

111TH CONGRESS  
1ST SESSION

# H. R. 1787

To amend the Clean Air Act regarding transportation fuels and establishment of a low carbon fuel standard.

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IN THE HOUSE OF REPRESENTATIVES

MARCH 30, 2009

Mr. INSLEE introduced the following bill; which was referred to the Committee on Energy and Commerce

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## A BILL

To amend the Clean Air Act regarding transportation fuels and establishment of a low carbon fuel standard.

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 “Low Carbon Fuel  
5 Standard Act of 2009”.

6 **SEC. 2. LOW CARBON FUEL STANDARD.**

7 At the end of title II of the Clean Air Act (42 U.S.C.  
8 7521 et seq.) is amended by adding at the end the fol-  
9 lowing:

1 **“SEC. 841. LOW CARBON FUEL STANDARD.**

2 “(a) DEFINITIONS.—For purposes of this section:

3 “(1) FUEL EMISSION BASELINE.—The term  
4 ‘fuel emission baseline’ means the average lifecycle  
5 greenhouse gas emissions per unit of energy, as de-  
6 termined by the Administrator, of all transportation  
7 fuels sold or introduced into commerce in any of the  
8 50 States or the District of Columbia in calendar  
9 year 2005.

10 “(2) TRANSPORTATION FUEL.—The term  
11 ‘transportation fuel’ means fuel for use in motor ve-  
12 hicles, motor vehicle engines, nonroad vehicles,  
13 nonroad engines, and aircraft. The Administrator  
14 may, at his discretion, include fuel for use in ocean-  
15 going vessels and adjust the fuel emission baseline  
16 as appropriate to reflect the inclusion of such fuel.

17 “(3) TRANSPORTATION FUEL PROVIDER.—The  
18 term ‘transportation fuel provider’ includes any indi-  
19 vidual or entity that produces, refines, blends, or im-  
20 ports any transportation fuel.

21 “(b) REGULATIONS.—

22 “(1) STANDARD.—Not later than 3 years after  
23 enactment of this section, the Administrator shall  
24 promulgate regulations under section 211(c) and  
25 this section that—

1           “(A) determine the lifecycle greenhouse  
2 gas emissions of all transportation fuels;

3           “(B) determine the fuel emission baseline;

4           “(C) apply to refineries, blenders, and im-  
5 porters, as appropriate, and to such other  
6 transportation fuel providers as determined by  
7 the Administrator;

8           “(D) ensure that, for each year from 2014  
9 through 2022, the annual average lifecycle  
10 greenhouse gas emissions, per unit of energy as  
11 determined by the Administrator, of transpor-  
12 tation fuel, excluding renewable fuel used to  
13 meet the obligations of section 211(o), sold or  
14 introduced into commerce by such transpor-  
15 tation fuel providers in any of the 50 States or  
16 the District of Columbia, does not exceed the  
17 fuel emission baseline; and

18           “(E) ensure that, for 2023 and each year  
19 thereafter, such transportation fuel providers  
20 reduce the annual average lifecycle greenhouse  
21 gas emissions, per unit of energy as determined  
22 by the Administrator, for transportation fuel  
23 that is sold or introduced into commerce in any  
24 of the 50 States or the District of Columbia, to  
25 the maximum extent practicable, taking into

1 consideration cost, energy, and other environ-  
2 mental factors, and that—

3 “(i) for calendar year 2023 and later,  
4 the annual average lifecycle greenhouse gas  
5 emissions is at least 5 percent below the  
6 fuel emission baseline; and

7 “(ii) for calendar year 2030 and later,  
8 the annual average lifecycle greenhouse gas  
9 emissions is at least 10 percent below the  
10 fuel emission baseline.

11 “(2) REVIEW.—The Administrator shall from  
12 time to time, but no less than every 5 years begin-  
13 ning in 2020, review and revise as appropriate the  
14 annual average lifecycle greenhouse gas emission re-  
15 quirements of the regulations issued under this sub-  
16 section.

17 “(3) PROVISIONS.—The regulations issued  
18 under this subsection—

19 “(A) shall contain compliance provisions  
20 applicable to transportation fuel providers and  
21 other persons, as appropriate, to ensure that  
22 the requirements of this subsection are met;

23 “(B) shall not impose any per-gallon obli-  
24 gation regarding the amount of lifecycle green-

1 house gas emissions per unit of energy as deter-  
2 mined by the Administrator; and

3 “(C) shall set the lifecycle greenhouse gas  
4 emissions of biofuels derived from biomass  
5 other than renewable biomass at a level no  
6 higher than the fuel emission baseline.

7 “(4) ELECTION TO PARTICIPATE.—

8 “(A) PARTICIPATION.—For any transpor-  
9 tation fuel provider which the Administrator  
10 has not yet determined to be subject to the reg-  
11 ulations under this subsection, and for any pro-  
12 vider of a non-transportation fuel, the Adminis-  
13 trator, at his discretion, may allow the fuel pro-  
14 vider to elect to participate in the program  
15 under this subsection, subject to requirements  
16 established by the regulation.

17 “(B) REGULATORY PROVISIONS.—Regula-  
18 tions implementing this paragraph shall in-  
19 clude—

20 “(i) provisions for tracking of the fuel  
21 used for transportation purposes separately  
22 from fuel used for other purposes; and

23 “(ii) any other provisions determined  
24 appropriate by the Administrator to carry  
25 out this paragraph.

1 “(c) CREDITS.—

2 “(1) IN GENERAL.—The regulations under sub-  
3 section (b) shall permit transportation fuel providers  
4 to generate credits for achieving, during a calendar  
5 year, greater reductions for the fuel produced or im-  
6 ported by the fuel provider than are required by  
7 such regulations. The Administrator shall determine  
8 the appropriate amount of credits and appropriate  
9 conditions, if any, on the duration, trading, and use  
10 of credits. The Administrator shall, with appropriate  
11 conditions, allow the use of credits or renewable  
12 identification numbers generated under section  
13 211(o).

14 “(2) ELECTRICITY.—The Administrator may,  
15 at his discretion, issue regulations providing for—

16 “(A) the generation of credits for elec-  
17 tricity used as a transportation fuel and gen-  
18 erated by a source other than the vehicle; and

19 “(B) the assignment of those credits to the  
20 manufacturers or importers of such vehicles or  
21 to other persons as deemed appropriate by the  
22 Administrator.

23 “(3) COMPLIANCE.—Each transportation fuel  
24 provider subject to the regulations promulgated  
25 under this section shall demonstrate compliance, in-

1 including, as necessary, through the use of credits  
2 generated, banked or purchased.

3 “(4) INABILITY TO GENERATE OR PURCHASE  
4 SUFFICIENT CREDITS.—A transportation fuel pro-  
5 vider that is unable to generate or purchase suffi-  
6 cient credits to meet the requirements of the regula-  
7 tions under subsection (b) may carry the compliance  
8 deficit forward, subject to the condition that the fuel  
9 provider, for the calendar year following the year for  
10 which the deficit is created—

11 “(A) achieves compliance; and

12 “(B) generates or purchases additional  
13 credits to offset the deficit from the preceding  
14 calendar year.

15 “(d) WAIVERS.—The Administrator, in consultation  
16 with the Secretary of Agriculture and the Secretary of En-  
17 ergy, may waive the requirements of the regulations under  
18 subsection (b) in whole or in part on petition by one or  
19 more States, by any person subject to the requirements  
20 of this section, or by the Administrator on his own motion  
21 by revising the average lifecycle greenhouse gas emissions  
22 reduction required through regulations under subsection  
23 (b) based on a determination by the Administrator, after  
24 public notice and opportunity for comment, that—

1           “(1) implementation of the requirement would  
2           severely harm the economy or environment of a  
3           State, a region, or the United States; or

4           “(2) there is an inadequate domestic supply of  
5           fuels to meet the requirements of this section.

6           “(e) ENVIRONMENTAL AND RESOURCE CONSERVA-  
7           TION IMPACTS.—Not later than 2 years after the promul-  
8           gation of regulations under subsection (b), the Adminis-  
9           trator shall complete a study to determine the environ-  
10          mental and resource conservation impacts of the require-  
11          ments of such regulations, including impacts on air and  
12          water quality.

13          “(f) ENERGY SECURITY AND LEAKAGE.—Not later  
14          than 18 months after the promulgation of regulations  
15          under subsection (b), the Administrator shall complete a  
16          study to determine the effect of the requirements of such  
17          regulations on energy security. The study shall also assess  
18          the potential shifting of fuel feedstocks and fuel products  
19          internationally as a result of such requirements and shall  
20          determine the environmental and energy security implica-  
21          tions of such leakage.

22          “(g) TRANSITION.—Section 211(o) shall not apply to  
23          fuel sold or introduced into commerce after December 31,  
24          2022. Notwithstanding the preceding sentence, the defini-



1 tions in section 211(o) shall continue to apply except as  
2 otherwise noted.”.

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