

112TH CONGRESS
1ST SESSION

H. R. 1868

To require the inclusion of coal-derived fuel at certain volumes in aviation fuel, motor vehicle fuel, home heating oil, and boiler fuel.

IN THE HOUSE OF REPRESENTATIVES

MAY 12, 2011

Mrs. CAPITO (for herself, Mr. CRITZ, Mr. BUCSHON, Mr. TERRY, Mr. RAHALL, and Mr. HOLDEN) introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To require the inclusion of coal-derived fuel at certain volumes in aviation fuel, motor vehicle fuel, home heating oil, and boiler fuel.

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 “Clean Coal-Derived
5 Fuels for Energy Security Act of 2011”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

8 (1) CLEAN COAL-DERIVED FUEL.—

1 (A) IN GENERAL.—The term “clean coal-
2 derived fuel” means aviation fuel, motor vehicle
3 fuel, home heating oil, or boiler fuel that is—

4 (i) substantially derived from the coal
5 resources of the United States; and

6 (ii) refined or otherwise processed at a
7 facility located in the United States that
8 captures up to 100 percent of the carbon
9 dioxide emissions that would otherwise be
10 released at the facility.

11 (B) INCLUSIONS.—The term “clean coal-
12 derived fuel” may include any fuel derived from
13 any other resource that is extracted, grown,
14 produced, or recovered in the United States.

15 (2) COVERED FUEL.—The term “covered fuel”
16 means—

17 (A) aviation fuel;

18 (B) motor vehicle fuel;

19 (C) home heating oil; and

20 (D) boiler fuel.

21 (3) SECRETARY.—The term “Secretary” means
22 the Secretary of Energy.

23 (4) SMALL REFINERY.—The term “small refin-
24 ery” means a refinery for which the average aggre-
25 gate daily throughput for a calendar year (as deter-

1 mined by dividing the aggregate throughput for the
2 calendar year by the number of days in the calendar
3 year) does not exceed 75,000 barrels.

4 **SEC. 3. CLEAN COAL-DERIVED FUEL PROGRAM.**

5 (a) PROGRAM.—

6 (1) IN GENERAL.—Not later than 1 year after
7 the date of enactment of this Act, the President
8 shall promulgate regulations to ensure that covered
9 fuel sold or introduced into commerce in the United
10 States (except in noncontiguous States or terri-
11 tories), on an annual average basis, contains the ap-
12 plicable volume of clean coal-derived fuel determined
13 in accordance with paragraph (4).

14 (2) PROVISIONS OF REGULATIONS.—The regu-
15 lations promulgated under paragraph (1)—

16 (A) shall contain compliance provisions ap-
17 plicable to refineries, blenders, distributors, and
18 importers, as appropriate, to ensure that—

19 (i) the requirements of this subsection
20 are met; and

21 (ii) clean coal-derived fuels produced
22 from facilities for the purpose of compli-
23 ance with this Act result in lifecycle green-
24 house gas emissions that are not greater
25 than gasoline; and

- 1 (B) shall not—
- 2 (i) restrict geographic areas in the
- 3 contiguous United States in which clean
- 4 coal-derived fuel may be used; or
- 5 (ii) impose any per-gallon obligation
- 6 for the use of clean coal-derived fuel.

7 (3) RELATIONSHIP TO OTHER REGULATIONS.—

8 Regulations promulgated under this subsection shall,

9 to the extent practicable, incorporate the program

10 structure and compliance and reporting require-

11 ments established under the final regulations pro-

12 mulgated to implement the renewable fuel program

13 under section 211(o) of the Clean Air Act (42

14 U.S.C. 7545(o)).

15 (4) APPLICABLE VOLUME.—

16 (A) CALENDAR YEARS 2017 THROUGH

17 2024.—For the purpose of this subsection, the

18 applicable volume for any of calendar years

19 2017 through 2024 shall be determined in ac-

20 cordance with the following table:

Calendar year:	Applicable volume of clean coal-derived fuel (in billions of gallons):
2017	0.75
2018	1.5
2019	2.25
2020	3.00
2021	3.75
2022	4.5
2023	5.25
2024	6.0.

1 (B) CALENDAR YEAR 2025 AND THERE-
2 AFTER.—Subject to subparagraph (C), for the
3 purposes of this subsection, the applicable vol-
4 ume for calendar year 2025 and each calendar
5 year thereafter shall be determined by the
6 President, in coordination with the Secretary
7 and the Administrator of the Environmental
8 Protection Agency, based on a review of the im-
9 plementation of the program during calendar
10 years 2017 through 2024, including a review
11 of—

12 (i) the impact of clean coal-derived
13 fuels on the energy security of the United
14 States;

15 (ii) the expected annual rate of future
16 production of clean coal-derived fuels; and

17 (iii) the impact of the use of clean
18 coal-derived fuels on other factors, includ-
19 ing job creation, rural economic develop-
20 ment, and the environment.

21 (C) MINIMUM APPLICABLE VOLUME.—For
22 the purpose of this subsection, the minimum
23 applicable volume for calendar year 2025 and
24 each calendar year thereafter shall be equal to
25 the product obtained by multiplying—

1 (i) the number of gallons of covered
2 fuel that the President estimates will be
3 sold or introduced into commerce in the
4 calendar year; and

5 (ii) the ratio that—

6 (I) 6,000,000,000 gallons of
7 clean coal-derived fuel; bears to

8 (II) the number of gallons of cov-
9 ered fuel sold or introduced into com-
10 merce in calendar year 2024.

11 (b) APPLICABLE PERCENTAGES.—

12 (1) PROVISION OF ESTIMATE OF VOLUMES OF
13 CERTAIN FUEL SALES.—Not later than October 31
14 of each of calendar years 2017 through 2023, the
15 Administrator of the Energy Information Adminis-
16 tration shall provide to the President an estimate,
17 with respect to the following calendar year, of the
18 volumes of covered fuel projected to be sold or intro-
19 duced into commerce in the United States.

20 (2) DETERMINATION OF APPLICABLE PERCENT-
21 AGES.—

22 (A) IN GENERAL.—Not later than Novem-
23 ber 30 of each of calendar years 2017 through
24 2024, based on the estimate provided under
25 paragraph (1), the President shall determine

1 and publish in the Federal Register, with re-
2 spect to the following calendar year, the clean
3 coal-derived fuel obligation that ensures that
4 the requirements of subsection (a) are met.

5 (B) REQUIRED ELEMENTS.—The clean
6 coal-derived fuel obligation determined for a
7 calendar year under subparagraph (A) shall—

8 (i) be applicable to refineries, blend-
9 ers, and importers, as appropriate;

10 (ii) be expressed in terms of a volume
11 percentage of covered fuel sold or intro-
12 duced into commerce in the United States;

13 and

14 (iii) subject to paragraph (3)(A), con-
15 sist of a single applicable percentage that
16 applies to all categories of persons speci-
17 fied in clause (i).

18 (3) ADJUSTMENTS.—In determining the appli-
19 cable percentage for a calendar year, the President
20 shall make adjustments—

21 (A) to prevent the imposition of redundant
22 obligations on any person specified in para-
23 graph (2)(B)(i); and

24 (B) to account for the use of clean coal-de-
25 rived fuel during the previous calendar year by

1 small refineries that are exempt under sub-
2 section (f).

3 (c) VOLUME CONVERSION FACTORS FOR CLEAN
4 COAL-DERIVED FUELS BASED ON ENERGY CONTENT.—

5 (1) IN GENERAL.—For the purpose of sub-
6 section (a), the President shall assign values to spe-
7 cific types of clean coal-derived fuel for the purpose
8 of satisfying the fuel volume requirements of sub-
9 section (a)(4) in accordance with this subsection.

10 (2) ENERGY CONTENT RELATIVE TO APPLICA-
11 BLE COVERED FUEL.—For each type of clean coal-
12 derived fuel, 1 gallon of the clean coal-derived fuel
13 shall be considered to be the equivalent of 1 gallon
14 of the applicable covered fuel multiplied by the ratio
15 that—

16 (A) the number of British thermal units of
17 energy produced by the combustion of 1 gallon
18 of the clean coal-derived fuel (as measured
19 under conditions determined by the Secretary);
20 bears to

21 (B) the number of British thermal units of
22 energy produced by the combustion of 1 gallon
23 of the applicable covered fuel (as measured
24 under conditions determined by the Secretary to

1 be comparable to conditions described in sub-
2 paragraph (A)).

3 (d) CREDIT PROGRAM.—

4 (1) IN GENERAL.—The President, in consulta-
5 tion with the Secretary and in accordance with the
6 clean coal-derived fuel requirements of this section,
7 may implement a program for the sale and trade of
8 clean coal-derived fuel production credits.

9 (2) MARKET TRANSPARENCY.—In carrying out
10 the credit program under this subsection, the Presi-
11 dent shall facilitate price transparency in markets
12 for the sale and trade of credits, with due regard for
13 the public interest, the integrity of those markets,
14 fair competition, and the protection of consumers.

15 (e) WAIVERS.—

16 (1) IN GENERAL.—The President, in consulta-
17 tion with the Secretary and the Administrator of the
18 Environmental Protection Agency, may waive the re-
19 quirements of subsection (a) in whole or in part on
20 petition by 1 or more States by reducing the na-
21 tional quantity of clean coal-derived fuel required
22 under subsection (a), based on a determination by
23 the President (after public notice and opportunity
24 for comment), that—

1 (A) implementation of the requirement
2 would severely harm the economy or environ-
3 ment of a State, a region, or the United States;
4 or

5 (B) extreme and unusual circumstances
6 exist that prevent distribution of an adequate
7 supply of domestically produced clean coal-de-
8 rived fuel to consumers in the United States.

9 (2) PETITIONS FOR WAIVERS.—The President,
10 in consultation with the Secretary and the Adminis-
11 trator of the Environmental Protection Agency, shall
12 approve or disapprove a State petition for a waiver
13 of the requirements of subsection (a) within 90 days
14 after the date on which the petition is received by
15 the President.

16 (3) TERMINATION OF WAIVERS.—A waiver
17 granted under paragraph (1) shall terminate after 1
18 year, but may be renewed by the President after
19 consultation with the Secretary and the Adminis-
20 trator of the Environmental Protection Agency.

21 (f) SMALL REFINERIES.—

22 (1) TEMPORARY EXEMPTION.—

23 (A) IN GENERAL.—The requirements of
24 subsection (a) shall not apply to small refineries
25 until calendar year 2020.

1 (B) EXTENSION OF EXEMPTION.—

2 (i) STUDY BY SECRETARY.—Not later
3 than December 31, 2015, the Secretary
4 shall submit to the President and Congress
5 a report describing the results of a study
6 to determine whether compliance with the
7 requirements of subsection (a) would im-
8 pose a disproportionate economic hardship
9 on small refineries.

10 (ii) EXTENSION OF EXEMPTION.—In
11 the case of a small refinery that the Sec-
12 retary determines under clause (i) would
13 be subject to a disproportionate economic
14 hardship if required to comply with sub-
15 section (a), the President shall extend the
16 exemption under subparagraph (A) for the
17 small refinery for a period of not less than
18 2 additional years.

19 (2) PETITIONS BASED ON DISPROPORTIONATE
20 ECONOMIC HARDSHIP.—

21 (A) EXTENSION OF EXEMPTION.—A small
22 refinery may at any time petition the President
23 for an extension of the exemption under para-
24 graph (1) for the reason of disproportionate
25 economic hardship.

1 (B) EVALUATION OF PETITIONS.—In eval-
2 uating a petition under subparagraph (A), the
3 President, in consultation with the Secretary,
4 shall consider the findings of the study under
5 paragraph (1)(B) and other economic factors.

6 (C) DEADLINE FOR ACTION ON PETI-
7 TIONS.—The President shall act on any petition
8 submitted by a small refinery for a hardship ex-
9 emption not later than 90 days after the date
10 of receipt of the petition.

11 (3) OPT-IN FOR SMALL REFINERIES.—A small
12 refinery shall be subject to the requirements of sub-
13 section (a) if the small refinery notifies the Presi-
14 dent that the small refinery waives the exemption
15 under paragraph (1).

16 (g) PENALTIES AND ENFORCEMENT.—

17 (1) CIVIL PENALTIES.—

18 (A) IN GENERAL.—Any person that vio-
19 lates a regulation promulgated under subsection
20 (a), or that fails to furnish any information re-
21 quired under such a regulation, shall be liable
22 to the United States for a civil penalty of not
23 more than the total of—

24 (i) \$25,000 for each day of the viola-
25 tion; and

1 (ii) the amount of economic benefit or
2 savings received by the person resulting
3 from the violation, as determined by the
4 President.

5 (B) COLLECTION.—Civil penalties under
6 subparagraph (A) shall be assessed by, and col-
7 lected in a civil action brought by, the Secretary
8 or such other officer of the United States as is
9 designated by the President.

10 (2) INJUNCTIVE AUTHORITY.—

11 (A) IN GENERAL.—The district courts of
12 the United States shall have jurisdiction to—

13 (i) restrain a violation of a regulation
14 promulgated under subsection (a);

15 (ii) award other appropriate relief;

16 and

17 (iii) compel the furnishing of informa-
18 tion required under the regulation.

19 (B) ACTIONS.—An action to restrain such
20 violations and compel such actions shall be
21 brought by and in the name of the United
22 States.

23 (C) SUBPOENAS.—In any action to re-
24 strain a violation of a regulation promulgated
25 under subsection (a), a subpoena for a witness

1 who is required to attend a district court in any
2 district may apply in any other district.

3 (h) EFFECTIVE DATE.—Except as otherwise specifi-
4 cally provided in this section, this section takes effect on
5 January 1, 2017.

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