

114TH CONGRESS  
1ST SESSION

# S. 934

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.

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## IN THE SENATE OF THE UNITED STATES

APRIL 14, 2015

Mr. FLAKE (for himself and Mr. CRAPO) 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 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.

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