To support carbon dioxide utilization and direct air capture research, to facilitate the permitting and development of carbon capture, utilization, and sequestration projects and carbon dioxide pipelines, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. BARRASSO (for himself, Mr. WHITEHOUSE, Mrs. CAPITO, and Ms. HEITKAMP) introduced the following bill; which was read twice and referred to the Committee on ________

A BILL

To support carbon dioxide utilization and direct air capture research, to facilitate the permitting and development of carbon capture, utilization, and sequestration projects and carbon dioxide pipelines, 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
4 SECTION 1. SHORT TITLE.
5 This Act may be cited as the “Utilizing Significant
6 Emissions with Innovative Technologies Act” or the “USE
7 IT Act”.


TITLE I—ENCOURAGING PROJECTS TO REDUCE EMISSIONS

SEC. 101. RESEARCH, INVESTIGATION, TRAINING, AND OTHER ACTIVITIES.

Section 103 of the Clean Air Act (42 U.S.C. 7403) is amended—

(1) in subsection (c)(3), in the first sentence of the matter preceding subparagraph (A), by striking “precursors” and inserting “precursors”; and

(2) in subsection (g)—

(A) by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D), respectively, and indenting appropriately;

(B) in the undesignated matter following subparagraph (D) (as so redesignated)—

(i) in the second sentence, by striking “The Administrator” and inserting the following:

“(5) COORDINATION AND AVOIDANCE OF DUPLICATION.—The Administrator”; and

(ii) in the first sentence, by striking “Nothing” and inserting the following:

“(4) EFFECT OF SUBSECTION.—Nothing”;
(C) in the matter preceding subparagraph (A) (as so redesignated)—

(i) in the third sentence, by striking “Such program” and inserting the following:

“(3) PROGRAM INCLUSIONS.—The program under this subsection”;

(ii) in the second sentence—

(I) by inserting “States, institutions of higher education,” after “scientists,”; and

(II) by striking “Such strategies and technologies shall be developed” and inserting the following:

“(2) PARTICIPATION REQUIREMENT.—Such strategies and technologies described in paragraph (1) shall be developed”; and

(iii) in the first sentence, by striking “In carrying out” and inserting the following:

“(1) IN GENERAL.—In carrying out”; and

(D) by adding at the end the following:

“(6) CERTAIN CARBON DIOXIDE ACTIVITIES.—

“(A) IN GENERAL.—In carrying out paragraph (3)(A) with respect to carbon dioxide, the
Administrator shall carry out the activities described in each of subparagraphs (B) and (C).

“(B) DIRECT AIR CAPTURE RESEARCH.—

“(i) DEFINITIONS.—In this subparagraph:

“(I) BOARD.—The term ‘Board’ means the Direct Air Capture Technology Advisory Board established by clause (iii)(I).

“(II) DILUTE.—The term ‘dilute’ means a concentration of less than 1 percent by volume.

“(III) DIRECT AIR CAPTURE.—

“(aa) IN GENERAL.—The term ‘direct air capture’, with respect to a facility, technology, or system, means that the facility, technology, or system uses carbon capture equipment to capture carbon dioxide directly from the air.

“(bb) EXCLUSION.—The term ‘direct air capture’ does not include any facility, technology,
or system that captures carbon dioxide—

“(AA) that is deliberately released from a naturally occurring subsurface spring; or

“(BB) using natural photosynthesis.

“(IV) INTELLECTUAL PROPERTY.—The term ‘intellectual property’ means—

“(aa) an invention that is patentable under title 35, United States Code; and

“(bb) any patent on an invention described in item (aa).

“(ii) TECHNOLOGY PRIZES.—

“(I) IN GENERAL.—Not later than 1 year after the date of enactment of the USE IT Act, the Administrator shall establish a program to provide, and shall provide, financial awards on a competitive basis for direct air capture from media in which
the concentration of carbon dioxide is dilute.

“(II) DUTIES.—In carrying out this clause, the Administrator shall—

“(aa) subject to subclause (III), develop specific require-

ments for—

“(AA) the competition process; and

“(BB) monitoring and verification procedures for approved projects;

“(bb) offer financial awards for a project designed—

“(AA) to capture more than 10,000 tons of carbon dioxide per year; and

“(BB) to be deployed at a cost of less than $200 per ton of carbon dioxide captured; and

“(cc) to the maximum ex-
tent practicable, make financial awards to geographically diverse projects, including at least—
“(AA) 1 project in a coastal State; and

“(BB) 1 project in a rural State.

“(III) PUBLIC PARTICIPATION.—

In carrying out subclause (II)(aa), the Board shall—

“(aa) provide notice of and, for a period of not less than 60 days, an opportunity for public comment on, any draft or proposed version of the requirements described in subclause (II)(aa); and

“(bb) take into account public comments received in developing the final version of those requirements.

“(IV) PEER REVIEW.—No financial awards may be provided under this clause until the proposal for which the award is sought has been peer reviewed in accordance with such standards for peer review as are established by the Administrator.
“(iii) **Direct Air Capture Technology Advisory Board.**—

“(I) **Establishment.**—There is established an advisory board to be known as the ‘Direct Air Capture Technology Advisory Board’.

“(II) **Composition.**—The Board shall be composed of 9 members appointed by the Administrator, who shall provide expertise in—

“(aa) climate science;

“(bb) physics;

“(cc) chemistry;

“(dd) biology;

“(ee) engineering;

“(ff) economics;

“(gg) business management;

and

“(hh) such other disciplines as the Administrator determines to be necessary to achieve the purposes of this subparagraph.

“(III) **Term; Vacancies.**—
“(aa) TERM.—A member of the Board shall serve for a term of 6 years.

“(bb) VACANCIES.—A vacancy on the Board—

“(AA) shall not affect the powers of the Board; and

“(BB) shall be filled in the same manner as the original appointment was made.

“(IV) INITIAL MEETING.—Not later than 30 days after the date on which all members of the Board have been appointed, the Board shall hold the initial meeting of the Board.

“(V) MEETINGS.—The Board shall meet at the call of the Chairperson.

“(VI) QUORUM.—A majority of the members of the Board shall constitute a quorum, but a lesser number of members may hold hearings.
“(VII) Chairperson and Vice Chairperson.—The Board shall select a Chairperson and Vice Chairperson from among the members of the Board.

“(VIII) Compensation.—Each member of the Board may be compensated at not to exceed the daily equivalent of the annual rate of basic pay in effect for a position at level V of the Executive Schedule under section 5316 of title 5, United States Code, for each day during which the member is engaged in the actual performance of the duties of the Board.

“(IX) Duties.—The Board shall advise the Administrator on carrying out the duties of the Administrator under this subparagraph.

“(X) FACA.—The Federal Advisory Committee Act (5 U.S.C. App.) shall apply to the Board.

“(iv) Intellectual Property.—

“(I) In General.—As a condition of receiving a financial award
under this subparagraph, an applicant shall agree to vest the intellectual property of the applicant derived from the technology in 1 or more entities that are incorporated in the United States.

“(II) Reservation of License.—The United States—

“(aa) may reserve a non-exclusive, nontransferable, irrevocable, paid-up license, to have practiced for or on behalf of the United States, in connection with any intellectual property described in subclause (I); but

“(bb) shall not, in the exercise of a license reserved under item (aa), publicly disclose proprietary information relating to the license.

“(III) Transfer of Title.—

Title to any intellectual property described in subclause (I) shall not be transferred or passed, except to an entity that is incorporated in the
United States, until the expiration of
the first patent obtained in connection
with the intellectual property.

“(v) Authorization of Appropriations.—There is authorized to be appro-
priated to carry out this subparagraph
$25,000,000, to remain available until ex-
pended.

“(vi) Termination of Authority.—
The Board and all authority provided
under this subparagraph shall terminate
on December 31, 2028.

“(C) Carbon Dioxide Utilization Re-
search.—

“(i) Definition of Carbon Dioxide
utilization.—In this subparagraph, the
term ‘carbon dioxide utilization’ refers to
technologies or approaches that lead to the
use of carbon dioxide—

“(I) through the fixation of car-
bon dioxide through photosynthesis or
chemosynthesis, such as through the
growing of algae or bacteria;

“(II) through the chemical con-
version of carbon dioxide to a material
or chemical compound in which the carbon dioxide is securely stored; or

“(III) through the use of carbon dioxide for any other purpose for which a commercial market exists, as determined by the Administrator.

“(ii) Program.—The Administrator shall carry out a research and development program for carbon dioxide utilization to promote technologies that transform carbon dioxide generated by industrial processes into a product of commercial value, or as an input to products of commercial value.

“(iii) Technical and financial assistance.—Not later than 2 years after the date of enactment of the USE IT Act, in carrying out this subsection, the Administrator shall support research and infrastructure activities relating to carbon dioxide utilization by providing technical assistance and financial assistance in accordance with clause (iv).

“(iv) Eligibility.—To be eligible to receive technical assistance and financial
assistance under clause (iii), a carbon dioxide utilization project shall—

“(I) have access to an emissions stream generated by a stationary source within the United States that is capable of supplying not less than 250 metric tons per day of carbon dioxide for research;

“(II) have access to adequate space for a laboratory and equipment for testing small-scale carbon dioxide utilization technologies, with onsite access to larger test bays for scale-up; and

“(III) have existing partnerships with institutions of higher education, private companies, States, or other government entities.

“(v) COORDINATION.—In supporting carbon dioxide utilization projects under this paragraph, the Administrator shall collaborate, as appropriate, with the head of any relevant Federal agency, States, the private sector, and institutions of higher education to develop methods and tech-
nologies to account for the carbon dioxide emissions avoided by the carbon dioxide utilization projects.

“(vi) Authorization of Appropriations.—There is authorized to be appropriated to carry out this subparagraph $50,000,000, to remain available until expended.

“(D) Report on Carbon Dioxide Non-Regulatory Strategies and Technologies.—

“(i) In General.—Not less frequently than once every 2 years, the Administrator shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Energy and Commerce of the House of Representatives a report that describes—

“(I) the recipients of assistance under subparagraphs (B) and (C); and

“(II) a plan for supporting additional nonregulatory strategies and technologies that could significantly prevent carbon dioxide emissions or
reduce carbon dioxide levels in the air,
in conjunction with other Federal agencies.

“(ii) Inclusions.—The plan submitted under clause (i) shall include—

“(I) a methodology for evaluating and ranking technologies based on the ability of the technologies to cost effectively reduce carbon dioxide emissions or carbon dioxide levels in the air; and

“(II) a description of any nonair-related environmental or energy considerations regarding the technologies.”.

**TITLE II—IMPROVEMENT OF PERMITTING PROCESS FOR CARBON DIOXIDE CAPTURE AND INFRASTRUCTURE PROJECTS**

**SEC. 201. INCLUSION OF CARBON CAPTURE INFRASTRUCTURE PROJECTS.**

Section 41001(6) of the FAST Act (42 U.S.C. 4370m(6)) is amended—

(1) in subparagraph (A)—
(A) in the matter preceding clause (i), by inserting “carbon capture,” before “renewable or conventional”;

(B) in clause (i)(III), by striking “or” at the end;

(C) by redesignating clause (ii) as clause (iii); and

(D) by inserting after clause (i) the following:

“(ii) is covered by a programmatic plan or environmental review developed for the primary purpose of facilitating development of carbon dioxide pipelines; or”; and

(2) by adding at the end the following:

“(C) ASSOCIATED DEFINITION.—For purposes of subparagraph (A), the term ‘construction of infrastructure for carbon capture’ includes construction of any facility, technology, or system that captures, utilizes, or sequesters carbon dioxide emissions and carbon dioxide pipelines.”.
SEC. 202. DEVELOPMENT OF CARBON CAPTURE, UTILIZATION, AND SEQUESTRATION PERMITTING GUIDANCE AND REGIONAL PERMITTING TASK FORCE.

(a) Development of Guidance.—

(1) In general.—Not later than 1 year after the date of enactment of this Act, the Chair of the Council on Environmental Quality (referred to in this section as the “Chair”), in consultation with the Administrator of the Environmental Protection Agency, the Secretary of Energy, the Secretary of the Interior, and the head of any other relevant Federal agency (as determined by the President), shall prepare guidance—

(A) to facilitate reviews associated with the deployment of carbon capture, utilization, and sequestration projects and carbon dioxide pipelines; and

(B) that identifies current or emerging activities that transform captured carbon dioxide into a product of commercial value, or as an input to products of commercial value.

(2) Requirements.—The guidance under paragraph (1) shall—

(A) address requirements under—
(i) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);
(ii) the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.);
(iii) the Clean Air Act (42 U.S.C. 7401 et seq.);
(iv) the Safe Drinking Water Act (42 U.S.C. 300f et seq.);
(v) the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);
(vi) division A of subtitle III of title 54, United States Code (formerly known as the "National Historic Preservation Act");
(vii) the Migratory Bird Treaty Act (16 U.S.C. 703 et seq.);
(viii) the Act of June 8, 1940 (16 U.S.C. 668 et seq.) (commonly known as the "Bald and Golden Eagle Protection Act"); and
(ix) any other Federal law that the Chair determines to be appropriate; and
(B) include guidance to States for the development of programmatic environmental reviews under the National Environmental Policy

(3) Submission; Publication.—The Chair shall—

(A) submit the guidance under paragraph (1) to the Committee on Environment and Public Works of the Senate and the Committee on Energy and Commerce of the House of Representatives; and

(B) publish and make publicly available the guidance under paragraph (1).

(b) Task Force.—

(1) Establishment.—Not later than 18 months after the date of enactment of this Act, the Chair shall establish not less than 2 task forces, which shall each cover a different geographical area that faces differing demographic, land use, or geological issues, to identify permitting challenges that permitting authorities and project developers and operators face.

(2) Members and Selection.—

(A) In General.—The Chair shall—

(i) develop criteria for the selection of members to each task force; and
(ii) select members for each task force in accordance with clause (i) and subpara-
graph (B).

(B) MEMBERS.—Each task force—

(i) shall include not less than 1 rep-
resentative of each of—

(I) the Environmental Protection
Agency;

(II) the Department of Energy;

(III) the Department of the Inte-
rior;

(IV) any other Federal agency
the Chair determines to be appro-
priate;

(V) any State that requests par-
ticipation in the geographical area
covered by the task force;

(VI) industry; and

(VII) nongovernmental organiza-
tions; and

(ii) at the request of a Tribal or local
government, may include a representative
of—
(I) not less than 1 local government in the geographical area covered by the task force; and

(II) not less than 1 Tribal government in the geographical area covered by the task force.

(3) MEETINGS.—

(A) IN GENERAL.—Each task force shall meet not less than twice each year.

(B) JOINT MEETING.—To the maximum extent practicable, the task forces shall meet collectively not less than once each year.

(4) DUTIES.—Each task force shall—

(A) inventory existing or potential approaches to facilitate reviews associated with the deployment of carbon capture, utilization, and sequestration projects and carbon dioxide pipelines;

(B) develop common models for State-level carbon dioxide pipeline regulation and oversight guidelines that can be shared with States in the geographical area covered by the task force;

(C) provide technical assistance to States in the geographical area covered by the task force in implementing regulatory requirements
and any models developed under subparagraph (B); and

(D) develop guidance for relevant Federal agencies on how to develop and research technologies that—

(i) can capture carbon dioxide; and

(ii) would be able to be deployed within the region covered by the task force, including any projects that have received technical or financial assistance for research under paragraph (6) of section 103(g) of the Clean Air Act (42 U.S.C. 7403(g)).

(5) REPORT.—Each year, each task force shall prepare and submit to the Chair and to the other task forces a report that includes—

(A) any recommendations for improvements in the issuance or administration of Federal permits and other Federal authorizations required under a law described in subsection (a)(2)(A); and

(B) any other nationally relevant information that the task force has collected in carrying out the duties under paragraph (4).
(6) EVALUATION AND REVISION.—The Chair shall—

(A) evaluate the reports under paragraph (5) and, as necessary, revise the guidance under subsection (a); and

(B) submit to the Committee on Environment and Public Works of the Senate, the Committee on Energy and Commerce of the House of Representatives, and relevant Federal agencies each year any revisions to the guidance under subsection (a) and a report that describes any recommendations for legislation, rules, or revisions to rules that would address the issues identified by the task forces under paragraph (5).