

111TH CONGRESS
1ST SESSION

H. R. 1847

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

APRIL 1, 2009

Mrs. CAPITO (for herself and Mr. SHIMKUS) 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 2009”.

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 other resource
13 that is extracted, grown, produced, or recovered
14 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) SMALL REFINERY.—The term “small refin-
22 ery” means a refinery for which the average aggre-
23 gate daily crude oil throughput for a calendar year
24 (as determined by dividing the aggregate throughput

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

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

4 (a) PROGRAM.—

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

13 (2) PROVISIONS OF REGULATIONS.—Regardless
14 of the date of promulgation, the regulations promul-
15 gated 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 life cycle
24 greenhouse gas emissions that are not
25 greater 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 paragraph shall,
9 to the maximum extent practicable, incorporate the
10 program structure, compliance and reporting re-
11 quirements established under the final regulations
12 promulgated to implement the renewable fuel pro-
13 gram established by the amendment made by section
14 1501(a)(2) of the Energy Policy Act of 2005 (Public
15 Law 109–58; 119 Stat. 1067).

16 (4) APPLICABLE VOLUME.—

17 (A) CALENDAR YEARS 2015 THROUGH
18 2022.—For the purpose of this subsection, the
19 applicable volume for any of calendar years
20 2015 through 2022 shall be determined in ac-
21 cordance with the following table:

Calendar year:	Applicable volume of clean coal-derived fuel (in billions of gallons):
2015	0.75
2016	1.5
2017	2.25
2018	3.00
2019	3.75
2020	4.5

Calendar year:	Applicable volume of clean coal-derived fuel (in billions of gallons):
2021	5.25
2022	6.0.

1 (B) CALENDAR YEAR 2023 AND THERE-
2 AFTER.—Subject to subparagraph (C), for the
3 purposes of this subsection, the applicable vol-
4 ume for calendar year 2023 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 2015 through 2022, 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 applicable
23 volume for calendar year 2023 and each cal-

endar year thereafter shall be equal to the product obtained by multiplying—

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

(ii) the ratio that—

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

(II) the number of gallons of covered fuel sold or introduced into commerce in calendar year 2022.

(b) APPLICABLE PERCENTAGES.—

(1) PROVISION OF ESTIMATE OF VOLUMES OF CERTAIN FUEL SALES.—Not later than October 31 of each of calendar years 2015 through 2021, the Administrator of the Energy Information Administration shall provide to the President an estimate, with respect to the following calendar year, of the volumes of covered fuel projected to be sold or introduced into commerce in the United States.

(2) DETERMINATION OF APPLICABLE PERCENTAGES.—

(A) IN GENERAL.—Not later than November 30 of each of calendar years 2015 through

2022, based on the estimate provided under paragraph (1), the President shall determine and publish in the Federal Register, with respect to the following calendar year, the clean coal-derived fuel obligation that ensures that the requirements of subsection (a) are met.

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

(i) be applicable to refineries, blenders, and importers, as appropriate;

(ii) be expressed in terms of a volume percentage of covered fuel sold or introduced into commerce in the United States; and

(iii) subject to paragraph (3)(A), consist of a single applicable percentage that applies to all categories of persons specified in clause (i).

(3) ADJUSTMENTS.—In determining the applicable percentage for a calendar year, the President shall make adjustments—

(A) to prevent the imposition of redundant obligations on any person specified in paragraph (2)(B)(i); and

1 (B) to account for the use of clean coal-de-
 2 rived fuel during the previous calendar year by
 3 small refineries that are exempt under sub-
 4 section (f).

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

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

12 (2) ENERGY CONTENT RELATIVE TO DIESEL
 13 FUEL.—For clean coal-derived fuels, 1 gallon of the
 14 clean coal-derived fuel shall be considered to be the
 15 equivalent of 1 gallon of diesel fuel multiplied by the
 16 ratio that—

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

22 (B) the number of British thermal units of
 23 energy produced by the combustion of 1 gallon
 24 of diesel fuel (as measured under conditions de-

1 terminated by the Secretary to be comparable to
2 conditions described in subparagraph (A)).

3 (d) CREDIT PROGRAM.—

4 (1) IN GENERAL.—The President, in consulta-
5 tion with the Secretary and the clean coal-derived
6 fuel requirement of this section.

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

13 (e) WAIVERS.—

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

23 (A) implementation of the requirement
24 would severely harm the economy or environ-

1 ment of a State, a region, or the United States;
2 or

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

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

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

19 (f) SMALL REFINERIES.—

20 (1) TEMPORARY EXEMPTION.—

21 (A) IN GENERAL.—The requirements of
22 subsection (a) shall not apply to small refineries
23 until calendar year 2018.

24 (B) EXTENSION OF EXEMPTION.—

1 (i) STUDY BY SECRETARY.—Not later
2 than December 31, 2013, the Secretary
3 shall submit to the President and Congress
4 a report describing the results of a study
5 to determine whether compliance with the
6 requirements of subsection (a) would im-
7 pose a disproportionate economic hardship
8 on small refineries.

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

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

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

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

(C) DEADLINE FOR ACTION ON PETITIONS.—The President shall act on any petition submitted by a small refinery for a hardship exemption not later than 90 days after the date of receipt of the petition.

(3) OPT-IN FOR SMALL REFINERIES.—A small refinery shall be subject to the requirements of subsection (a) if the small refinery notifies the President that the small refinery waives the exemption under paragraph (1).

(g) PENALTIES AND ENFORCEMENT.—

(1) CIVIL PENALTIES.—

(A) IN GENERAL.—Any person that violates a regulation promulgated under subsection (a), or that fails to furnish any information required under such a regulation, shall be liable to the United States for a civil penalty of not more than the total of—

(i) \$25,000 for each day of the violation; 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 the action, a sub-
24 poena for a witness who is required to attend

1 a district court in any district may apply in any
2 other district.

3 (h) EFFECTIVE DATE.—Except as otherwise specifi-
4 cally provided in this section, this section takes effect on
5 January 1, 2015.

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