

111TH CONGRESS
2D SESSION

S. 3379

To amend the Clean Air Act to reduce carbon pollution and create clean energy jobs.

IN THE SENATE OF THE UNITED STATES

MAY 17, 2010

Mrs. BOXER introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

A BILL

To amend the Clean Air Act to reduce carbon pollution and create clean energy jobs.

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 “Pollution and Costs
5 Reduction Act”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

8 (1) actions taken to reduce greenhouse gas
9 emissions and emissions of other air pollutants, as
10 defined in section 302 of the Clean Air Act (42

1 U.S.C. 7602), will spur investments that create new
 2 jobs and foster innovation and entrepreneurship in
 3 clean technology industries; and

4 (2) on April 2, 2007, in *Massachusetts v. EPA*,
 5 549 U.S. 497 (2007), the Supreme Court held that
 6 greenhouse gases are air pollutants, as defined in
 7 section 302 of the Clean Air Act (42 U.S.C. 7602).

8 **SEC. 3. BUILDING POLLUTION REDUCTION PROGRAM.**

9 Section 105 of the Clean Air Act (42 U.S.C. 7405)
 10 is amended by adding at the end the following:

11 “(f) BUILDING POLLUTION REDUCTION PROGRAM.—

12 “(1) DEFINITIONS.—In this subsection:

13 “(A) AIR POLLUTANT.—The term ‘air pol-
 14 lutant’ has the meaning given the term in sec-
 15 tion 302.

16 “(B) GREENHOUSE GASES.—The term
 17 ‘greenhouse gases’ means carbon dioxide, meth-
 18 ane, nitrous oxide, hydrofluorocarbons, perfluo-
 19 rocarbons, and sulfur hexafluoride.

20 “(C) GREENHOUSE GAS EMISSIONS.—The
 21 term ‘greenhouse gas emissions’ means—

22 “(i) direct greenhouse gas emissions
 23 from sources that are owned or controlled
 24 by an owner of a building; and

1 “(ii) indirect greenhouse gas emis-
2 sions resulting from the generation of elec-
3 tricity, heat, or steam purchased by the
4 owner of a building.

5 “(D) RENEWABLE BIOMASS.—The term
6 ‘renewable biomass’ has the meaning given the
7 term in section 211(o)(1).

8 “(2) PROGRAM.—The Administrator shall es-
9 tablish and carry out a program, to be known as the
10 ‘Building Pollution Reduction Program’, to provide
11 assistance to owners of buildings in the United
12 States to reduce the emission of air pollutants and
13 building operating costs by—

14 “(A) constructing highly efficient buildings
15 in the United States; or

16 “(B) increasing the efficiency of and re-
17 ducing the greenhouse gas emissions associated
18 with existing buildings in the United States.

19 “(3) REQUIREMENTS.—The Administrator shall
20 provide assistance under this section to owners of
21 buildings in the United States based on the extent
22 to which projects relating to the buildings of the
23 owners result in verifiable, additional, and enforce-
24 able reductions in emissions of air pollutants
25 through operational improvements such as—

- 1 “(A) improved energy efficiency;
- 2 “(B) increased water-use efficiency;
- 3 “(C) use of renewable energy sources; and
- 4 “(D) such additional measures, as deter-
- 5 mined by the Administrator, as will result in a
- 6 measurable decrease in emissions of air pollut-
- 7 ants.

8 “(4) PRIORITY.—In providing assistance under

9 this subsection, the Administrator shall give priority

10 to projects that—

11 “(A) achieve the following minimum scores

12 as evaluated by energy performance bench-

13 marking tools—

14 “(i) in new or renovated buildings

15 that demonstrate exemplary performance

16 by achieving—

17 “(I) a minimum score of 75 on

18 the benchmarking tool of the Energy

19 Star program established by section

20 324A of the Energy Policy and Con-

21 servation Act (42 U.S.C. 6294a); or

22 “(II) an equivalent score on an

23 established energy performance bench-

24 marking metric selected by the Ad-

25 ministrator, such as the metric used

1 for the National Building Rating Pro-
2 gram of the Department of Energy;
3 and

4 “(ii) in retrofitted existing buildings
5 that demonstrate—

6 “(I) substantial improvement in
7 the score or rating on the bench-
8 marking tool described in clause (i) by
9 a minimum of 30 points; or

10 “(II) an equivalent improvement
11 using an established performance
12 benchmarking metric selected by the
13 Administrator;

14 “(B) are completed by building owners
15 with a proven track record of reducing pollution
16 through the measures described in paragraph
17 (3); and

18 “(C) result in measurable pollution reduc-
19 tion benefits not encompassed within the
20 metrics of the Energy Star program described
21 in subparagraph (A)(i)(I).

22 “(5) AUTHORIZATION OF APPROPRIATIONS.—
23 There is authorized to be appropriated to the Ad-
24 ministrator to carry out this section \$50,000,000 for
25 each of fiscal years 2011 through 2015.”.

1 **SEC. 4. ADVANCED BIOFUELS.**

2 (a) FINDINGS.—Congress finds that—

3 (1) according to the Environmental Protection
4 Agency, the transportation sector is responsible for
5 a significant quantity of the greenhouse gas emis-
6 sions of the United States;

7 (2) advanced, environmentally sustainable bio-
8 fuels can help promote a safe, secure, and domestic
9 source of low-carbon fuels that reduce the emissions
10 of pollutants (as defined in section 302 of the Clean
11 Air Act (42 U.S.C. 7602)); and

12 (3) such biofuels can—

13 (A) help the United States reduce green-
14 house gas emissions, which are considered to be
15 air pollutants under section 302 of that Act (42
16 U.S.C. 7602); and

17 (B) benefit consumers and environmental
18 quality.

19 (b) DEFINITION OF ADVANCED GREEN BIOFUEL.—
20 Section 211(o)(1) of the Clean Air Act (42 U.S.C.
21 7545(o)(1)) is amended—

22 (1) by redesignating subparagraphs (C) through
23 (L) as subparagraphs (D) through (M), respectively;
24 and

25 (2) by inserting after subparagraph (B) the fol-
26 lowing:

1 “(C) ADVANCED GREEN BIOFUEL.—The
2 term ‘advanced green biofuel’ means an ad-
3 vanced biofuel that the Administrator deter-
4 mines—

5 “(i) has lifecycle greenhouse gas emis-
6 sions that are at least 60 percent less than
7 the baseline lifecycle greenhouse gas emis-
8 sions;

9 “(ii) is made from advanced renewable
10 biomass; and

11 “(iii) minimizes biorefinery water re-
12 quirements to the maximum extent achiev-
13 able, taking into consideration costs and
14 other appropriate factors.”.

15 (c) ADVANCED BIOFUELS.—Section 211 of the Clean
16 Air Act (42 U.S.C. 7545) is amended by inserting after
17 subsection (o) the following:

18 “(p) ADVANCED BIOFUELS.—

19 “(1) DEFINITION OF ADVANCED RENEWABLE
20 BIOMASS.—In this subsection:

21 “(A) ADVANCED RENEWABLE BIOMASS.—

22 The term ‘advanced renewable biomass’ means
23 renewable biomass that is produced using sus-
24 tainable practices, as determined by the Admin-
25 istrator, in consultation with the Secretary of

1 Agriculture, taking into consideration factors
2 such as—

3 “(i) the maintenance and enhance-
4 ment of the quality and productivity of the
5 soil;

6 “(ii) the conservation of soil, water,
7 energy, natural resources, and fish and
8 wildlife habitat;

9 “(iii) the maintenance and enhance-
10 ment of the quality of surface water and
11 groundwater;

12 “(iv) the protection of the health and
13 safety of individuals involved in the pro-
14 duction system;

15 “(v) the promotion of the well-being of
16 animals;

17 “(vi) the increase in employment op-
18 portunities in the agricultural sector; and

19 “(vii) prevention of the introduction of
20 invasive species, including consideration of
21 a review by the Invasive Species Council
22 established by Executive Order 13112 (64
23 Fed. Reg. 6183 (February 3, 1999)).

24 “(B) PROGRAM.—The term ‘Program’
25 means the 1,000,000,000-Gallon Challenge

1 Grant Program established under paragraph
2 (2)(A).

3 “(C) RENEWABLE BIOMASS.—The term
4 ‘renewable biomass’ has the meaning given the
5 term in subsection (o)(1).

6 “(2) 1,000,000,000-GALLON CHALLENGE
7 GRANT PROGRAM.—

8 “(A) ESTABLISHMENT.—The Adminis-
9 trator shall establish within the Environmental
10 Protection Agency a program, to be known as
11 the ‘1,000,000,000-Gallon Challenge Grant
12 Program’, under which the Administrator shall
13 provide grants in accordance with this sub-
14 section.

15 “(B) APPLICATIONS.—

16 “(i) IN GENERAL.—During each cal-
17 endar year for the period described in
18 clause (ii), the Administrator shall solicit
19 applications for grants under the Program
20 from owners and operators of projects
21 that, as determined by the Administrator,
22 have the potential, in the aggregate, to
23 produce up to 500,000,000 gallons in an-
24 nual domestic production capacity of ad-
25 vanced green biofuels.

1 “(ii) DESCRIPTION OF PERIOD.—The
2 period referred to in clause (i) is the period
3 that—

4 “(I) begins on the date of estab-
5 lishment of the Program; and

6 “(II) ends on the date on which,
7 as determined by the Administrator,
8 the Program supports projects that
9 have the potential to produce, or are
10 producing, not less than
11 1,000,000,000 gallons in annual do-
12 mestic production capacity of ad-
13 vanced green biofuels.

14 “(iii) ADJUSTMENTS.—

15 “(I) DEFINITION OF ADJUST-
16 MENT PERIOD.—In this clause, the
17 term ‘adjustment period’ means the
18 period that—

19 “(aa) begins on the date of
20 establishment of the Program;
21 and

22 “(bb) ends on the earlier of,
23 as determined by the Adminis-
24 trator—

1 “(AA) the date on
2 which the Program supports
3 projects that have the poten-
4 tial to produce, or are pro-
5 ducing, not less than
6 1,000,000,000 gallons in an-
7 nual domestic production ca-
8 pacity of advanced green
9 biofuels; and

10 “(BB) the date on
11 which the Program achieves
12 the annual domestic produc-
13 tion capacity targets of the
14 Program.

15 “(II) SOLICITATION OF APPLICA-
16 TIONS.—For any calendar year during
17 the adjustment period for which an
18 application for a grant under the Pro-
19 gram is withdrawn, or for which a re-
20 cipient of a grant under the Program
21 fails to meet the domestic production
22 capacity targets of the recipient (as
23 determined by the Administrator), the
24 Administrator shall solicit additional

1 applications for grants under the Pro-
2 gram.

3 “(iv) APPLICATION POLICY.—The
4 grant solicitation process of the Program
5 shall provide for, as determined by the Ad-
6 ministrator—

7 “(I) simplified, standardized, and
8 timely solicitation of applications; and

9 “(II) a simplified, standardized
10 funding process that requires—

11 “(aa) timely receipt and re-
12 view of applications; and

13 “(bb) protection of propri-
14 etary information provided in ap-
15 plications.

16 “(C) TYPES OF GRANTS.—In carrying out
17 the Program, the Administrator shall provide 4
18 types of grants, as follows:

19 “(i) RESEARCH AND DEVELOPMENT
20 GRANTS.—

21 “(I) IN GENERAL.—A research
22 and development grant may be pro-
23 vided under the Program to a project
24 that, as determined by the Adminis-
25 trator, will assist biofuel developers in

1 producing advanced green biofuels by
2 facilitating—

3 “(aa) the development of
4 technologies to produce advanced
5 green biofuels;

6 “(bb) the creation of tech-
7 nologies used in facilities that
8 produce advanced green biofuels;
9 or

10 “(cc) the production of ad-
11 vanced green biofuels, including
12 renewable biomass.

13 “(II) LIMITATION.—The amount
14 of a research and development grant
15 provided under the Program shall not
16 exceed the lesser of—

17 “(aa) an amount equal to 80
18 percent of the cost of the project;
19 or

20 “(bb) \$2,000,000.

21 “(ii) PLANNING GRANTS.—

22 “(I) IN GENERAL.—A planning
23 grant may be provided under the Pro-
24 gram to a project that, as determined
25 by the Administrator, will assist

1 biofuel developers in producing ad-
2 vanced green biofuels by facilitating
3 the development and finalization of
4 project plans and contracts that dem-
5 onstrate that the project—

6 “(aa) has the potential for
7 commercial viability; and

8 “(bb) is likely to be oper-
9 ational by not later than 3 years
10 after the date on which the plan-
11 ning grant is provided.

12 “(II) LIMITATION.—The amount
13 of a planning grant provided under
14 the Program shall not exceed the less-
15 er of—

16 “(aa) an amount equal to 80
17 percent of the cost of the project;
18 or

19 “(bb) \$2,000,000.

20 “(iii) TRANSLATIONAL GRANTS.—

21 “(I) IN GENERAL.—A transla-
22 tional grant, which helps to create
23 successful technological innovations
24 and the commercial use of those inno-
25 vations, may be provided under the

1 Program to a project that, as deter-
2 mined by the Administrator, will as-
3 sist biofuel developers in producing
4 advanced green biofuels, including
5 from the development of a basic
6 proof-of-concept for the project to the
7 establishment of a pilot-scale ad-
8 vanced green biofuel production facil-
9 ity through a phased process, as de-
10 scribed in subclause (II).

11 “(II) PHASES.—The phases re-
12 ferred to in subclause (I) are the fol-
13 lowing:

14 “(aa) PHASE I.—A project
15 shall be considered to be in phase
16 I for purposes of this subpara-
17 graph if the purpose of the
18 project is to determine the sci-
19 entific and technical merit and
20 feasibility of ideas that appear to
21 have commercial potential, as de-
22 scribed in item (bb).

23 “(bb) PHASE II.—A project
24 shall be considered to be in phase
25 II for purposes of this subpara-

1 graph if the purpose of the
2 project is to advance the develop-
3 ment of a project that meets par-
4 ticular Program needs, based on
5 the scientific and technical merit
6 and feasibility demonstrated in
7 the application for the project (as
8 evidenced by phase I of the
9 project), taking into consider-
10 ation, among other things, the
11 commercial potential of the
12 project, as evidenced by—

13 “(AA) the record of
14 success of the applicable
15 biofuel developer in commer-
16 cializing the results of re-
17 search;

18 “(BB) the existence of
19 phase II-appropriate funding
20 commitments from the pri-
21 vate sector or a funding
22 source other than the Pro-
23 gram;

1 “(CC) the existence of
2 commitments for phase III
3 of the project; and

4 “(DD) the presence of
5 other indicators of the com-
6 mercial potential of the
7 project.

8 “(cc) PHASE III.—A project
9 shall be considered to be in phase
10 III for purposes of this subclause
11 if—

12 “(AA) the project has
13 completed phases I and II;
14 and

15 “(BB) commercial ap-
16 plication of, or the continu-
17 ation of work on, the project
18 will be funded by the private
19 sector or a funding source
20 other than the Program.

21 “(III) LIMITATION.—The amount
22 of a translational grant provided
23 under the Program shall not exceed
24 the lesser of—

1 “(aa) an amount equal to 80
2 percent of the cost of the project;
3 or

4 “(bb) \$8,000,000.

5 “(iv) CONSTRUCTION GRANTS.—

6 “(I) IN GENERAL.—A construc-
7 tion grant may be provided under the
8 Program to a project that, as deter-
9 mined by the Administrator—

10 “(aa) will assist biofuel de-
11 velopers in producing advanced
12 green biofuels by paying con-
13 struction costs and other costs;

14 “(bb) demonstrates the po-
15 tential for commercial success;
16 and

17 “(cc) will commence con-
18 struction by not later than 1 year
19 after the date on which the con-
20 struction grant is provided.

21 “(II) LIMITATION.—The amount
22 of a construction grant provided
23 under the Program shall not exceed
24 an amount equal to 60 percent of the
25 cost of the project.

1 “(D) SELECTION.—

2 “(i) RESEARCH AND DEVELOPMENT
3 GRANTS.—In evaluating applications for
4 research and development grants under the
5 Program, the Administrator shall take into
6 consideration—

7 “(I) the potential of a project for
8 commercial viability;

9 “(II) the potential of the project
10 to provide environmental and public
11 health benefits;

12 “(III) the potential of the project
13 to use existing fuel delivery and dis-
14 tribution systems; and

15 “(IV) such other factors as the
16 Administrator determines to be appro-
17 priate.

18 “(ii) PLANNING GRANTS.—In evalu-
19 ating applications for planning grants
20 under the Program, the Administrator
21 shall take into consideration—

22 “(I) the potential of a project for
23 commercial viability;

1 “(II) the potential of the project
2 to provide environmental and public
3 health benefits;

4 “(III) the potential of the project
5 to use existing fuel delivery and dis-
6 tribution systems;

7 “(IV) the scalability of the
8 project; and

9 “(V) such other factors as the
10 Administrator determines to be appro-
11 priate.

12 “(iii) TRANSLATIONAL GRANTS.—In
13 evaluating applications for translational
14 grants under the Program, the Adminis-
15 trator shall take into consideration—

16 “(I) the potential of a project for
17 commercial viability;

18 “(II) the potential of the project
19 to provide environmental and public
20 health benefits;

21 “(III) the potential of the project
22 to use existing fuel delivery and dis-
23 tribution systems;

24 “(IV) the scalability of the
25 project; and

1 “(V) such other factors as the
2 Administrator determines to be appro-
3 priate.

4 “(iv) CONSTRUCTION GRANTS.—In
5 evaluating applications for construction
6 grants under the Program, the Adminis-
7 trator shall take into consideration—

8 “(I) the potential of a project for
9 commercial success;

10 “(II) the potential of the project
11 to provide environmental and public
12 health benefits;

13 “(III) the potential of the project
14 to use existing fuel delivery and dis-
15 tribution systems;

16 “(IV) the scalability of the
17 project;

18 “(V) the readiness of the project
19 to commence construction by not later
20 than 1 year after the date on which
21 the construction grant is provided;
22 and

23 “(VI) such other factors as the
24 Administrator determines to be appro-
25 priate.

1 “(v) EXERCISE OF DISCRETION IN
2 FUNDING PROJECTS.—The Administrator
3 shall not exclude an application from con-
4 sideration under this subparagraph solely
5 on the basis that the project that is the
6 subject of the application uses, or proposes
7 to use, any item described in subsection
8 (o)(1)(I).

9 “(E) COORDINATION WITH COMPLEMEN-
10 TARY PROGRAMS.—

11 “(i) DEFINITION OF COMPLEMENTARY
12 PROGRAM.—In this subparagraph, the
13 term ‘complementary program’ means a
14 grant program under any other provision
15 of law (including a regulation) under which
16 a recipient of a grant under the Program
17 receives, or has the potential to receive,
18 funds to assist the project of the recipient
19 to achieve environmental performance
20 standards equivalent to, or greater than,
21 the standards required under the Program.

22 “(ii) EFFECT OF PROGRAM.—

23 “(I) IN GENERAL.—A grant pro-
24 vided to a recipient under the Pro-
25 gram—

1 “(aa) shall be provided in
2 addition to any grant provided to
3 the recipient under a complemen-
4 tary program; and

5 “(bb) shall not be dimin-
6 ished as a result of receipt by the
7 recipient of funds under any
8 complementary program.

9 “(II) AMOUNT OF OTHER
10 GRANTS.—Receipt of a grant under
11 the Program shall not affect the
12 amount the recipient is otherwise eli-
13 gible to receive under any complemen-
14 tary program.

15 “(3) AUTHORIZATION OF APPROPRIATIONS.—
16 There is authorized to be appropriated to carry out
17 this subsection \$500,000,000 for the period of fiscal
18 years 2011 through 2015.”.

○