

Bill No. 139 of 2022

THE NATIONAL EMISSIONS TRADING SYSTEM (CONTROL
OF GREEN HOUSE GAS EMISSIONS) BILL, 2022

By

SHRI VISHNU DAYAL RAM, M.P.

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Bill No. 139 of 2022

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BILL

*to set up a system for green house gas emission trading and establishment of
Authorities for the control of green house gas emissions and for
matters connected therewith.*

WHEREAS India has made significant commitment in its intended National by Determined Contribution (NDC) submitted to the United Nations Framework Conventions on Climate Change (UNFCCC) in 2015 as part of the Paris Agreement;

And WHEREAS the Paris Agreement is a legally binding international treaty on climate change adopted by 196 parties in 21st session of the *Conference of Parties (COP 21)* on 12 December 2015 and entered into force on 4 November, 2016;

And WHEREAS India's pledge at 26th session of the Conference of the Paris (COP 26) in Glasgow in 2021 is to achieve the target of net zero emission by the year 2070.

CHAPTER II

GREEN HOUSE GAS EMISSION PERMIT

- 6 of 1974. 5 **3.** (1) The Central Pollution Control Board established under the Water (Prevention and Control of Pollution) Act, 1974 shall be deemed to be the Central Authority for the purposes of this Act. Central Authority.
- (2) The Central Authority shall,—
- (a) decide the permits and the allowances under this Act;
- (b) monitor the effective implementation of the emission trading system by maintaining an independent transaction log recording the issue, transfer and cancellation of allowances; 10
- (c) conduct an automated check on each transaction in registries through the independent transaction log to ensure there are no irregularities in the issue, transfer and cancellation of allowances;
- (d) if irregularities are identified through the automated check, ask the Nodal Authority concerned not to register the transactions in question or any further transactions relating to the allowances concerned until the irregularities have been resolved. 15
- 20 **4.** (1) The State Pollution Control Boards established under the Water (Prevention and Control of Pollution) Act, 1974 shall be deemed to be the Nodal Authority for the respective States under this Act; Nodal Authority.
- (2) Each Nodal Authority shall,—
- (a) Supervise the emission trading system in each State by identifying industrial units as well as the emissions prevalent in that particular State;
- (b) monitor the effective implementation of the emission trading system in that State by maintaining an independent transaction log recording the issue, transfer and cancellation of allowances; 25
- (c) conduct an automated check on each transaction in registries in the respective State through the independent transaction log to ensure there are no irregularities in the issue, transfer and cancellation of allowances; and
- (d) undertake any other responsibility that is vested on it under the provisions of this Act. 30
- 5.** Every unit shall mandatorily install and operate a Continuous Emission Monitoring System (CEMS) device as per the guidelines and Standard Operating Procedures (SOP) issued for the same by the Central Authority. Installation of CEMS.
- 35 **6.** The Central Authority shall, in consonance with the Nodal Authorities, ensure that from the date of notification in the Official Gazette, no unit shall undertake any activity listed in the Second Schedule resulting in emissions specified in relation to that activity unless its operator holds a permit issued by the Central Authority in accordance with sections 7 and 8 or the unit is temporarily excluded from the application of this Act by the Central Authority. Green House Gas Emission Permits.
- 40 **7.** An application to the Central Authority for green house gas emissions permit shall include,— Application for Green House Gas Emission Permits.
- (a) the unit and its activities including the technology used;
- (b) the raw and auxiliary materials, the use of which is likely to lead to emissions of gases listed in the First Schedule; 45
- (c) the sources of emissions of gases listed in the Second Schedule from the unit;

	(d) the measures planned to monitor and report emissions in accordance with the guidelines adopted pursuant to section 10; and	
	(e) a non-technical summary of the details referred to in clause (a) of sub-section (1).	
Conditions for Issue of Permit.	8. The Central Authority may issue a greenhouse gas emissions permit granting authorisation to emit greenhouse gases from all or part of a unit only if it is satisfied that the operator is capable of monitoring and reporting greenhouse gas emissions.	5
Contents of Permit.	9. (1) Every Greenhouse gas emissions permit issued under section 8 shall contain the following:	
	(a) the name and address of the operator of the unit;	10
	(b) a description of the activities and emissions from the unit;	
	(c) monitoring requirements, specifying monitoring methodology and frequency;	
	(d) reporting requirements; and	
	(e) an obligation to surrender allowances equal to the total emissions of the installation in each calendar year, as verified in accordance with section 18, within four months following the end of that year.	15
	(2) A greenhouse gas emissions permit may cover one or more units on the same site operated by the same operator.	
Guidelines for monitoring and reporting emissions.	10. (1) The Central Authority shall, within six months from the date of which this Act comes into force, issue guidelines for the monitoring and reporting of emissions resulting from the activities mentioned under the Second Schedule.	20
	(2) Each Nodal Authority shall ensure that,—	
	(a) the guidelines issued by the Central Authority is being followed; and	
	(b) each operator of a unit reports the emissions from that unit during each calendar year to the Nodal Authority after the end of that year in accordance with the guidelines.	25
CHAPTER III		
ALLOCATION OF ALLOWANCES		
Allocation and issue of Allowances.	11. (1) The Central Authority, in consultation with the Union Ministry of Environment, Forest and Climate Change and the Nodal authority, shall by notification, notify the units regarding the allocation of allowances for emissions resulting from activities mentioned under the Second Schedule before each compliance period.	30
	(2) The Central Authority shall give sufficient notice of at least three months to the units regarding the commencement and period of each compliance period as well as the total quantity of allowances.	35
Method of allocation of allowances.	12. The Central Authority, through the Nodal Authorities shall allocate eighty per cent. of the allowances free of cost to all units at the start of each compliance period on pro rata basis based on the technology employed by the unit and the remaining twenty per cent. shall be sold by the Central Authority through auctions as notified by them:	
	Provided that if a unit has different emission standard as against the Second Schedule, then the allowance shall be adjusted accordingly.	40
Transfer, surrender and cancellation of allowances.	13. (1) The Central Authority and the Nodal Authorities shall ensure that transfer of allowances take place between units operating in India.	
	(2) The Central Authority shall ensure that by the date notified by it each year, the operator of each unit surrenders a number of allowances equal to the total emissions	45

(3) The Nodal Authorities shall ensure that no operator whose report has not been verified as satisfactory in accordance with the criteria set out in the notification by the date so mentioned in the notification for emissions during the preceding year may make further transfers of allowances until a report from that operator has been verified as satisfactory. 5

Environmental
Damage
Compensation.

19. (1) The Central Authority shall impose an Environmental Damage Compensation (EDC) applied at a rate of rupees 200/kg for each kg of excess for every kilogram of emissions in excess of a unit's allowance holdings at the end of the compliance period.

(2) The units shall post an Environmental Damage Compensation Deposit (EDCD) for the amount of rupees two lakh for small-scale, rupees three lakh for medium-scale and rupees ten lakh for large-scale industries. 10

(3) The tenure for the EDCD shall be notified at least three months ahead of each compliance period by the Central Authority.

(4) The EDCD shall not be forfeited in case of compliant industries: 15

Provided that for industries exceeding their allowance holdings, the EDC specified in sub-section (1) shall be deducted from the EDCD specified in sub-section (2) and additional EDCD may then be required to be posted to meet any shortfall.

(5) The persistent or gross non-compliance shall be a ground for removal from the system and additional penalties available under Air (Prevention and Control of Pollution) Act, 1981 shall be applicable. 20

Imputation
Rules for
missing CEMS
data and
Penalties.

20. In case of any missing or invalid CEMS data, emissions shall be imputed as per the Third Schedule and knowingly reporting any inaccurate data shall and be treated as non-compliance with the system and incur penalties under this Act. 25

CHAPTER V

MISCELLANEOUS

Pooling.

21. (1) The Central Authority may allow operators of units carrying out one of the activities listed in the Second Schedule to form a pool of units from the same activity for the period referred to in sub-section (1) of section 11 and/or the period referred to in sub-section (2) of section 11 in accordance with sub-sections (2) and (3) of this section. 30

(2) Operators carrying out an activity listed in the Second Schedule who wish to form a pool shall apply to the Central Authority, specifying the units and the period for which they want the pool and supplying evidence that a trustee shall be able to fulfil the obligations referred to in sub-section (3). 35

(3) Operators intending to form a pool shall nominate a trustee who shall be:

(a) issued with the total quantity of allowances calculated by installation of the operators, by way of derogation from section 11; and

(b) responsible for surrendering allowances equal to the total emissions from installations in the pool, by way of derogation from clause (e) of sub-section (1) of section 9 to be restricted from making further transfers in the event that an operator's report has not been verified as satisfactory in accordance sub-section (3) of section 18. 40

Force Majeure.

22. (1) During the period referred to in sub-section (1) of section 11, the Nodal Authorities may apply to the Union Ministry of Environment, Forest and Climate Change and the Central Authority for certain units to be issued with additional allowances in cases of force majeure. 45

(2) The Central Authority shall, in consonance with the Union Ministry of Environment, Forest and Climate Change, determine whether force majeure is demonstrated, in which case it shall authorize the issue of additional and non-transferable allowances by that Nodal authority to the operators of those units.

5 (3) The Central Authority shall, within three months from the time this Act comes into force, without prejudice, develop guidance to describe the circumstances under which force majeure is demonstrated.

10 **23. (1) The Nodal Authorities shall establish and maintain a registry in order to ensure the accurate accounting of the issue, holding, transfer and cancellation of allowances in such manner as may be prescribed.** Registry.

(2) The Nodal Authorities may maintain their registries in a consolidated system, together with one or more other Nodal Authorities.

15 (3) The registry maintained under sub-section (1) shall be accessible to the public and shall contain separate accounts to record the allowances held by each person to whom and from whom allowances are issued or transferred;

20 (4) The Union Ministry of Environment, Forest and Climate Change shall adopt a standardized procedure and secured system of registries in the form of standardized electronic databases containing common data elements to track the issue, holding, transfer and cancellation of allowances, to provide for public access and confidentiality as it deem appropriate to implement the provisions of this Act.

24. (1) The Central Authority may, on the basis of progress achieved in the monitoring of emissions of greenhouse gases, make a proposal to the Union Ministry of Environment, Forest and Climate Change to amend the First Schedule to include other greenhouse gases and other activities listed in the Second Schedule. Review and Development.

25 (2) The Central Authority shall, on the basis of experience of the application of this Act and of progress achieved in the monitoring of emissions of greenhouse gases, draw up a report on the application of this Act, considering:

30 (a) how and whether the Second Schedule shall be amended to include other relevant sectors, *inter alia* the chemicals, aluminium and transport sectors, activities and emissions of other greenhouse gases listed in the First Schedule, with a view to further improving the economic efficiency;

(b) further harmonisation of the method of allocation;

35 (c) the relationship of emissions trading with other policies and measures implemented at Central and State level, including taxation, that pursue the same objectives;

(d) the level of excess emissions penalties, taking into account, *inter alia*, inflation;

(e) the functioning of the emissions trading market, covering in particular any possible market disturbances; and

(f) pooling.

40 **25. In the case where there is no consensus between the Central Authority and the Nodal Authority with respect to any provision in this Act, or the operator(s) of the units under the presumption that the Central Authority or the Nodal Authorities have not adhered to the powers vested in them by this Act, the aggrieved party(s) may approach the National Green Tribunal for the same.** Dispute Resolution.

45 **26. The Central Government shall, after due appropriation made by Parliament by law in this behalf, provide adequate funds, from time to time, for carrying out the purposes of this Act.** Central Government to provide funds.

Act to have overriding effect.

27. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

Power to remove difficulties.

28. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as may appear to it to be necessary or expedient for removing the difficulty: 5

Provided that no order shall be made under this section after the expiry of a period of two years from the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament. 10

Power to make rules.

29. (1) The appropriate Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) Every rule made by the Central Government under this section shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule. 15 20

(3) Every rule made by the State Government under this Act shall be laid, as soon as may be after it is made, before the State Legislature.

THE FIRST SCHEDULE

[See Section 2(i)]

List of Green houses Gases that fall under the purview of this Act

- * Carbon dioxide (CO₂)
- * Methane (CH₄)
- * Nitrous Oxide (N₂O)
- * Hydrofluorocarbons (HFCs)
- * Perfluorocarbons (PFCs)
- * Sulphur Hexafluoride (SF₆)
- * Nitrogen Trifluoride (NF₃)

THE SECOND SCHEDULE

[See Section 6]

List of industrial activities that fall under the purview of this Act

1. This Act does not cover activities related to research and development and testing of new products and processes.

2. The threshold value in the below table refers to production capacities.

Sl. No.	Industrial Activities/Units
Energy related activities	
1.	Combustion related units with a rated thermal input exceeding 20 MW (except hazardous or municipal waste installations)
2.	Mineral oil refineries
3.	Coke ovens
Metal production	
4.	Metal ore (including sulphide ore) roasting or sintering installations
5.	Installations for the production of pig iron or steel (primary or secondary fusion) including continuous casting, with a capacity exceeding 2,5 tonnes per hour
Mineral industry	
6.	Units involved in the production of cement clinker in rotary kilns with a production capacity exceeding 500 tonnes per day or lime in rotary kilns with a production capacity exceeding 50 tonnes per day or in other furnaces with a production capacity exceeding 50 tonnes per day
7.	Units involved in the manufacture of glass including glass fibre with a melting capacity exceeding 20 tonnes per day
8.	Units involved in the manufacture of ceramic products by firing, in particular roofing tiles, bricks, refractory bricks, tiles, stoneware or porcelain, with a production capacity exceeding 75 tonnes per day, and or with a kiln capacity exceeding 4 m ³ and with a setting density per kiln exceeding 300 kg/m ³
Other activities	
9.	Industrial plants involved in the production of pulp from timber or other fibrous materials
10.	Industrial plants involved in the production of paper and board with a production capacity exceeding 20 tonnes per day

THE THIRD SCHEDULE

[See Section 20]

Validation Protocol for Missing CEMS Data mentioned in Section 20

Data available from CEMS during the designated reporting period	Load imputation for missing data values (kg/hr)
>95%	Impute industry's mean operating emissions load during the compliance period
80-95%	Impute industry's 75th percentile emissions load during the compliance period
50-80%	Impute industry's 90th percentile emissions load during the compliance period
<50%	Impute industry's 90th percentile emissions load during the compliance period and prior three months of valid CEMS data, up to start of the compliance period and notice sent to the concerned Nodal Authority of very poor data availability of the unit

STATEMENT OF OBJECTS AND REASONS

Climate Change is a growing concern for India. In the wake of India' declaration to achieve net zero by the year 2070 at the Conference of Parties held in Glasgow in 2021, it becomes imperative to take the necessary measures, including legislations to combat the evil of Climate Change.

The present Bill aims to replicate the Emission Trading System pilot project by the Gujarat Pollution Control Board which has showed positive outcomes with regards to reducing the green house gas emissions. Therefore, this Bill is the first attempt for bringing about legislation on Climate Change so as to meet India's Nationally Determined Contributions under the Paris Agreement as well as recent obligations.

Hence this Bill.

NEW DELHI;

7 March, 2022.

VISHNU DAYAL RAM

FINANCIAL MEMORANDUM

Clause 16 of the Bill provides for setting up of platform for trading by the Central Government. Clause 23 provides for the establishment and maintenance of a registry in order to ensure the accurate accounting of the issue, holding, transfer and cancellation of allowances. Clause 26 provides that the Central Government shall provide adequate funds for carrying out the purposes of the Act. The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund of India. It is estimated that a recurring expenditure of about rupees one hundred crore per annum would be involved from the Consolidated Fund of India.

A non-recurring expenditure of about ten crores is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 29 of the Bill empowers the appropriate Government to make rules for carrying out the provisions of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of normal character.

LOK SABHA

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BILL

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Authorities for the control of green house gas emissions and
for matters connected therewith

(Shri Vishnu Dayal Ram, M.P.)