.

(c) Rate of Tax

(1) IN GENERAL.—The carbon tax rate is subject to an annual ramp-up period and shall be—

(A) in the case of the first calendar year in which the tax is imposed, \$10, and

(B) except as provided in paragraph (2), in the case of any calendar year thereafter—

(i) the tax rate in effect under this subsection for the preceding calendar year, plus

(ii) \$5.

(2) EXCEPTIONS.—In the case of the calendar year in which the carbon tax rate reaches \$25, the annual ramp-up period outlined in paragraph (1) will terminate, and the carbon tax rate shall be \$25 for all subsequent calendar years thereafter until the calendar year ten (10) years after the initial imposition of the tax, when the carbon tax rate will increase to \$30 and shall be \$30 for all subsequent calendar years thereafter.

(3) INFLATION ADJUSTMENT.—In the case of any calendar year after the first calendar year in which the tax is imposed, each of the dollar amounts in paragraphs (1)(A), (1)(B)(ii), and (2) of this subsection shall be increased by an amount equal to—

(A) such dollar amount, multiplied by

(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year, determined by substituting the first calendar year in which the tax is imposed for ‘calendar year 2016’ in subparagraph A(ii) thereof.

(d) By whom paid

The tax imposed by this section shall be paid by the owners or agents of covered vessels.

(e) Time of imposition

The tax imposed by this section shall be collected only once before a covered vessel commences its loading or discharging at the U.S. port at which it has docked.

§ 4474. Definitions

For purposes of this section—

(1) Carbon dioxide equivalent or CO₂-e

The term “carbon dioxide equivalent” or “CO₂-e” means the number of metric tons of carbon dioxide emissions with the same global warming potential as one metric ton of another greenhouse gas.

(2) Covered fuel

The term “covered fuel” means crude oil, natural gas, coal, or any other product derived from crude oil, natural gas, or coal which shall be used so as to emit greenhouse gases to the atmosphere.

(3) Covered vessel

(A) In general

The term "covered vessel" refers to a commercial shipping vessel, which means any vessel used—

- (i) in transporting commercial cargo by water for compensation or hire; or
- (ii) in transporting commercial cargo by water in the business of the owner, lessee, or operator of the vessel.

(B) Exceptions

The term "commercial vessel" does not include—

- (i) the government vessel of any sovereign state;
- (ii) any vessels operating exclusively for the purpose of research; or
- (iii) any vessels that are not in port voluntarily as a result of distress or other circumstances.

The term "commercial cargo" does not include—

- (i) bunker fuel, ship's stores, sea stores, or the legitimate equipment necessary to the operation of the vessel.

(4) Crude oil

The term “crude oil” means unrefined petroleum.

(5) Global warming potential or GWP

The term “global warming potential” means the ratio of the time-integrated radiative forcing from the instantaneous release of one kilogram of a trace substance relative to that one kilogram of carbon dioxide.

(6) Greenhouse gas or GHG

The term “greenhouse gas” means carbon dioxide (CO₂), methane (CH₄), nitrous oxide (N₂O), sulfur hexafluoride (SF₆), hydrofluorocarbons (HFCs), or perfluorocarbons (PFCs).

(7) Greenhouse gas content

The term “greenhouse gas content” means the amount of GHGs, expressed in metric tons of CO₂-e, which would be emitted to the atmosphere by the use of a covered fuel and shall include, nonexclusively, emissions of CO₂, N₂O, CH₄, and HFCs.

(8) Port

(A) In general

The term "port" means any channel or harbor (or component thereof) in the United States, which—

- (i) is not an inland waterway; and
- (ii) is open to public navigation.

(B) Exceptions

The term "port" does not include any channel or harbor with respect to which no Federal funds have been used since 2010 for construction, maintenance, or operation, or which was de-authorized by Federal law before 2020.

§ 4475. Enforcement

(a) In general

This tax shall be assessed by self-disclosure of the calculations used to determine the carbon tax amount due for the voyage, but the captain's log of any covered vessel as well as any invoices for covered fuels shall be subject to inspection by U.S. Customs and Border Protection (CBP). If CBP suspects inaccurate reporting, they shall be authorized to examine the captain's log or any invoices of covered fuels to ascertain whether the vessel traversed Arctic Circle waters in the thirty (30) days prior to calling at a United States port and to determine the amount of covered fuels used by such vessel while in Arctic Circle waters.

(b) Recordkeeping

Each covered vessel is required to keep an accurate record of its use of covered fuels, including the amount of covered fuels used during the course of its voyage through Arctic Circle waters. Each covered vessel is required to be equipped with the appropriate devices for tracking its geographical location and fuel usage along the covered vessel's maritime route.

(c) Penalties

In the event of inaccurate disclosure or failure to pay the full amount of the tax, the owner, operator, or lessee of the vessel shall be subject to a fine of \$75 per unit of greenhouse gas content of covered fuels used in Arctic Circle waters in the thirty (30) days prior to calling at a United States port, or \$75,000, whichever amount is greater.