

114TH CONGRESS
1ST SESSION

S. _____

To amend the renewable fuel program under section 211(o) of the Clean Air Act to require the cellulosic biofuel requirement to be based on actual production, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. FLAKE introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To amend the renewable fuel program under section 211(o) of the Clean Air Act to require the cellulosic biofuel requirement to be based on actual production, 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 “Phantom Fuel Reform
5 Act”.

1 **SEC. 2. CELLULOSIC BIOFUEL REQUIREMENT.**

2 (a) PROVISION OF ESTIMATE OF VOLUMES OF CEL-
3 LULOSIC BIOFUEL.—Section 211(o)(3)(A) of the Clean
4 Air Act (42 U.S.C. 7545(o)(3)(A)) is amended—

5 (1) by striking “Not later than” and inserting
6 the following:

7 “(i) IN GENERAL.—Not later than”;

8 and

9 (2) by adding at the end the following:

10 “(ii) ESTIMATION METHOD.—

11 “(I) IN GENERAL.—In deter-
12 mining any estimate under clause (i),
13 with respect to the following calendar
14 year, of the projected volume of cellu-
15 losic biofuel production (as described
16 in paragraph (7)(D)(i)), the Adminis-
17 trator of the Energy Information Ad-
18 ministration shall—

19 “(aa) for each cellulosic
20 biofuel production facility that is
21 producing (and continues to
22 produce) cellulosic biofuel during
23 the period of January 1 through
24 October 31 of the calendar year
25 in which the estimate is made (in

1 this clause referred to as the
2 ‘current calendar year’)—

3 “(AA) determine the
4 average monthly volume of
5 cellulosic biofuel produced
6 by such facility, based on
7 the actual volume produced
8 by such facility during such
9 period; and

10 “(BB) based on such
11 average monthly volume of
12 production, determine the
13 estimated annualized volume
14 of cellulosic biofuel produc-
15 tion for such facility for the
16 current calendar year; and

17 “(bb) for each cellulosic
18 biofuel production facility that
19 begins initial production of (and
20 continues to produce) cellulosic
21 biofuel after January 1 of the
22 current calendar year—

23 “(AA) determine the
24 average monthly volume of
25 cellulosic biofuel produced

1 by such facility, based on
2 the actual volume produced
3 by such facility during the
4 period beginning on the date
5 of initial production of cellu-
6 losic biofuel by the facility
7 and ending on October 31 of
8 the current calendar year;
9 and

10 “(BB) based on such
11 average monthly volume of
12 production, determine the
13 estimated annualized volume
14 of cellulosic biofuel produc-
15 tion for such facility for the
16 current calendar year.

17 “(II) TOTAL PRODUCTION.—An
18 estimate under clause (i) with respect
19 to the following calendar year of the
20 projected volume of cellulosic biofuel
21 production (as described in paragraph
22 (7)(D)(i)), shall be equal to the total
23 of the estimated annual volumes of
24 cellulosic biofuel production for all cel-
25 lulosic biofuel production facilities de-

1 scribed in subclause (I) for the cur-
2 rent calendar year.”.

3 (b) REDUCTION IN APPLICABLE VOLUME.—Section
4 211(o)(7)(D)(i) of the Clean Air Act (42 U.S.C.
5 7545(o)(7)(D)(i)) is amended—

6 (1) in the first sentence, by striking “based on
7 the” and inserting “using the exact”; and

8 (2) in the second sentence—

9 (A) by striking “may” and inserting
10 “shall”; and

11 (B) by striking “same or a lesser volume”
12 and inserting “same volume”.

13 (c) DEFINITION OF CELLULOSIC BIOFUEL.—Section
14 211(o)(1)(E) of the Clean Air Act (42 U.S.C.
15 7545(o)(1)(E)) is amended—

16 (1) by striking “The term” and inserting the
17 following:

18 “(i) IN GENERAL.—The term”; and

19 (2) by adding at the end the following:

20 “(ii) EXCLUSIONS.—The term ‘cellu-
21 losic biofuel’ does not include any com-
22 pressed natural gas, liquefied natural gas,
23 or electricity used to power electric vehicles
24 that is produced from biogas from—

25 “(I) a landfill;

1 “(II) a municipal wastewater
2 treatment facility digester;
3 “(III) an agricultural digester; or
4 “(IV) a separated municipal solid
5 waste digester.”.

6 (d) REGULATION OF CELLULOSIC AND ADVANCED
7 FUEL PATHWAYS.—

8 (1) IN GENERAL.—Those provisions of the final
9 rule of the Administrator of the Environmental Pro-
10 tection Agency entitled “Regulation of Fuels and
11 Fuel Additives: RFS Pathways II, and Technical
12 Amendments to the RFS Standards and E15
13 Misfueling Mitigation Requirements” (79 Fed. Reg.
14 42128 (July 18, 2014)) relating to existing and new
15 cellulosic biofuel pathways under the renewable fuel
16 standard under section 211(o) of the Clean Air Act
17 (42 U.S.C. 7545(o)) and that conflict with the
18 amendments made by subsection (c) shall have no
19 force or effect.

20 (2) REISSUANCE.—The Administrator of the
21 Environmental Protection Agency shall reissue the
22 rule described in paragraph (1) to conform the rule
23 to the amendments made by subsection (c).

24 (e) CELLULOSIC BIOFUEL MANDATE.—In section
25 211(o)(2)(B)(i) of the Clean Air Act (42 U.S.C.

- 1 7545(o)(2)(B)(i), in the table following subclause (III),
- 2 strike the applicable volume of cellulosic biofuel (in billions
- 3 of gallons) relating to calendar year 2014.