

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:

<b>Calendar year:</b>	<b>Applicable volume of clean coal-derived fuel (in billions of gallons):</b>
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.

○