

108TH CONGRESS
1ST SESSION

H. R. 2209

To require that diesel fuel sold in the United States meet specifications designed to facilitate the widespread introduction of clean diesel vehicles in the United States, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 22, 2003

Mr. DINGELL introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To require that diesel fuel sold in the United States meet specifications designed to facilitate the widespread introduction of clean diesel vehicles in the United States, 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 “Clean Diesel Act of
5 2003”.

6 **SEC. 2. FINDINGS.**

7 The Congress finds the following:

1 (1) Sulfur in diesel fuel is a source of air pollu-
2 tion.

3 (2) Clean burning diesel technology is capable
4 of high fuel economy (exceeding 125 percent of
5 model year 2002 fuel economy).

6 (3) Dependence on foreign oil is an issue of na-
7 tional security.

8 (4) The fuel economy benefits of diesel vehicles
9 can be seen in Europe, where diesel powered vehicles
10 are widely available.

11 (5) The introduction of clean burning diesel ve-
12 hicles would be facilitated greatly by the introduc-
13 tion of diesel fuel with the lowest feasible sulfur level
14 and would result in significant fuel economy benefits
15 for the United States.

16 (6) It is in the national interest that American
17 manufacturing and American workers are well posi-
18 tioned to meet the rising consumer demand for ad-
19 vanced technology vehicles.

20 (7) In subpart I of part 80, title 40, Code of
21 Federal Regulations, the Environmental Protection
22 Agency requires that, beginning June 1, 2006,
23 motor vehicle diesel fuel may not contain more than
24 15 parts per million of sulfur, subject to certain lim-
25 ited exceptions ending on December 1, 2010.

1 **SEC. 3. DEFINITIONS.**

2 For purposes of this Act:

3 (1) The term “ Administrator” means the Ad-
4 ministrator of the Environmental Protection Agency.

5 (2) The term “Secretary” means the Secretary
6 of Energy.

7 **TITLE I—CLEAN MOTOR VEHI-**
8 **CLE DIESEL FUEL STAND-**
9 **ARDS**

10 **SEC. 101. DEFINITIONS.**

11 For purposes of this title:

12 (1) IN GENERAL.—The terms “import”, “im-
13 porter”, “ppm”, “produce”, “refiner”, “refinery”,
14 and “motor vehicle diesel fuel” have the meanings
15 given to those terms in regulations of the Adminis-
16 trator relating to motor vehicle diesel fuel.

17 (2) CLEAN DIESEL FUEL.—The term “clean
18 diesel fuel” means motor vehicle diesel fuel subject
19 to the standards of section 102(c).

20 **SEC. 102. STANDARDS.**

21 (a) EFFECTIVE DATE.—The standards and require-
22 ments of this title apply to any motor vehicle diesel fuel
23 produced or imported by any refiner or importer beginning
24 on January 1, 2011.

25 (b) EXCLUDED FUEL.—The provisions of this title
26 do not apply to motor vehicle diesel fuel that is designated

1 for export outside the United States, and identified for
2 export by a transfer document as required under regula-
3 tions of the Administrator.

4 (c) STANDARDS.—Except as otherwise provided in
5 this title, all motor vehicle diesel fuel is subject to the fol-
6 lowing per gallon standards:

7 (1) SULFUR CONTENT.—A sulfur content as
8 low as feasible, as determined by the Administrator
9 taking into consideration costs, but not higher than
10 10 ppm. Not less than every 5 years, the Adminis-
11 trator shall review and, as appropriate, revise the de-
12 termination made under this paragraph.

13 (2) CETANE NUMBER.—A minimum cetane
14 number of 55.

15 (3) AROMATIC CONTENT.—A maximum aro-
16 matic content of 15 volume percent.

17 (4) LUBRICITY LEVEL.—A maximum high-fre-
18 quency reciprocating rig wear scar diameter of 400
19 microns.

20 (d) REGULATIONS.—Not later than January 1, 2006,
21 the Administrator shall promulgate regulations to imple-
22 ment this title. Such regulations shall—

23 (1) require measures to minimize the extent of
24 sulfur contamination in the motor vehicle diesel fuel
25 distribution system;

1 (2) ensure that motor vehicle diesel fuel sold as
2 clean diesel fuel at retail outlets or wholesale pur-
3 chaser-consumer facilities does not exceed the per
4 gallon standards set forth in subsection (c); and

5 (3) evaluate and, as necessary, promulgate re-
6 quirements to ensure the compatibility of motor oil
7 intended for use in motor vehicle engines consistent
8 with the purposes and requirements of this Act.

9 (e) SAVINGS.—Nothing in this title shall be construed
10 to relieve any person of any emission control requirement
11 or obligation under the Clean Air Act.

12 **SEC. 103. WAIVERS; EXEMPTION.**

13 (a) WAIVER ON PETITION OF STATE.—

14 (1) IN GENERAL.—On petition by 1 or more
15 States, the Administrator, in consultation with the
16 Secretary, may, in whole or in part, waive the re-
17 quirements of section 102 relating to clean diesel
18 fuel by reducing the amount of clean diesel fuel re-
19 quired under such section, if the Administrator de-
20 termines, after public notice and opportunity for
21 comment, that implementation of such requirements,
22 without an appropriate waiver, would severely harm
23 the economy of a State or region due to inadequate
24 supply or distribution capacity sufficient to meet
25 such requirements.

1 (2) DURATION; RENEWAL.—A waiver under
2 this subsection shall terminate after 180 days and
3 may be renewed by the Administrator for not more
4 than 1 additional period of 180 days after consulta-
5 tion with the Secretary.

6 (3) EXPIRATION OF AUTHORITY.—No waiver
7 may be granted under this subsection after Decem-
8 ber 31, 2010.

9 (b) ECONOMIC HARDSHIP EXEMPTION.—

10 (1) EXEMPTION.—A small business refiner may
11 petition the Administrator for an exemption from
12 the requirements of section 102 for the reason of
13 disproportionate economic hardship. If the Adminis-
14 trator fails to act on such a petition within 120 days
15 after receipt of the petition, the petition shall be
16 deemed granted.

17 (2) DEFINITIONS.—For purposes of this sub-
18 section:

19 (A) The term “disproportionate economic
20 hardship” means economic impact resulting in
21 substantial economic losses that threaten the vi-
22 ability of the entity in question, as determined
23 by the Administrator in consultation with the
24 Secretary.

1 (B) The term “small business refiner”
2 means, with respect to any calendar year, a re-
3 finer of crude oil with respect to which not
4 more than 1,500 persons are engaged in the re-
5 finery operations of the business on any day
6 during such calendar year and whose average
7 daily domestic refinery run for such calendar
8 year did not exceed 205,000 barrels.

9 **SEC. 104. MISFUELING.**

10 (a) PROHIBITION.—After December 31, 2010, no
11 person shall knowingly introduce, or cause or allow the
12 introduction of, fuel other than clean diesel fuel into any
13 motor vehicle that is designed to operate with diesel fuel.

14 (b) PENALTY.—Any person that violates this section
15 shall be subject to the same penalties applicable to a per-
16 son that violates section 211(g) of the Clean Air Act (42
17 U.S.C. 7545(g)).

18 **SEC. 105. PENALTIES AND INJUNCTIONS.**

19 (a) CIVIL PENALTIES.—Subject to penalties applica-
20 ble to misfueling under section 104, any person who vio-
21 lates any provision of this title or the regulations pre-
22 scribed under this title or who fails to furnish any infor-
23 mation or conduct any tests required by the Administrator
24 under regulations under this title shall be liable to the
25 United States for a civil penalty of not more than the sum

1 of \$25,000 for every day of such violation and the amount
2 of economic benefit or savings resulting from the violation.

3 (b) INJUNCTIVE AUTHORITY.—The district courts of
4 the United States shall have jurisdiction to restrain viola-
5 tions of this title and of the regulations prescribed under
6 this title, to award other appropriate relief, and to compel
7 the furnishing of information and the conduct of tests re-
8 quired by the Administrator under regulations under this
9 title. Actions to restrain such violations and compel such
10 actions shall be brought by and in the name of the United
11 States. In any such action, subpoenas for witnesses who
12 are required to attend a district court in any district may
13 run into any other district.

14 **TITLE II—INCENTIVES TO EN-**
15 **COURAGE CLEAN DIESEL**
16 **MOTOR VEHICLES**

17 **SEC. 201. DETERMINATION OF CREDIT AMOUNTS FOR**
18 **CLEAN DIESEL MOTOR VEHICLE CREDIT AND**
19 **LIFETIME FUEL SAVINGS CREDIT.**

20 (a) IN GENERAL.—Not later than 120 days after the
21 date of the enactment of this Act, the Secretary of Energy
22 shall determine credit amounts for the clean diesel motor
23 vehicle credit under section 30B, and the lifetime fuel sav-
24 ings credit under section 30C, of the Internal Revenue
25 Code of 1986 in amounts which the Secretary determines

1 will provide appropriate incentives to encourage the wide-
2 spread consumer acceptance of clean diesel motor vehicles.
3 In making determinations under the preceding sentence,
4 the Secretary—

5 (1) may not increase or decrease the credit
6 amount specified for a category in the table in sub-
7 section (b) by more than \$500;

8 (2) may not increase the maximum fuel econ-
9 omy for a category above the maximum fuel econ-
10 omy specified for that category in the table in sub-
11 section (b);

12 (3) may not increase or decrease the lifetime
13 fuel savings amount specified for a category in the
14 table in subsection (c) by more than \$500; and

15 (4) may not increase the number of gallons for
16 the category of lifetime fuel savings in the table in
17 subsection (c).

18 (b) ALTERNATIVE CREDIT AMOUNT FOR CLEAN
19 DIESEL MOTOR VEHICLE CREDIT.—In the case that the
20 Secretary of Energy does not meet the 120-day period
21 specified in subsection (a), the credit amounts for the
22 clean diesel motor vehicle credit under section 30B of the
23 Internal Revenue Code of 1986 shall be determined in ac-
24 cordance with the following table:

Category	Fuel economy based on percentage of 2002 model year city fuel economy		Credit amount
	At least	but less than	
1	125%	150%	\$1,500
2	150%	175%	\$2,000
3	175%	200%	\$2,500
4	200%	225%	\$3,000

(c) ALTERNATIVE CREDIT AMOUNT FOR LIFETIME FUEL SAVINGS CREDIT.—In the case that the Secretary of Energy does not meet the 120-day period specified in subsection (a), the credit amounts for the lifetime fuel savings credit under section 30C of the Internal Revenue Code of 1986 shall be determined in accordance with the following table:

Lifetime Fuel Savings (gallons):	Credit Amount:
1,200	\$1,500
1,800	\$2,000
2,400	\$2,500
3,000	\$3,000.

(d) OPTION TO USE LIKE VEHICLE.—At the option of the vehicle manufacturer, the increase for fuel economy and lifetime fuel savings may be calculated by comparing the new clean diesel motor vehicle to a like vehicle.

(e) DEFINITIONS.—For purposes of this section:

(1) CLEAN DIESEL MOTOR VEHICLE.—The term “clean diesel motor vehicle” means a motor vehicle with an internal combustion engine that—

1 (A) is designed to operate primarily using
2 more air than is necessary for complete com-
3 bustion of the fuel;

4 (B) incorporates direct injection;

5 (C) achieves at least 125 percent of the
6 2002 model year city fuel economy; and

7 (D) for 2004 and later model vehicles, has
8 received a certificate that such vehicle meets or
9 exceeds the Bin 5, Tier 2 emission levels (for
10 passenger vehicles) or Bin 8, Tier 2 emission
11 levels (for light trucks) established in regula-
12 tions prescribed by the Administrator under
13 section 202(i) of the Clean Air Act for that
14 make and model year vehicle.

15 (2) LIFETIME FUEL SAVINGS.—The lifetime
16 fuel savings shall be calculated by dividing 120,000
17 by the difference between the 2002 model year city
18 fuel economy for the vehicle inertia weight class and
19 the city fuel economy for the new clean diesel motor
20 vehicle.

21 (3) LIKE VEHICLE.—The term “like vehicle”
22 for a clean diesel motor vehicle derived from a con-
23 ventional production vehicle produced in the same
24 model year means a model that is equivalent in the
25 following areas:

- 1 (A) Body style (2-door or 4-door).
 2 (B) Transmission (automatic or manual).
 3 (C) Acceleration performance (\pm 0.05 sec-
 4 onds).
 5 (D) Drivetrain (2-wheel drive or 4-wheel
 6 drive).
 7 (E) Certification by the Administrator.

8 (4) 2002 MODEL YEAR CITY FUEL ECONOMY.—
 9 The 2002 model year city fuel economy with respect
 10 to a vehicle shall be determined in accordance with
 11 the following tables:

12 (A) In the case of a passenger automobile:

If vehicle inertia weight class is:	The 2002 model year city fuel economy is:
1,500 or 1,750 lbs	45.2 mpg
2,000 lbs	39.6 mpg
2,250 lbs	35.2 mpg
2,500 lbs	31.7 mpg
2,750 lbs	28.8 mpg
3,000 lbs	26.4 mpg
3,500 lbs	22.6 mpg
4,000 lbs	19.8 mpg
4,500 lbs	17.6 mpg
5,000 lbs	15.9 mpg
5,500 lbs	14.4 mpg
6,000 lbs	13.2 mpg
6,500 lbs	12.2 mpg
7,000 or 8,500 lbs	11.3 mpg.

13 (B) In the case of a light truck:

If vehicle inertia weight class is:	The 2002 model year city fuel economy is:
1,500 or 1,750 lbs	39.4 mpg
2,000 lbs	35.2 mpg
2,250 lbs	31.8 mpg
2,500 lbs	29.0 mpg
2,750 lbs	26.8 mpg
3,000 lbs	24.9 mpg
3,500 lbs	21.8 mpg

If vehicle inertia weight class is:	The 2002 model year city fuel economy is:
4,000 lbs	19.4 mpg
4,500 lbs	17.6 mpg
5,000 lbs	16.1 mpg
5,500 lbs	14.8 mpg
6,000 lbs	13.7 mpg
6,500 lbs	12.8 mpg
7,000 or 8,500 lbs	12.1 mpg.

1 (5) VEHICLE INERTIA WEIGHT CLASS.—The
2 term “vehicle inertia weight class” has the same
3 meaning as when defined in regulations prescribed
4 by the Administrator for purposes of the administra-
5 tion of title II of the Clean Air Act (42 U.S.C. 7521
6 et seq.).

7 (6) MOTOR VEHICLE.—The term “motor vehi-
8 cle” means any vehicle which is manufactured pri-
9 marily for use on public streets, roads, and highways
10 (not including a vehicle operated exclusively on a rail
11 or rails) and which has at least 4 wheels.

12 (7) OTHER TERMS.—The terms “automobile”,
13 “passenger automobile”, “light truck”, and “manu-
14 facturer” have the meanings given such terms in
15 regulations prescribed by the Administrator for pur-
16 poses of the administration of title II of the Clean
17 Air Act (42 U.S.C. 7521 et seq.).

18 **SEC. 202. CLEAN DIESEL MOTOR VEHICLE CREDIT.**

19 (a) IN GENERAL.—Subpart B of part IV of sub-
20 chapter A of chapter 1 of the Internal Revenue Code of

1 1986 (relating to foreign tax credit, etc.) is amended by
2 adding at the end the following:

3 **“SEC. 30B. CLEAN DIESEL MOTOR VEHICLE CREDIT.**

4 “(a) ALLOWANCE OF CREDIT.—There shall be al-
5 lowed as a credit against the tax imposed by this chapter
6 for the taxable year an amount equal to the clean diesel
7 motor vehicle credit determined under subsection (b).

8 “(b) CLEAN DIESEL MOTOR VEHICLE CREDIT.—For
9 purposes of subsection (a), the clean diesel motor vehicle
10 credit is the credit amount determined under section
11 201(b) of the Clean Diesel Act of 2003 with respect to
12 a new qualified clean diesel motor vehicle placed in service
13 by the taxpayer during the taxable year.

14 “(c) CLEAN DIESEL MOTOR VEHICLE.—The term
15 ‘clean diesel motor vehicle’ has the meaning given to such
16 term by section 201(e)(1) of the Clean Diesel Act of 2003.

17 “(d) LIMITATION BASED ON AMOUNT OF TAX.—The
18 credit allowed under subsection (a) for the taxable year
19 shall not exceed the excess of—

20 “(1) the sum of the regular tax liability (as de-
21 fined in section 26(b)) plus the tax imposed by sec-
22 tion 55, over

23 “(2) the sum of the credits allowable under sub-
24 part A and sections 27, 29, and 30A for the taxable
25 year.

1 “(e) SPECIAL RULES.—For purposes of this sec-
2 tion—

3 “(1) REDUCTION IN BASIS.—For purposes of
4 this subtitle, the basis of any property for which a
5 credit is allowable under subsection (a) shall be re-
6 duced by the amount of such credit so allowed.

7 “(2) PROPERTY USED BY TAX-EXEMPT ENTI-
8 TIES.—In the case of a credit amount which is al-
9 lowable with respect to a motor vehicle which is ac-
10 quired by an entity exempt from tax under this
11 chapter, the person which sells or leases such vehicle
12 to the entity shall be treated as the taxpayer with
13 respect to the vehicle for purposes of this section
14 and the credit shall be allowed to such person, but
15 only if the person clearly discloses to the entity in
16 any sale or lease document the specific amount of
17 any credit otherwise allowable to the entity under
18 this section.

19 “(3) RECAPTURE.—The Secretary shall, by reg-
20 ulations, provide for recapturing the benefit of any
21 credit allowable under subsection (a) with respect to
22 any property which ceases to be property eligible for
23 such credit (including recapture in the case of a
24 lease period of less than the economic life of a vehi-
25 cle).

1 “(4) PROPERTY USED OUTSIDE UNITED
2 STATES, ETC., NOT QUALIFIED.—No credit shall be
3 allowed under subsection (a) with respect to any
4 property referred to in section 50(b) or with respect
5 to the portion of the cost of any property taken into
6 account under section 179.

7 “(5) ELECTION TO NOT TAKE CREDIT.—No
8 credit shall be allowed under subsection (a) for any
9 vehicle if the taxpayer elects to not have this section
10 apply to such vehicle.

11 “(6) CARRYOVERS ALLOWED.—

12 “(A) IN GENERAL.—If the credit amount
13 allowable under subsection (a) for a taxable
14 year exceeds the amount of the limitation under
15 subsection (d) for such taxable year (referred to
16 as the ‘unused credit year’ in this paragraph),
17 such excess shall be allowed as a credit
18 carryforward for each of the 20 taxable years
19 following the unused credit year and a
20 carryback for each of the 3 preceding years.

21 “(B) RULES.—Rules similar to the rules of
22 section 39 shall apply with respect to the credit
23 carryforward under subparagraph (A).

24 “(f) TERMINATION.—This section shall not apply to
25 any property placed in service after December 31, 2010.”.

1 (b) CONFORMING AMENDMENTS.—

2 (1) Section 1016(a) of such Code is amended
3 by striking “and” at the end of paragraph (29), by
4 striking the period at the end of paragraph (30) and
5 inserting “, and”, and by adding at the end the fol-
6 lowing:

7 “(31) to the extent provided in section
8 30B(e)(1).”.

9 (2) Section 6501(m) of such Code is amended
10 by inserting “30B(e)(5),” after “30(d)(4),”.

11 (3) The table of sections for subpart B of part
12 IV of subchapter A of chapter 1 of such Code is
13 amended by inserting after the item relating to sec-
14 tion 30A the following:

“Sec. 30B. Clean diesel motor vehicle credit.”.

15 (c) EFFECTIVE DATE.—The amendments made by
16 this section shall apply to property placed in service after
17 December 31, 2004, in taxable years beginning after such
18 date.

19 **SEC. 203. LIFETIME FUEL SAVINGS CREDIT.**

20 (a) IN GENERAL.—Subpart B of part IV of sub-
21 chapter A of chapter 1 of the Internal Revenue Code of
22 1986 (relating to foreign tax credit, etc.) is amended by
23 adding at the end the following:

1 **“SEC. 30C. LIFETIME FUEL SAVINGS CREDIT.**

2 “(a) ALLOWANCE OF CREDIT.—There shall be al-
3 lowed as a credit against the tax imposed by this chapter
4 for the taxable year an amount equal to the lifetime fuel
5 savings credit determined under subsection (b).

6 “(b) LIFETIME FUEL SAVINGS CREDIT.—For pur-
7 poses of subsection (a), the lifetime fuel savings credit is
8 the credit amount determined under section 201(c) of the
9 Clean Diesel Act of 2003 with respect to a new qualified
10 clean diesel motor vehicle placed in service by the taxpayer
11 during the taxable year.

12 “(c) CLEAN DIESEL MOTOR VEHICLE.—The term
13 ‘clean diesel motor vehicle’ has the meaning given to such
14 term by section 201(e)(1) of the Clean Diesel Act of 2003.

15 “(d) LIMITATION BASED ON AMOUNT OF TAX.—The
16 credit allowed under subsection (a) for the taxable year
17 shall not exceed the excess of—

18 “(1) the sum of the regular tax liability (as de-
19 fined in section 26(b)) plus the tax imposed by sec-
20 tion 55, over

21 “(2) the sum of the credits allowable under sub-
22 part A and sections 27, 29, 30A, and 30B for the
23 taxable year.

24 “(e) SPECIAL RULES.—For purposes of this sec-
25 tion—

1 “(1) REDUCTION IN BASIS.—For purposes of
2 this subtitle, the basis of any property for which a
3 credit is allowable under subsection (a) shall be re-
4 duced by the amount of such credit so allowed.

5 “(2) PROPERTY USED BY TAX-EXEMPT ENTI-
6 TIES.—In the case of a credit amount which is al-
7 lowable with respect to a motor vehicle which is ac-
8 quired by an entity exempt from tax under this
9 chapter, the person which sells or leases such vehicle
10 to the entity shall be treated as the taxpayer with
11 respect to the vehicle for purposes of this section
12 and the credit shall be allowed to such person, but
13 only if the person clearly discloses to the entity in
14 any sale or lease document the specific amount of
15 any credit otherwise allowable to the entity under
16 this section.

17 “(3) RECAPTURE.—The Secretary shall, by reg-
18 ulations, provide for recapturing the benefit of any
19 credit allowable under subsection (a) with respect to
20 any property which ceases to be property eligible for
21 such credit (including recapture in the case of a
22 lease period of less than the economic life of a vehi-
23 cle).

24 “(4) PROPERTY USED OUTSIDE UNITED
25 STATES, ETC., NOT QUALIFIED.—No credit shall be

1 allowed under subsection (a) with respect to any
2 property referred to in section 50(b) or with respect
3 to the portion of the cost of any property taken into
4 account under section 179.

5 “(5) ELECTION TO NOT TAKE CREDIT.—No
6 credit shall be allowed under subsection (a) for any
7 vehicle if the taxpayer elects to not have this section
8 apply to such vehicle.

9 “(6) CARRYOVERS ALLOWED.—

10 “(A) IN GENERAL.—If the credit amount
11 allowable under subsection (a) for a taxable
12 year exceeds the amount of the limitation under
13 subsection (d) for such taxable year (referred to
14 as the ‘unused credit year’ in this paragraph),
15 such excess shall be allowed as a credit
16 carryforward for each of the 20 taxable years
17 following the unused credit year and a
18 carryback for each of the 3 preceding years.

19 “(B) RULES.—Rules similar to the rules of
20 section 39 shall apply with respect to the credit
21 carryforward under subparagraph (A).

22 “(f) TERMINATION.—This section shall not apply to
23 any property placed in service after December 31, 2010.”.

24 (b) CONFORMING AMENDMENTS.—

8 (2) Section 6501(m) of such Code is amended
9 by inserting “30C(e)(5),” after “30B(e)(5),”.

“Sec. 30C. Lifetime fuel savings credit.”.

18 SEC. 204. EXPENSING OF CAPITAL COSTS INCURRED IN
19 COMPLYING WITH ENVIRONMENTAL PROTEC-
20 TION AGENCY SULFUR REGULATIONS.

25 “(5) LIMITATION FOR REFINERS.—

1 “(A) IN GENERAL.—In the case of a tax-
2 payer electing to expense qualified costs, in lieu
3 of the dollar limitations in paragraph (1), the
4 limitation on the aggregate costs which may be
5 taken into account under subsection (a) for any
6 taxable year shall not exceed 75 percent of the
7 qualified costs.

8 “(B) QUALIFIED COSTS.—For purposes of
9 this paragraph, the term ‘qualified costs’
10 means, with respect to any facility, those costs
11 paid or incurred for purposes of—

12 “(i) complying with the Highway Die-
13 sel Fuel Sulfur Control Requirements of
14 the Environmental Protection Agency, as
15 determined by the Administrator of the
16 Environmental Protection Agency in con-
17 sultation with the Secretary; or

18 “(ii) meeting the standards for sulfur
19 content specified in section 102(c)(1) of
20 the Clean Diesel Act of 2003, as deter-
21 mined by the Administrator of the Envi-
22 ronmental Protection Agency in consulta-
23 tion with the Secretary.

24 Such costs shall include expenditures for the
25 construction of new process operation units or

the dismantling and reconstruction of existing process units to be used in the production of clean diesel fuel (as defined in section 101(2) of the Clean Diesel Fuel Act of 2003, associated adjacent or offsite equipment (including tankage, catalyst, and power supply), engineering, construction period interest, and sitework.”.

(b) DETERMINATION BY ADMINISTRATOR OF ENVIRONMENTAL PROTECTION AGENCY.—For purposes of paragraph (5) of section 179(b) of the Internal Revenue Code of 1986, as added by subsection (a), the Administrator of Environmental Protection Agency shall, by regulation, identify those costs which are eligible for expensing under such section for purposes of complying with the Highway Diesel Fuel Sulfur Control Requirements of the Environmental Protection Agency and meeting the standards for sulfur content specified in section 102(c)(1) of this Act.

(c) EFFECTIVE DATE.—The amendment made by this section shall apply to expenses paid or incurred after the date of the enactment of this Act.

**SEC. 205. CREDIT FOR PRODUCING LOW SULFUR CONTENT
DIESEL FUEL.**

(a) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 of the Internal Revenue Code of

1 1986 (relating to other credits) is amended by inserting
2 after section 30C the following new section:

3 **“SEC. 30D. CREDIT FOR PRODUCING CLEAN DIESEL FUEL.**

4 “(a) ALLOWANCE OF CREDIT.—There shall be al-
5 lowed as a credit against the tax imposed by this chapter
6 for the taxable year an amount equal to—

7 “(1) \$2.52, multiplied by

8 “(2) the barrel-of-oil equivalent of clean diesel
9 fuel—

10 “(A) sold by the taxpayer to an unrelated
11 person during the taxable year; and

12 “(B) the production of which is attrib-
13 utable to the taxpayer.

14 “(b) LIMITATIONS AND ADJUSTMENTS.—

15 “(1) CREDIT REDUCED FOR GRANTS, TAX-EX-
16 EMPT BONDS, AND SUBSIDIZED ENERGY FINANC-
17 ING.—

18 “(A) IN GENERAL.—The amount of the
19 credit allowable under subsection (a) with re-
20 spect to any project for any taxable year shall
21 be reduced by the amount which is the product
22 of the amount so determined for such year and
23 a fraction—

1 “(i) the numerator of which is the
2 sum, for the taxable year and all prior tax-
3 able years, of—

4 “(I) grants provided by the
5 United States, a State, or a political
6 subdivision of a State for use in con-
7 nection with the project;

8 “(II) proceeds of any issue of
9 State or local government obligations
10 used to provide financing for the
11 project the interest on which is ex-
12 empt from tax under section 103; and

13 “(III) the aggregate amount of
14 subsidized energy financing (within
15 the meaning of section 48(a)(4)(C))
16 provided in connection with the
17 project; and

18 “(ii) the denominator of which is the
19 aggregate amount of additions to the cap-
20 ital account for the project for the taxable
21 year and all prior taxable years.

22 “(B) AMOUNTS DETERMINED AT CLOSE OF
23 YEAR.—The amounts under subparagraph (A)
24 for any taxable year shall be determined as of
25 the close of the taxable year.

1 “(2) CREDIT REDUCED FOR ENHANCED OIL RE-
2 COVERY CREDIT.—The amount allowable as a credit
3 under subsection (a) with respect to any project for
4 any taxable year (determined after application of
5 paragraphs (1) and (2)) shall be reduced by the ex-
6 cess (if any) of—

7 “(A) the aggregate amount allowed under
8 section 38 for the taxable year and any prior
9 taxable year by reason of any enhanced oil re-
10 covery credit determined under section 43 with
11 respect to such project, over

12 “(B) the aggregate amount recaptured
13 with respect to the amount described in sub-
14 paragraph (A) under this paragraph for any
15 prior taxable year.

16 “(3) APPLICATION WITH OTHER CREDITS.—
17 The credit allowed by subsection (a) for any taxable
18 year shall not exceed the excess (if any) of—

19 “(A) the regular tax for the taxable year
20 reduced by the sum of the credits allowable
21 under subpart A and this subpart (other than
22 this section), over

23 “(B) the tentative minimum tax for the
24 taxable year.

1 “(c) DEFINITIONS AND SPECIAL RULES.—For pur-
2 poses of this section—

3 “(1) CLEAN DIESEL FUEL.—The term ‘clean
4 diesel fuel’ has the meaning given such term by sec-
5 tion 101(2) of the Clean Diesel Act of 2003.

6 “(2) ONLY PRODUCTION WITHIN THE UNITED
7 STATES TAKEN INTO ACCOUNT.—Sales shall be
8 taken into account under this section only with re-
9 spect to diesel fuel the production of which is with-
10 in—

11 “(A) the United States (within the mean-
12 ing of section 638(1)); or

13 “(B) a possession of the United States
14 (within the meaning of section 638(2)).

15 “(3) PRODUCTION ATTRIBUTABLE TO THE TAX-
16 PAYER.—In the case of a property or facility in
17 which more than 1 person has an interest, except to
18 the extent provided in regulations prescribed by the
19 Secretary, production from the property or facility
20 (as the case may be) shall be allocated among such
21 persons in proportion to their respective interests in
22 the gross sales from such property or facility.

23 “(4) BARREL-OF-OIL EQUIVALENT.—The term
24 ‘barrel-of-oil equivalent’ with respect to any fuel

1 means that amount of such fuel which has a Btu
2 content of 5.8 million.

3 “(5) BARREL DEFINED.—The term ‘barrel’
4 means 42 United States gallons.

5 “(6) RELATED PERSONS.—Persons shall be
6 treated as related to each other if such persons
7 would be treated as a single employer under the reg-
8 ulations prescribed under section 52(b). In the case
9 of a corporation which is a member of an affiliated
10 group of corporations filing a consolidated return,
11 such corporation shall be treated as selling clean die-
12 sel fuel to an unrelated person if such fuel is sold
13 to such a person by another member of such group.

14 “(7) PASS-THRU IN THE CASE OF ESTATES AND
15 TRUSTS.—Under regulations prescribed by the Sec-
16 retary, rules similar to the rules of subsection (d) of
17 section 52 shall apply.

18 “(e) APPLICATION OF SECTION.—This section shall
19 apply with respect to clean diesel fuel which is sold at re-
20 tail before January 1, 2007.”.

21 (b) CONFORMING AMENDMENTS.—

22 (1) Section 53(d)(1)(B)(iii) of such Code is
23 amended by striking “or” and inserting before the
24 period at the end the following: “, or under section

1 30D solely by reason of the application of section
2 30D(b)(4)’’.

3 (2) Section 55(c)(2) of such Code is amended
4 by inserting ‘‘, 30D(b)(4),’’ after ‘‘30(b)(3)’’.

5 (3) Section 772 of such Code is amended—

6 (A) in subsection (a) by striking ‘‘and’’ at
7 the end of paragraph (10), by redesignating
8 paragraph (11) as paragraph (12), and by in-
9 serting after paragraph (10) the following new
10 paragraph:

11 ‘‘(11) the credit allowable under section 30D,
12 and’’; and

13 (B) in subsection (d)(5), by striking
14 ‘‘and’’, and by inserting before the period the
15 following: ‘‘, and the credit allowable under sec-
16 tion 30D’’.

17 (4) The table of sections for subpart B of part
18 IV of subchapter A of chapter 1 of such Code is
19 amended by inserting after the item relating to sec-
20 tion 30C the following:

 ‘‘Sec. 30D. Credit for producing clean diesel fuel.’’.

21 (c) EFFECTIVE DATE.—The amendments made by
22 this section shall apply to sales after December 31, 2002,
23 in taxable years beginning after such date.

1 **TITLE III—GRANTS TO IN-**
2 **CREASE PRODUCTION OF**
3 **CLEAN DIESEL MOTOR VEHI-**
4 **CLES**

5 **SEC. 301. GRANTS TO INCREASE PRODUCTION OF CLEAN**
6 **DIESEL MOTOR VEHICLES.**

7 (a) GRANTS.—The Secretary of Commerce (in this
8 section referred to as the “Secretary”) may award grants
9 to States and cities for the purpose of converting old
10 plants to produce clean diesel motor vehicles.

11 (b) USE OF FUNDS.—The Secretary may not award
12 a grant to a State or city under this section unless the
13 State or city agrees to use the grant—

14 (1) to convert an old plant to produce clean die-
15 sel motor vehicles; or

16 (2) to improve infrastructure related to any
17 such plant.

18 (c) APPLICATION.—To seek a grant under this sec-
19 tion, a State or city shall submit an application to the
20 Secretary at such time, in such manner, and containing
21 such information as the Secretary may reasonably require.

22 (d) CLEAN DIESEL MOTOR VEHICLE.—For purposes
23 of this section, the term “clean diesel motor vehicle” has
24 the meaning given to that term in section 201(e)(1).

1 (e) AUTHORIZATION OF APPROPRIATIONS.—There is
2 authorized to be appropriated such sums as may be nec-
3 essary to carry out this section.

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