110TH CONGRESS
1ST SESSION

# S.1324

To amend the Clean Air Act to reduce greenhouse gas emissions from transportation fuel sold in the United States.

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IN THE SENATE OF THE UNITED STATES

MAY 7, 2007

Mr. REID (for Mr. OBAMA (for himself and Mr. HARKIN)) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

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# A BILL

To amend the Clean Air Act to reduce greenhouse gas emissions from transportation fuel sold in the United States.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''National Low-Carbon Fuel Standard Act of 2007''.

**SEC. 2. FINDINGS.**

Congress finds that—

(1) the dependence of the United States on imported oil imposes tremendous burdens on the econ-

omy, foreign policy, and military of the United States;

(2) according to the Energy Information Administration, 60 percent of the crude oil and petroleum products consumed in the United States are imported;

(3) at a cost of approximately $75 per barrel of oil, people in the United States remit more than $600,000 per minute to other countries for crude oil and petroleum imports;

(4) a significant percentage of those imports originate in countries controlled by regimes that are unstable or openly hostile to the interests of the United States;

(5) dependence on oil production from those countries contributes to the volatility of domestic and global markets and corresponding increase in oil prices paid by consumers in the United States (commonly known as a ''risk premium'');

(6) the Energy Information Administration projects that the total petroleum demand in the United States will increase by 23 percent between 2006 and 2026, while domestic crude oil production is expected to decrease by 11 percent, resulting in

an anticipated 28-percent increase in petroleum imports;

(7) absent significant action, the United States will become more vulnerable to oil price increases and more dependent on foreign oil;

(8) ⅔ of all domestic oil use occurs in the transportation sector, which is 97 percent reliant on petroleum-based fuels;

(9) passenger vehicles, including light trucks under 10,000 pounds gross vehicle weight, represent more than 60 percent of the oil used in the transportation sector;

(10) the oil used in the transportation sector accounts for approximately ⅓ of the emissions in the United States of the greenhouse gases that cause global warming;

(11) to avoid catastrophic global warming, the United States should take decisive action, in conjunction with other countries, to reduce greenhouse gas emissions by 60 to 80 percent from 1990 levels by 2050;

(12) transitioning the transportation sector in the United States to a more efficient use of low-carbon petroleum alternatives is essential both to increasing domestic energy security and reducing glob-

al warming pollution, but that transition must be accomplished while avoiding adverse impacts on the environment; and

(13) it is urgent, essential, and feasible to reduce emissions of greenhouse gases, enhance national security by reducing dependence on oil, and promote economic well-being without sacrificing land, water, and air quality by enacting energy policies that motivate environmental performance.

**SEC. 3. RENEWABLE FUEL STANDARD.**

The table contained in section 211(o)(2)(B)(i) of the Clean Air Act (42 U.S.C. 7545(o)(2)(B)(i)) is amended—

(1) in the row expressing applicable volume of renewable fuel (in billions of gallons) for calendar year 2009, by striking ''6.1'' and inserting ''12.0'';

(2) in the row expressing applicable volume of renewable fuel (in billions of gallons) for calendar year 2010, by striking ''6.8'' and inserting ''13.0'';

(3) in the row expressing applicable volume of renewable fuel (in billions of gallons) for calendar year 2011, by striking ''7.4'' and inserting ''14.0''; and

(4) in the row expressing applicable volume of renewable fuel (in billions of gallons) for calendar year 2012, by striking ''7.5'' and inserting ''15.0''.

**SEC. 4. NATIONAL LOW-CARBON FUEL STANDARD.**

(a) DEFINITIONS.—Section 241 of the Clean Air Act (42 U.S.C. 7581) is amended—

(1) by striking ''For purposes of this part—'' and inserting ''In this part:'';

(2) by redesignating paragraphs (1), (2), (3), (4), (5), (6), and (7) as paragraphs (12), (2), (10), (1), (4), (5), and (3), respectively, and moving those paragraphs so as to appear in numerical order;

(3) by inserting after paragraph (5) (as redesignated by paragraph (2)) the following:

''(6) FUEL EMISSION BASELINE.—The term 'fuel emission baseline' means the average lifecycle greenhouse gas emissions per unit of energy of the average of conventional transportation fuels in commerce in the United States during the period of calendar years 2005 through 2007.

''(7) GREENHOUSE GAS.—The term 'greenhouse gas' means any of—

''(A) carbon dioxide;

''(B) methane;

''(C) nitrous oxide;

''(D) hydrofluorocarbons;

''(E) perfluorocarbons; and

''(F) sulfur hexafluoride.

''(8) LIFECYCLE GREENHOUSE GAS EMISSIONS.—The term 'lifecycle greenhouse gas emissions' means, with respect to a fuel, the aggregate quantity of greenhouse gases emitted during production, feedstock extraction, distribution, and use of the fuel, as determined by the Administrator.

''(9) LOW-CARBON FUEL.—

''(A) IN GENERAL.—The term 'low-carbon fuel' means fuel produced, to the maximum extent practicable, in the United States—

''(i) that meets the requirements of an appropriate American Society for Testing and Materials standard; and

''(ii) the lifecycle greenhouse gas emissions of which are lower than the fuel emission baseline, as determined by the Administrator.

''(B) EXCLUSIONS.—The term 'low-carbon fuel' does not include fuel produced from biomass derived from—

''(i) designated national interest land (such as land included in a national wildlife refuge, national park, national monument, national forest, or national grassland); or

"(ii) any—

"(I) old-growth forest;

"(II) roadless area within a national forest;

"(III) wilderness study area;

"(IV) protected native grassland; or

"(V) lawfully designated intact, rare, threatened, or endangered ecosystem."; and

(4) by inserting after paragraph (10) (as redesignated by paragraph (2)) the following:

"(11) OBLIGATED PARTY.—

"(A) IN GENERAL.—The term 'obligated party' means an obligated party as described in section 80.1106 of title 40, Code of Federal Regulations (or a successor regulation).

"(B) RELATED TERM.—The term 'any and all of the products', when used with respect to an obligated party, means diesel and aviation fuel to be included in the volume used to calculate the requirements applicable to the obligated party under section 250.".

(b) NATIONAL LOW-CARBON FUEL STANDARD.—Part C of title II of the Clean Air Act (42 U.S.C. 7581 et seq.) is amended—

(1) by redesignating section 250 (42 U.S.C. 7590) as section 251; and

(2) by inserting after section 249 (42 U.S.C. 7589) the following:

**"SEC. 250. NATIONAL LOW-CARBON FUEL STANDARD.**

''(a) IN GENERAL.—Not later than January 1, 2009, the Administrator shall, by regulation—

''(1) establish a fuel emission baseline based on the average lifecycle greenhouse gas emissions per unit of energy of the average of conventional transportation fuels in commerce in the United States during the period of calendar years 2005 through 2007;

''(2) identify qualifying low-carbon transportation fuels based on—

''(A) whether the lifecycle greenhouse gas emissions of a fuel are lower, per unit of energy delivered by use of a specific quantity of the fuel, than the fuel emission baseline, including the percentage greenhouse gas emission reduction provided by the fuel to the fuel emission baseline;

"(B) whether a fuel—

"(i) achieves a substantial reduction in petroleum content over the lifecycle of the fuel; and

"(ii) otherwise contributes to the energy security of the United States; and

"(C) with respect to calculation of the lifecycle greenhouse gas emissions of the fuels used in vehicles that run on electricity or a hydrogen fuel, the quantity of energy delivered by use of the fuel, which shall be determined by calculating the product obtained by multiplying—

"(i) a unit of energy delivered by use of the electricity or hydrogen fuel; and

"(ii) an adjustment factor determined by the Administrator to reflect the substantial lifecycle greenhouse gas benefits of using the electricity or hydrogen fuel, on a per-mile basis, resulting from reasonably anticipated energy efficiency of an average—

"(I) battery electric vehicle;

"(II) plug-in hybrid electric vehicle; or

''(III) hydrogen fuel cell vehicle; and

''(3) establish a low-carbon fuel certification and marketing process—

''(A) to certify fuels that qualify as low-carbon fuels under this section;

''(B) to make those certifications available to consumers; and

''(C) to label and market low-carbon fuels.

''(b) ENVIRONMENTAL SUSTAINABILITY STANDARDS.—Not later than January 1, 2012, the Administrator shall also identify qualifying low-carbon transportation fuels based on environmental sustainability standards established under section 211(t)(2)(B).

''(c) REQUIREMENTS APPLICABLE TO OBLIGATED PARTIES.—

''(1) REQUIREMENTS.—

''(A) CALENDAR YEARS 2010 THROUGH 2024.—Not later than January 1, 2010, the Administrator shall, by regulation, require each obligated party to reduce, through the use of low-carbon fuels and improvements in the production of conventional fuels, the average lifecycle greenhouse gas emissions per unit of energy of the aggregate quantity of fuels intro-

duced into commerce by the obligated party to a level that is, as determined by the Administrator, to the maximum extent practicable—

"(i) by calendar year 2011, substantially equivalent to the fuel emission baseline;

"(ii) by calendar year 2015, substantially equivalent to at least 5 percent below the fuel emission baseline; and

"(iii) by calendar year 2020, substantially equivalent to at least 10 percent below the fuel emission baseline.

"(B) CALENDAR YEAR 2025 AND THEREAFTER.—For calendar year 2025, and by not later than each fifth calendar year thereafter, the Administrator shall, by regulation, require each obligated party to reduce the average lifecycle greenhouse gas emissions per unit of energy of the aggregate quantity of fuels introduced into commerce by the obligated party to a level that is, as determined by the Administrator, at least 13 percent below the fuel emission baseline (with respect to calendar year 2025), and at least 2 percent below the most recent percentage reduction (with respect to

each fifth calendar year thereafter), unless the Administrator, in coordination with the Secretary of Agriculture and the Secretary of Energy, establishes an alternative required percentage reduction based on—

''(i) a review of the implementation of this paragraph during the period of calendar years 2010 through 2020;

''(ii) the expected annual rate of future production of low-carbon fuel, and Category I ultra-low carbon fuel and Category II ultra-low carbon fuel (as those terms are defined in subsection (p)); and

''(iii) the practicability of complying with environmental sustainability standards referred to in subsection (b).

''(2) FAILURE TO PROMULGATE REGULATIONS.—If the Administrator does not promulgate regulations in accordance with this subsection, the average lifecycle greenhouse gas emissions of the aggregate quantity of fuel introduced by an obligated party for calendar year 2012 shall be at least 3 percent below the average lifecycle greenhouse gas emissions of gasoline in commerce in the United States during calendar year 2007.

''(3) TEMPORARY SUSPENSION.—An obligated party may apply to the Administrator to receive a temporary suspension of the requirement to comply with this subsection if the obligated party demonstrates to the satisfaction of the Administrator that events outside of the control of the obligated party could lead or have led to supply disruptions in the transportation fuel supply of the United States.

''(4) ENFORCEMENT; PENALTIES.—In carrying out this subsection, the Administrator—

''(A) shall enforce this subsection in accordance with the authority of the Administrator to enforce this Act; and

''(B) may commence a civil action and assess and collect penalties in accordance with the amounts and under the authority described in section 205.

''(d) CREDITS.—

''(1) IN GENERAL.—The regulations promulgated to carry out this section shall permit obligated parties to receive credits for achieving, during a calendar year, greater reductions in lifecycle greenhouse gas emissions of the fuel produced, distributed, or imported by the obligated party than are required under subsection (c).

''(2) METHOD OF CALCULATION.—The number of credits received by an obligated party described in paragraph (1) for a calendar year shall be calculated by multiplying—

''(A) the aggregate quantity of fuel produced, distributed, or imported by the obligated party in the calendar year; and

''(B) the difference between—

''(i) the lifecycle greenhouse gas emissions of that quantity of fuel; and

''(ii) the maximum lifecycle greenhouse gas emissions of that quantity of fuel permitted for the calendar year under subsection (c).''.

**SEC. 5. ULTRA-LOW CARBON FUEL STANDARD.**

(a) IN GENERAL.—Section 211 of the Clean Air Act (42 U.S.C. 7545) is amended—

(1) by redesignating the first subsection (r) (relating to fuel and fuel additive importers and importation) as subsection (v) and moving that subsection so as to appear at the end of the section; and

(2) by inserting after subsection (o) the following:

''(p) ULTRA-LOW CARBON FUEL STANDARD.—

"(1) DEFINITIONS.—In this subsection and subsection (t):

"(A) CATEGORY I ULTRA-LOW CARBON FUELS.—

"(i) IN GENERAL.—The term 'Category I ultra-low carbon fuel' means fuel produced in the United States—

"(I) that meets the requirements of an appropriate American Society for Testing and Materials standard; and

"(II) the lifecycle greenhouse gas emissions of which are at least 50 percent lower than the average lifecycle greenhouse gas emissions of conventional transportation fuel, as determined by the Administrator.

"(ii) EXCLUSIONS.—The term 'Category I ultra-low carbon fuel' does not include fuel produced from biomass derived from—

"(I) designated national interest land (such as land included in a national wildlife refuge, national park,

national monument, national forest, or national grassland); or

"(II) any—

"(aa) old-growth forest;

"(bb) roadless area within a national forest;

"(cc) wilderness study area;

"(dd) protected native grassland; or

"(ee) lawfully-designated intact, rare, threatened, or endangered ecosystem.

"(B) CATEGORY II ULTRA-LOW CARBON FUEL.—

"(i) IN GENERAL.—The term 'Category II ultra-low carbon fuel' means any fuel produced in the United States—

"(I) that meets the requirements of an appropriate American Society for Testing and Materials standard; and

"(II) the average lifecycle greenhouse gas emissions of which are at least 75 percent lower than the average lifecycle greenhouse gas emissions

of conventional transportation fuel, as determined by the Administrator.

''(ii) EXCLUSIONS.—The term 'Category II ultra-low carbon fuel' does not include fuel produced from biomass derived from—

''(I) designated national interest land (such as land included in a national wildlife refuge, national park, national monument, national forest, or national grassland); or

''(II) any—

''(aa) old-growth forest;

''(bb) roadless area within a national forest;

''(cc) wilderness study area;

''(dd) protected native grassland; or

''(ee) lawfully designated intact, rare, threatened, or endangered ecosystem.

''(C) CONVENTIONAL TRANSPORTATION FUEL.—The term 'conventional transportation fuel' means any fossil-fuel based transportation

fuel used in the United States as of the date of enactment of this subsection.

"(D) LOW-CARBON FUEL.—The term 'low-carbon fuel' has the meaning given the term in section 241.

"(2) ULTRA-LOW CARBON FUEL.—

"(A) REGULATIONS.—

"(i) IN GENERAL.—Not later than 3 years after the date of enactment of this subsection, the Administrator shall promulgate regulations to ensure that fuel sold or introduced into commerce in the United States (except in noncontiguous States or territories), on an annual average basis, contains at least the applicable volume of ultra-low carbon fuel determined in accordance with subparagraph (B).

"(ii) PROVISIONS OF REGULATIONS.—Regardless of the date of promulgation, the regulations promulgated under clause (i)—

"(I) shall contain compliance provisions applicable to obligated parties, as appropriate, to ensure that the re-

quirements of this paragraph are met; but

"(II) shall not—

"(aa) restrict geographic areas in which low-carbon transportation fuel and ultra-low carbon fuel may be used; or

"(bb) impose any per-gallon obligation for the use of those fuels.

"(B) APPLICABLE VOLUME.—

"(i) CALENDAR YEARS 2012 THROUGH 2025.—For the purpose of subparagraph (A), the applicable volume of Category I ultra-low carbon fuel and Category II ultra-low carbon fuel for any of calendar years 2012 through 2025 shall be determined in accordance with the following table:

| Calendar Year | Total applicable volume of Category I ultra-low carbon fuel (billions of gallons) | Total applicable volume of Category II ultra-low carbon fuel (billions of gallons) |
|---|---|---|
| 2012 | 0.5 | 0.25 |
| 2014 | 1.5 | 0.75 |
| 2016 | 3.0 | 1.5 |
| 2018 | 5.0 | 2.5 |
| 2020 | 8.0 | 4.0 |
| 2022 | 11.0 | 6.0 |
| 2025 | 13.0 | 8.0 |

"(ii) CALENDAR YEAR 2026 AND THEREAFTER.—Subject to clause (iii), the applicable volume for calendar year 2026 and each calendar year thereafter shall be determined by the Administrator, in coordination with the Secretary of Agriculture and the Secretary of Energy, based on a review of the implementation of the program under this subsection during the period of calendar years 2012 through 2025, including a review of—

"(I) the impact of the use of Category I ultra-low carbon fuel and Category II ultra-low carbon fuel on—

"(aa) environmental sustainability standards established under subsection (t)(2)(B);

"(bb) energy security; and

"(cc) job creation; and

"(II) the expected annual rate of future production of those fuels for use as blending components or replacements for a certain quantity of conventional fuel in the United States.

"(iii) MINIMUM APPLICABLE VOLUME.—For the purpose of subparagraph (A), the applicable volume for calendar year 2026 and each calendar year thereafter shall be equal to the product obtained by multiplying—

"(I) the number of gallons of conventional transportation fuel that the Administrator estimates will be sold or introduced into commerce during the calendar year; and

"(II) the ratio that—

"(aa) for the applicable volume of Category I ultra-low carbon fuel, 13,000,000,000 gallons of that fuel bears to the total number of gallons of conventional transportation fuel sold or introduced into commerce in the United States in calendar year 2025; and

"(bb) for the applicable volume of Category II ultra-low carbon fuel, 8,000,000,000 gallons of that fuel bears to the total

number of gallons of conventional transportation fuel sold or introduced into commerce in the United States in calendar year 2025.

"(3) APPLICABLE PERCENTAGES.—

"(A) PROVISION OF ESTIMATE OF VOLUMES OF CONVENTIONAL FUELS SALES.—Not later than October 31 of each of calendar years 2011 through 2025, the Administrator of the Energy Information Administration shall provide to the Administrator an estimate, with respect to the following calendar year, of the volumes of conventional fuels projected to be sold or introduced into commerce in the United States.

"(B) DETERMINATION OF APPLICABLE PERCENTAGES.—

"(i) IN GENERAL.—Not later than November 30 of each of calendar years 2012 through 2025, based on the estimate provided under subparagraph (A), the Administrator shall determine and publish in the Federal Register, with respect to the following calendar year, the fuel obligations

that would meet the requirements of paragraph (2).

''(ii) REQUIRED ELEMENTS.—The fuel obligations determined for a calendar year under clause (i) shall—

''(I) subject to subparagraph (C), be applicable to obligated parties, as appropriate; and

''(II) be expressed in terms of a volume percentage of conventional fuels sold or introduced into commerce in the United States.

''(C) ADJUSTMENTS.—In determining the applicable percentage for a calendar year, the Administrator shall make adjustments to prevent the imposition of redundant obligations on any obligated party.

''(4) CREDIT PROGRAM.—

''(A) IN GENERAL.—The regulations promulgated pursuant to paragraph (2)(A) shall provide for the generation of an appropriate quantity of credits by obligated parties that includes a quantity of Category I ultra-low carbon fuel or Category II ultra-low carbon fuel that is

greater than the applicable quantity required under paragraph (2).

''(B) USE OF CREDITS.—A person that generates a credit under subparagraph (A) may use the credit, or transfer all or a portion of the credit to another person, for the purpose of complying with regulations promulgated pursuant to paragraph (2)(A).

''(C) DURATION OF CREDITS.—A credit generated under this paragraph shall be valid—

''(i) during the calendar year in which the credit was generated; and

''(ii) for the 2-year period following that calendar year.

''(D) INABILITY TO GENERATE OR PURCHASE SUFFICIENT CREDITS.—The regulations promulgated pursuant to paragraph (2)(A) shall include provisions allowing any person that is unable to generate or purchase sufficient credits under subparagraph (A) to meet the requirements of paragraph (2) by carrying forward a credit generated during a previous year on the condition that the person, during the calendar year following the year in which the ultra-low carbon fuel deficit is created—

''(i) achieves compliance with the fuel requirements under paragraph (2); and

''(ii) generates or purchases additional credits under subparagraph (A) to offset the deficit of the previous year.

''(5) WAIVERS.—

''(A) IN GENERAL.—The Administrator, in consultation with the Secretary of Agriculture and the Secretary of Energy, may waive the requirements of paragraph (2), in whole or in part, on receipt of a petition of 1 or more States by reducing the national quantity of Category I ultra-low carbon fuel or Category II ultra-low carbon fuel in the conventional transportation fuel pool required under paragraph (2) based on a determination by the Administrator, after public notice and opportunity for comment, that—

''(i) implementation of the requirement would severely harm the economy or environment of a State, a region, or the United States; or

''(ii) there is an inadequate domestic supply of the applicable ultra-low carbon fuel.

''(B) PETITIONS FOR WAIVERS.—Not later than 90 days after the date on which the Administrator receives a petition under subparagraph (A), the Administrator, in consultation with the Secretary of Agriculture and the Secretary of Energy, shall approve or disapprove the petition.

''(C) TERMINATION OF WAIVERS.—

''(i) IN GENERAL.—Except as provided in clause (ii), a waiver under subparagraph (A) shall terminate on the date that is 1 year after the date on which the waiver is provided.

''(ii) EXCEPTION.—The Administrator, in consultation with the Secretary of Agriculture and the Secretary of Energy, may extend a waiver under subparagraph (A), as the Administrator determines to be appropriate.''.

(b) CREDIT FOR CELLULOSIC ETHANOL.—Section 211(o)(4) of the Clean Air Act (42 U.S.C. 7545(o)(4)) is amended by inserting ''through calendar year 2017,'' before ''1 gallon''.

(c) PERFORMANCE STANDARDS.—Section 211 of the Clean Air Act (42 U.S.C. 7545) is amended by inserting after subsection (s) the following:

''(t) PERFORMANCE STANDARDS.—

''(1) INTENSITY AND INDEX NUMBERS.—Not later than 2 years after the date of enactment of this subsection, the Administrator shall establish, for fuels blended with low-carbon fuel, and Category I ultra-low carbon fuel and Category II ultra-low carbon fuel, as part of the renewable identification number program of the Environmental Protection Agency—

''(A) a carbon intensity number measured in the quantity of lifecycle greenhouse gas emissions per unit of energy provided by use of the fuel; and

''(B) a green index number representing the percentage reduction of greenhouse gas emissions achieved by the fuel as compared to the fuel emission baseline (as defined in section 241).

''(2) ENVIRONMENTAL SUSTAINABILITY STUDY.—

''(A) IN GENERAL.—Not later than 3 years after the date of enactment of this subsection,

the Administrator, in conjunction with the Secretary of Agriculture and the Secretary of Energy, and based on recommendations issued by the National Academy of Sciences, the Food and Agricultural Policy Research Institute, and not more than 2 other appropriate independent research institutes, as determined by the Administrator, shall establish a methodology to assess and quantify environmental changes associated with an increase in the volume of fuels required by this section, as compared with the effects of an increase in conventional transportation fuels otherwise displaced by this section, as applicable, for the purpose of negating overall adverse environmental impacts, particularly with respect to the effects on or changes in—

"(i) land, air, and water quality, and quality of other resources, including changes resulting from production, handling, and transportation of fuel (and associated effects on public health and safety);

"(ii) land use patterns;

"(iii) the rate of deforestation, in the United States and globally;

"(iv) areas containing significant concentrations of biodiversity values (including endemism, endangered species, high species richness, and refugia), including habitats in which any alteration of the habitat would render the habitat unable to support most characteristic native species and ecological processes;

"(v) land enrolled in the conservation reserve program established under subchapter B of chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3831 et seq.) or the wetlands reserve program established under subchapter C of chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3837 et seq.);

"(vi) the long-term capacity of the United States to produce biomass feedstocks;

"(vii) the impact on areas at risk of wildfire, including the vicinity of buildings and other areas regularly occupied by people, or of infrastructure;

"(viii) the effects on materials produced, acquired, transported, or processed that would require an exemption from otherwise applicable Federal law (including regulations);

"(ix) the conversion of nonrenewable biomass into biofuel;

"(x) the conversion of biowaste and other wastes into fuels (as compared with use of those wastes for other beneficial purposes (such as recycling postconsumer waste paper), and any potential for the generation of toxic byproducts resulting from that conversion (such as painted, treated, or pressurized wood, or wood contaminated with plastic or metals);

"(xi) designated national interest land (including land that is within the National Wildlife Refuge System, the National Park System, a National Monument, the National Wilderness Preservation System, the National Landscape Conservation System, or the National Forest System, or that is otherwise under the administrative jurisdiction of the Secretary of the Interior or

Secretary of Agriculture or protected by Federal law); and

''(xii) such other matters or activities as are identified by the Administrator.

''(B) ENVIRONMENTAL SUSTAINABILITY STANDARDS.—Not later than January 1, 2012, the Administrator, in conjunction with the Secretary of Agriculture and the Secretary of Energy, shall, based on the methodology established under subparagraph (A), promulgate regulations to establish a set of standards to minimize, to the maximum extent practicable, the negative environmental impacts and ensure long term resource sustainability from the sourcing and production of low-carbon fuels.

''(u) STATE AUTHORITY.—If the Administrator determines that a State law (including a regulation) provides for equivalent or greater greenhouse gas emission reductions than any provision in section 250 or subsection (p) or (t) of this section, the State law shall apply in the State in lieu of the provision.''.

(d) PENALTIES AND ENFORCEMENT.—Section 211(d) of the Clean Air Act (42 U.S.C. 7545(d)) is amended—

(1) in paragraph (1), by striking ''or (o)'' each place it appears and inserting ''(o), or (p)''; and

(2) in paragraph (2), by striking ''and (o)'' each place it appears and inserting ''(o), and (p)''.

(e) TECHNICAL AMENDMENTS.—Section 211 of the Clean Air Act (42 U.S.C. 7545) is amended—

(1) in subsection (i)(4), by striking ''section 324'' each place it appears and inserting ''section 325'';

(2) in subsection (k)(10), by indenting subparagraphs (E) and (F) appropriately;

(3) in subsection (n), by striking ''section 219(2)'' and inserting ''section 216(2)''; and

(4) in subsection (s)(1), by striking ''this subtitle'' and inserting ''this part''.

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