

109TH CONGRESS  
2D SESSION

# H. R. 5124

To amend the Clean Air Act to provide for a Federal Fuels List, and  
for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 6, 2006

Mr. RYAN of Wisconsin (for himself and Mr. GREEN of Wisconsin) 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 to provide for a Federal Fuels  
List, 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 “Fuel Blend Reduction  
5       Act of 2006”.

6       **SEC. 2. LIST OF FUELS.**

7       (a) LIST OF FUELS.—Section 211(c)(4)(C) of the  
8       Clean Air Act (42 U.S.C. 7545(c)(4)(C)) (as amended by  
9       the Energy Policy Act of 2005 (Public Law 109–58; 119

1 Stat. 1106)) is amended by striking the second clause (v)  
2 and inserting the following:

3 “(vi)(I) The Administrator shall have no authority,  
4 when considering a State implementation plan or a State  
5 implementation plan revision, to approve under this para-  
6 graph any fuel included in such plan or revision if the ef-  
7 fect of such approval would be to increase the total num-  
8 ber of fuels approved under this paragraph as of Sep-  
9 tember 1, 2004 in all State implementation plans.

10 “(II) The Administrator, in consultation with the  
11 Secretary of Energy, shall determine the total number of  
12 fuels approved under this paragraph as of September 1,  
13 2004, in all State implementation plans and shall publish  
14 a list of such fuels, including the states and Petroleum  
15 Administration for Defense District in which they are  
16 used, in the Federal Register no later than 90 days after  
17 enactment.

18 “(III) The Administrator shall remove a fuel from the  
19 list published under subclause (II) if a fuel ceases to be  
20 included in a State implementation plan or if a fuel in  
21 a State implementation plan is identical to a Federal fuel  
22 formulation implemented by the Administrator and shall  
23 reduce the total number of fuels authorized under the list  
24 published under subclause (II) appropriately.

1       “(IV) Subclause (I) shall not limit the Administra-  
2       tor’s authority to approve a control or prohibition respect-  
3       ing any new fuel under this paragraph in a State’s imple-  
4       mentation plan or a revision to that State’s implementa-  
5       tion plan after the date of enactment of the Fuel Blend  
6       Reduction Act of 2006 if such new fuel completely replaces  
7       a fuel on the list published under subclause (II).

8       “(V) The Administrator shall have no authority  
9       under this paragraph, when considering any particular  
10      State’s implementation plan or a revision to that State’s  
11      implementation plan, to approve any fuel unless that fuel  
12      was, as of the date of such consideration, approved in at  
13      least one State implementation plan in the applicable Pe-  
14      troleum Administrator for Defense District. However, the  
15      Administrator may approve as part of a State implementa-  
16      tion plan or State implementation plan revision a fuel with  
17      a summertime Reid Vapor Pressure of 7.0 psi. In no event  
18      shall such approval by the Administrator cause an increase  
19      in the total number of fuels on the list published under  
20      subclause (II) as of the date of consideration.

21      “(VI) Nothing in this clause shall be construed to  
22      have any effect regarding any available authority of States  
23      to require the use of any fuel additive registered in accord-  
24      ance with subsection (b), including any fuel additive reg-

1 istered in accordance with subsection (b) after the enact-  
2 ment of this subclause.

3 “(vii)(I) The provisions of clause (vi), including the  
4 limitations of the authority of the Administrator and the  
5 cap on the total number of fuels permitted, shall remain  
6 in effect until the harmonization of fuels under subclause  
7 (V) of this clause is accomplished. Once such harmoni-  
8 zation has been accomplished, clause (v) shall cease to  
9 have any force and effect, and the limitations of the au-  
10 thority of the Administrator under subclause (IV) of this  
11 clause shall apply.

12 “(II) The Administrator, in coordination with the  
13 Secretary of Energy (hereinafter in this clause referred  
14 to as the ‘Secretary’), shall identify and publish in the  
15 Federal Register, within 12 months after the enactment  
16 of this subclause and after notice and opportunity for pub-  
17 lic comment, a list of 5 gasolines and diesel fuels to be  
18 used in States that have not received a waiver under sec-  
19 tion 209(b) of this Act. The list shall be referred to as  
20 the ‘Federal Fuels List’ and shall include one Federal on-  
21 road diesel fuel (which shall grandfather the sulfur phase  
22 down in the Administrator’s ultra low sulfur diesel fuel  
23 regulations in effect as of the date of enactment of the  
24 Fuel Blend Reduction Act of 2006 and shall permit the  
25 implementation of one alternative diesel fuel, approved

1 under this subparagraph before enactment of this sub-  
2 clause for a State that has not received a section 209(b)  
3 waiver, only in the State in which it was approved prior  
4 to enactment of the Fuel Blend Reduction Act of 2006),  
5 one conventional gasoline for ozone attainment areas, one  
6 reformulated gasoline (RFG) meeting the requirements of  
7 subsection (k), and 2 additional gasolines with Reid vapor  
8 pressure (RVP) controls for use in ozone attainment areas  
9 of varying degrees of severity. None of the fuels identified  
10 under this subclause shall control fuel sulfur or toxics lev-  
11 els beyond levels required by regulations of the Adminis-  
12 trator.

13 “(III) Gasolines and diesel fuels shall be included on  
14 the Federal Fuels List based on the Administrator’s anal-  
15 ysis of their ability to reduce ozone emissions to assist  
16 States in attaining established ozone standards under this  
17 Act, and on an analysis by the Secretary that the adoption  
18 of the Federal Fuels List will not result in a reduction  
19 in supply or in producibility, including that caused by a  
20 reduction in domestic refining capacity as a result of the  
21 adoption of the Federal Fuels List. In the event the Sec-  
22 retary concludes that adopt of the Federal Fuels List will  
23 result in a reduction in supply or in producibility, the Ad-  
24 ministrator and the Secretary shall report that conclusion  
25 to Congress, and suspend implementation of this clause.

1 The Administrator and the Secretary shall conduct the  
2 study required under section 1541(c) of the Energy Policy  
3 Act of 2005 on the timetable required in that section to  
4 provide Congress with legislative recommendations for  
5 modifications to the proposed Federal Fuels List only if  
6 the Secretary concludes that adoption of the Federal Fuels  
7 List will result in a reduction in supply or in producibility.

8 “(IV) Upon publication of the Federal Fuels List, the  
9 Administrator shall have no authority, when considering  
10 a State implementation plan or State implementation plan  
11 revision, to approve under this subparagraph any fuel in-  
12 cluded in such plan or plan revision if the proposed fuel  
13 is not one of the fuels on the Federal Fuels List; or to  
14 approve a State’s plan or plan revision to move from one  
15 fuel on the Federal Fuels List to another unless, after con-  
16 sultation with the Secretary, the Administrator publishes  
17 in the Federal Register, after notice and opportunity for  
18 public comment, a finding that, in the Administrator’s  
19 judgment, such plan or plan revision to adopt a different  
20 fuel on the Federal Fuels List will not cause fuel supply  
21 or distribution disruptions in the affected area or contig-  
22 uous areas. The Administrator’s finding shall include an  
23 assessment of reasonably foreseeable supply or distribu-  
24 tion emergencies that could occur in the affected area or  
25 contiguous area and how adoption of the particular fuel

1 revisions would effect alternative supply options during  
2 reasonably foreseeable supply or distribution emergencies.

3 “(V) The Administrator, in consultation with the Sec-  
4 retary, shall develop a plan to harmonize the currently ap-  
5 proved fuels in State implementation plans with the fuels  
6 included on the Federal Fuels List and shall promulgate  
7 implementing regulations for this plan not later than 18  
8 months after enactment of this subclause. This harmoni-  
9 zation shall be fully implemented by the States by Decem-  
10 ber 31, 2008.”.

11 (b) BOUTIQUE FUELS.—Section 1541 of the Energy  
12 Policy Act of 2005 (Public Law 109–58; 119 Stat. 1106)  
13 is amended by striking subsection (c) and inserting the  
14 following:

15 “(c) STUDY AND REPORT TO CONGRESS ON BOU-  
16 TIQUE FUELS.—

17 “(1) JOINT STUDY.—The Administrator of the  
18 Environmental Protection Agency and the Secretary  
19 of Energy shall undertake a study of the effects on  
20 air quality, on the number of fuel blends, on fuel  
21 availability, on fuel fungibility, and on fuel costs of  
22 the State plan provisions adopted pursuant to sec-  
23 tion 211(c)(4)(C) of the Clean Air Act (42 U.S.C.  
24 7545(c)(4)(C)).

1           “(2) FOCUS OF STUDY.—The primary focus of  
2           the study required under paragraph (1) shall be to  
3           determine how to develop a Federal fuels system  
4           that maximizes motor fuel fungibility and supply,  
5           preserves air quality standards, and reduces motor  
6           fuel price volatility that results from the prolifera-  
7           tion of boutique fuels, and to recommend to Con-  
8           gress such legislative changes as are necessary to  
9           implement such a system. The study should include  
10          the impacts on overall energy supply, distribution,  
11          and use as a result of the legislative changes rec-  
12          ommended. The study should include an analysis of  
13          the impact on ozone emissions and supply of a man-  
14          datory reduction in the number of fuel blends to 5,  
15          including one on-road Federal diesel fuel (which  
16          shall grandfather the sulfur phase down in the Ad-  
17          ministrator’s ultra low sulfur diesel fuel regulations  
18          and shall permit the implementation of, one alter-  
19          native diesel fuel, blend approved by the Adminis-  
20          trator under section 211(c)(4) of the Clean Air Act  
21          before enactment of the Fuel Blend Reduction Act  
22          of 2006 for a State that has not received a waiver  
23          under section 209(b) of the Clean Air Act, only in  
24          the State in which it was approved prior to enact-  
25          ment of the Fuel Blend Reduction Act of 2006), one



1 conventional gasoline for ozone attainment areas,  
2 one reformulated gasoline (RFG) meeting the re-  
3 quirements of subsection (k) of section 211 of the  
4 Clean Air Act, and 2 additional gasolines blends  
5 with Reid vapor pressure (RVP) controls for use in  
6 ozone attainment areas of varying degrees of sever-  
7 ity.

8 “(3) CONDUCT OF STUDY.—In carrying out  
9 their joint duties under this section, the Adminis-  
10 trator and the Secretary shall use sound science and  
11 objective science practices, shall consider the best  
12 available science, shall use data collected by accepted  
13 means and shall consider and include a description  
14 of the weight of the scientific evidence. The Adminis-  
15 trator and the Secretary shall coordinate the study  
16 required by this section with other studies required  
17 by other applicable provisions of law and shall en-  
18 deavor to avoid duplication of effort with regard to  
19 such studies.

20 “(4) RESPONSIBILITY OF ADMINISTRATOR.—In  
21 carrying out the study required by this section, the  
22 Administrator shall coordinate obtaining comments  
23 from affected parties interested in the air quality  
24 impact assessment portion of the study. The Admin-  
25 istrator shall use sound and objective science prac-

1        tices, shall consider the best available science, and  
2        shall consider and include a description of the  
3        weight of the scientific evidence.

4            “(5) RESPONSIBILITY OF SECRETARY.—In car-  
5        rying out the study required by this section, the Sec-  
6        retary shall coordinate obtaining comments from af-  
7        fected parties interested in the fuel availability,  
8        number of fuel blends, fuel fungibility and fuel costs  
9        portion of the study.

10           “(6) REPORT TO CONGRESS.—The Adminis-  
11        trator and the Secretary jointly shall submit the re-  
12        sults of the study required by this section in a report  
13        to the Congress not later than 12 months after the  
14        date of the enactment of the Fuel Blend Reduction  
15        Act of 2006 together with any recommended regu-  
16        latory and legislative changes. Such report shall be  
17        submitted to the Committee on Energy and Com-  
18        merce of the United States House of Representatives  
19        and the Committee on Environment and Public  
20        Works of the United States Senate.

21           “(7) AUTHORIZATION OF APPROPRIATIONS.—  
22        There is authorized to be appropriated jointly to the  
23        Administrator and the Secretary \$500,000 for the

- 1 completion of the study required under this sub-
- 2 section.”.

