

108TH CONGRESS
1ST SESSION

S. 791

To amend the Clean Air Act to eliminate methyl tertiary butyl ether from the United States fuel supply, to increase production and use of renewable fuel, and to increase the Nation's energy independence, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 3, 2003

Mr. INHOFE (for himself, Mr. VOINOVICH, and Mr. TALENT) 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 eliminate methyl tertiary butyl ether from the United States fuel supply, to increase production and use of renewable fuel, and to increase the Nation's energy independence, 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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Reliable Fuels Act”.

6 (b) TABLE OF CONTENTS.—The table of contents of
7 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—GENERAL PROVISIONS

Sec. 101. Renewable content of gasoline.

Sec. 102. Survey of renewable fuels consumption.

TITLE II—FEDERAL REFORMULATED FUELS

Sec. 201. Short title.

Sec. 202. Leaking underground storage tanks.

Sec. 203. Restrictions on the use of MTBE.

Sec. 204. Elimination of oxygen content requirement for reformulated gasoline.

Sec. 205. Public health and environmental impacts of fuels and fuel additives.

Sec. 206. Analyses of motor vehicle fuel changes.

Sec. 207. Additional opt-in areas under reformulated gasoline program.

Sec. 208. Federal enforcement of State fuels requirements.

Sec. 209. Fuel system requirements harmonization study.

1 **TITLE I—GENERAL PROVISIONS**

2 **SEC. 101. RENEWABLE CONTENT OF GASOLINE.**

3 (a) IN GENERAL.—Section 211 of the Clean Air Act
4 (42 U.S.C. 7545) is amended—

5 (1) by redesignating subsection (o) as sub-
6 section (r); and

7 (2) by inserting after subsection (n) the fol-
8 lowing:

9 “(o) RENEWABLE FUEL PROGRAM.—

10 “(1) DEFINITIONS.—In this section:

11 “(A) CELLULOSIC BIOMASS ETHANOL.—

12 The term ‘cellulosic biomass ethanol’ means
13 ethanol derived from any lignocellulosic or
14 hemicellulosic matter that is available on a re-
15 newable or recurring basis, including—

16 “(i) dedicated energy crops and trees;

17 “(ii) wood and wood residues;

1 “(iii) plants;

2 “(iv) grasses;

3 “(v) agricultural residues;

4 “(vi) fibers;

5 “(vii) animal wastes and other waste
6 materials; and

7 “(viii) municipal solid waste.

8 “(B) RENEWABLE FUEL.—

9 “(i) IN GENERAL.—The term ‘renew-
10 able fuel’ means motor vehicle fuel that—

11 “(I)(aa) is produced from grain,
12 starch, oilseeds, or other biomass; or

13 “(bb) is natural gas produced
14 from a biogas source, including a
15 landfill, sewage waste treatment plant,
16 feedlot, or other place where decaying
17 organic material is found; and

18 “(II) is used to replace or reduce
19 the quantity of fossil fuel present in a
20 fuel mixture used to operate a motor
21 vehicle.

22 “(ii) INCLUSION.—The term ‘renew-
23 able fuel’ includes—

24 “(I) cellulosic biomass ethanol;
25 and

1 “(II) biodiesel (as defined in sec-
2 tion 312(f) of the Energy Policy Act
3 of 1992 (42 U.S.C. 13220(f))).

4 “(C) SMALL REFINERY.—The term ‘small
5 refinery’ means a refinery for which the average
6 aggregate daily crude oil throughput for a cal-
7 endar year (as determined by dividing the ag-
8 gregate throughput for the calendar year by the
9 number of days in the calendar year) does not
10 exceed 75,000 barrels.

11 “(2) RENEWABLE FUEL PROGRAM.—

12 “(A) REGULATIONS.—

13 “(i) IN GENERAL.—Not later than 1
14 year after the date of enactment of this
15 paragraph, the Administrator shall promul-
16 gate regulations to ensure that gasoline
17 sold or introduced into commerce in the
18 United States, on an annual average basis,
19 contains the applicable volume of renew-
20 able fuel determined in accordance with
21 subparagraph (B).

22 “(ii) PROVISIONS OF REGULATIONS.—
23 Regardless of the date of promulgation,
24 the regulations promulgated under clause
25 (i)—

1 “(I) shall contain compliance pro-
2 visions applicable to refineries, blend-
3 ers, distributors, and importers, as
4 appropriate, to ensure that the re-
5 quirements of this paragraph are met;
6 but

7 “(II) shall not—

8 “(aa) restrict cases in which
9 renewable fuel may be used; or

10 “(bb) impose any per-gallon
11 obligation for the use of renew-
12 able fuel.

13 “(iii) REQUIREMENT IN CASE OF
14 FAILURE TO PROMULGATE REGULA-
15 TIONS.—If the Administrator does not pro-
16 mulgate regulations under clause (i), the
17 percentage of renewable fuel in gasoline
18 sold or dispensed to consumers in the
19 United States, on a volume basis, shall be
20 1.8 percent for calendar year 2005.

21 “(B) APPLICABLE VOLUME.—

22 “(i) CALENDAR YEARS 2004 THROUGH
23 2012.—For the purpose of subparagraph
24 (A), the applicable volume for any of cal-
25 endar years 2005 through 2012 shall be

1 determined in accordance with the fol-
2 lowing table:

“Calendar year:	Applicable volume of renewable fuel (in billions of gallons):
2005	2.6
2006	2.9
2007	3.2
2008	3.5
2009	3.9
2010	4.3
2011	4.7
2012	5.0.

3 “(ii) CALENDAR YEAR 2013 AND
4 THEREAFTER.—For the purpose of sub-
5 paragraph (A), the applicable volume for
6 calendar year 2013 and each calendar year
7 thereafter shall be equal to the product ob-
8 tained by multiplying—

9 “(I) the number of gallons of
10 gasoline that the Administrator esti-
11 mates will be sold or introduced into
12 commerce in the calendar year; and

13 “(II) the ratio that—

14 “(aa) 5,000,000,000 gallons
15 of renewable fuel; bears to

16 “(bb) the number of gallons
17 of gasoline sold or introduced
18 into commerce in calendar year
19 2012.

20 “(3) APPLICABLE PERCENTAGES.—

1 “(A) PROVISION OF ESTIMATE OF VOL-
2 UMES OF GASOLINE SALES.—Not later than Oc-
3 tober 31 of each of calendar years 2003
4 through 2011, the Administrator of the Energy
5 Information Administration shall provide to the
6 Administrator of the Environmental Protection
7 Agency an estimate of the volumes of gasoline
8 sold or introduced into commerce in the United
9 States during the following calendar year.

10 “(B) DETERMINATION OF APPLICABLE
11 PERCENTAGES.—

12 “(i) IN GENERAL.—Not later than
13 November 30 of each of calendar years
14 2004 through 2011, based on the estimate
15 provided under subparagraph (A), the Ad-
16 ministrator of the Environmental Protec-
17 tion Agency shall determine and publish in
18 the Federal Register, with respect to the
19 following calendar year, the renewable fuel
20 obligation that ensures that the require-
21 ments of paragraph (2) are met.

22 “(ii) REQUIRED ELEMENTS.—The re-
23 newable fuel obligation determined for a
24 calendar year under clause (i) shall—

1 “(I) be applicable to refineries,
2 blenders, and importers, as appro-
3 priate;

4 “(II) be expressed in terms of a
5 volume percentage of gasoline; and

6 “(III) subject to subparagraph
7 (C)(i), consist of a single applicable
8 percentage that applies to all cat-
9 egories of persons specified in sub-
10 clause (I).

11 “(C) ADJUSTMENTS.—In determining the
12 applicable percentage for a calendar year, the
13 Administrator shall make adjustments—

14 “(i) to prevent the imposition of re-
15 dundant obligations on any person speci-
16 fied in subparagraph (B)(ii)(I); and

17 “(ii) to account for the use of renew-
18 able fuel during the previous calendar year
19 by small refineries that are exempt under
20 paragraph (9).

21 “(4) CELLULOSIC BIOMASS ETHANOL.—For the
22 purpose of paragraph (2), 1 gallon of cellulosic bio-
23 mass ethanol shall be considered to be the equivalent
24 of 1.5 gallons of renewable fuel.

25 “(5) CREDIT PROGRAM.—

1 “(A) IN GENERAL.—The regulations pro-
2 mulgated under paragraph (2)(A) shall pro-
3 vide—

4 “(i) for the generation of an appro-
5 priate amount of credits by any person
6 that refines, blends, or imports gasoline
7 that contains a quantity of renewable fuel
8 that is greater than the quantity required
9 under paragraph (2);

10 “(ii) for the generation of an appro-
11 priate amount of credits for biodiesel; and

12 “(iii) for the generation of credits by
13 small refineries in accordance with para-
14 graph (9)(C).

15 “(B) USE OF CREDITS.—A person that
16 generates credits under subparagraph (A) may
17 use the credits, or transfer all or a portion of
18 the credits to another person, for the purpose
19 of complying with paragraph (2).

20 “(C) DURATION OF CREDITS.—A credit
21 generated under this paragraph shall be valid to
22 show compliance—

23 “(i) subject to clause (ii), for the cal-
24 endar year in which the credit was gen-
25 erated or the following calendar year; or

1 “(ii) if the Administrator promulgates
2 regulations under paragraph (6), for the
3 calendar year in which the credit was gen-
4 erated or any of the following 2 calendar
5 years.

6 “(D) INABILITY TO GENERATE OR PUR-
7 CHASE SUFFICIENT CREDITS.—The regulations
8 promulgated under paragraph (2)(A) shall in-
9 clude provisions allowing any person that is un-
10 able to generate or purchase sufficient credits
11 to meet the requirements of paragraph (2) to
12 carry forward a renewable fuel deficit on condi-
13 tion that the person, in the calendar year fol-
14 lowing the year in which the renewable fuel def-
15 icit is created—

16 “(i) achieves compliance with the re-
17 newable fuel requirement under paragraph
18 (2); and

19 “(ii) generates or purchases additional
20 renewable fuel credits to offset the renew-
21 able fuel deficit of the previous year.

22 “(6) SEASONAL VARIATIONS IN RENEWABLE
23 FUEL USE.—

24 “(A) STUDY.—For each of calendar years
25 2005 through 2012, the Administrator of the

1 Energy Information Administration shall con-
2 duct a study of renewable fuel blending to de-
3 termine whether there are excessive seasonal
4 variations in the use of renewable fuel.

5 “(B) REGULATION OF EXCESSIVE SEA-
6 SONAL VARIATIONS.—If, for any calendar year,
7 the Administrator of the Energy Information
8 Administration, based on the study under sub-
9 paragraph (A), makes the determinations speci-
10 fied in subparagraph (C), the Administrator of
11 the Environmental Protection Agency shall pro-
12 mulgate regulations to ensure that 35 percent
13 or more of the quantity of renewable fuel nec-
14 essary to meet the requirements of paragraph
15 (2) is used during each of the 2 periods speci-
16 fied in subparagraph (D) of each subsequent
17 calendar year.

18 “(C) DETERMINATIONS.—The determina-
19 tions referred to in subparagraph (B) are
20 that—

21 “(i) less than 35 percent of the quan-
22 tity of renewable fuel necessary to meet the
23 requirements of paragraph (2) has been
24 used during 1 of the 2 periods specified in

1 subparagraph (D) of the calendar year;
2 and

3 “(ii) a pattern of excessive seasonal
4 variation described in clause (i) will con-
5 tinue in subsequent calendar years.

6 “(D) PERIODS.—The 2 periods referred to
7 in this paragraph are—

8 “(i) April through September; and

9 “(ii) January through March and Oc-
10 tober through December.

11 “(E) EXCLUSION.—Renewable fuel blended
12 or consumed in calendar year 2005 in a State
13 that has received a waiver under section 209(b)
14 shall not be included in the study under sub-
15 paragraph (A).

16 “(7) WAIVERS.—

17 “(A) IN GENERAL.—The Administrator, in
18 consultation with the Secretary of Agriculture
19 and the Secretary of Energy, may waive the re-
20 quirements of paragraph (2) in whole or in part
21 on petition by 1 or more States by reducing the
22 national quantity of renewable fuel required
23 under paragraph (2)—

24 “(i) based on a determination by the
25 Administrator, after public notice and op-

1 portunity for comment, that implementa-
2 tion of the requirement would severely
3 harm the economy or environment of a
4 State, a region, or the United States; or

5 “(ii) based on a determination by the
6 Administrator, after public notice and op-
7 portunity for comment, that there is an in-
8 adequate domestic supply or distribution
9 capacity to meet the requirement.

10 “(B) PETITIONS FOR WAIVERS.—The Ad-
11 ministrator, in consultation with the Secretary
12 of Agriculture and the Secretary of Energy,
13 shall approve or disapprove a State petition for
14 a waiver of the requirements of paragraph (2)
15 within 90 days after the date on which the peti-
16 tion is received by the Administrator.

17 “(C) TERMINATION OF WAIVERS.—A waiv-
18 er granted under subparagraph (A) shall termi-
19 nate after 1 year, but may be renewed by the
20 Administrator after consultation with the Sec-
21 retary of Agriculture and the Secretary of En-
22 ergy.

23 “(8) STUDY AND WAIVER FOR INITIAL YEAR OF
24 PROGRAM.—

1 “(A) IN GENERAL.—Not later than 180
2 days after the date of enactment of this para-
3 graph, the Secretary of Energy shall conduct
4 for the Administrator a study assessing whether
5 the renewable fuel requirement under para-
6 graph (2) will likely result in significant adverse
7 impacts on consumers in 2005, on a national,
8 regional, or State basis.

9 “(B) REQUIRED EVALUATIONS.—The
10 study shall evaluate renewable fuel—

11 “(i) supplies and prices;

12 “(ii) blendstock supplies; and

13 “(iii) supply and distribution system
14 capabilities.

15 “(C) RECOMMENDATIONS BY THE SEC-
16 RETARY.—Based on the results of the study,
17 the Secretary of Energy shall make specific rec-
18 ommendations to the Administrator concerning
19 waiver of the requirements of paragraph (2), in
20 whole or in part, to prevent any adverse im-
21 pacts described in subparagraph (A).

22 “(D) WAIVER.—

23 “(i) IN GENERAL.—Not later than
24 270 days after the date of enactment of
25 this paragraph, the Administrator shall, if

1 and to the extent recommended by the Sec-
2 retary of Energy under subparagraph (C),
3 waive, in whole or in part, the renewable
4 fuel requirement under paragraph (2) by
5 reducing the national quantity of renew-
6 able fuel required under paragraph (2) in
7 calendar 2005.

8 “(ii) NO EFFECT ON WAIVER AUTHOR-
9 ITY.—Clause (i) does not limit the author-
10 ity of the Administrator to waive the re-
11 quirements of paragraph (2) in whole, or
12 in part, under paragraph (7).

13 “(9) SMALL REFINERIES.—

14 “(A) TEMPORARY EXEMPTION.—

15 “(i) IN GENERAL.—The requirements
16 of paragraph (2) shall not apply to small
17 refineries until calendar year 2011.

18 “(ii) EXTENSION OF EXEMPTION.—

19 “(I) STUDY BY SECRETARY OF
20 ENERGY.—Not later than December
21 31, 2007, the Secretary of Energy
22 shall conduct for the Administrator a
23 study to determine whether compli-
24 ance with the requirements of para-
25 graph (2) would impose a disproport-

1 tionate economic hardship on small
2 refineries.

3 “(II) EXTENSION OF EXEMP-
4 TION.—In the case of a small refinery
5 that the Secretary of Energy deter-
6 mines under subclause (I) would be
7 subject to a disproportionate economic
8 hardship if required to comply with
9 paragraph (2), the Administrator
10 shall extend the exemption under
11 clause (i) for the small refinery for a
12 period of not less than 2 additional
13 years.

14 “(B) PETITIONS BASED ON DISPROPOR-
15 TIONATE ECONOMIC HARDSHIP.—

16 “(i) EXTENSION OF EXEMPTION.—A
17 small refinery may at any time petition the
18 Administrator for an extension of the ex-
19 emption under subparagraph (A) for the
20 reason of disproportionate economic hard-
21 ship.

22 “(ii) EVALUATION OF PETITIONS.—In
23 evaluating a petition under clause (i), the
24 Administrator, in consultation with the
25 Secretary of Energy, shall consider the

1 findings of the study under subparagraph
2 (A)(ii) and other economic factors.

3 “(iii) DEADLINE FOR ACTION ON PE-
4 TITIONS.—The Administrator shall act on
5 any petition submitted by a small refinery
6 for a hardship exemption not later than 90
7 days after the date of receipt of the peti-
8 tion.

9 “(C) CREDIT PROGRAM.—If a small refin-
10 ery notifies the Administrator that the small re-
11 finery waives the exemption under subpara-
12 graph (A), the regulations promulgated under
13 paragraph (2)(A) shall provide for the genera-
14 tion of credits by the small refinery under para-
15 graph (5) beginning in the calendar year fol-
16 lowing the date of notification.

17 “(D) OPT-IN FOR SMALL REFINERIES.—A
18 small refinery shall be subject to the require-
19 ments of paragraph (2) if the small refinery no-
20 tifies the Administrator that the small refinery
21 waives the exemption under subparagraph (A).

22 “(p) RENEWABLE FUEL SAFE HARBOR.—

23 “(1) IN GENERAL.—

24 “(A) SAFE HARBOR.—Notwithstanding
25 any other provision of Federal or State law, no

1 renewable fuel (as defined in subsection (o)(1))
2 used or intended to be used as a motor vehicle
3 fuel, nor any motor vehicle fuel containing re-
4 newable fuel, shall be deemed to be defective in
5 design or manufacture by reason of the fact
6 that the fuel is, or contains, renewable fuel, if—

7 “(i) the fuel does not violate a control
8 or prohibition imposed by the Adminis-
9 trator under this section; and

10 “(ii) the manufacturer of the fuel is in
11 compliance with all requests for informa-
12 tion under subsection (b).

13 “(B) SAFE HARBOR NOT APPLICABLE.—In
14 any case in which subparagraph (A) does not
15 apply to a quantity of fuel, the existence of a
16 design defect or manufacturing defect with re-
17 spect to the fuel shall be determined under oth-
18 erwise applicable law.

19 “(2) EXCEPTION.—This subsection does not
20 apply to ethers.

21 “(3) APPLICABILITY.—This subsection applies
22 with respect to all claims filed on or after the date
23 of enactment of this subsection.”.

1 (b) PENALTIES AND ENFORCEMENT.—Section
2 211(d) of the Clean Air Act (42 U.S.C. 7545(d)) is
3 amended—

4 (1) in paragraph (1)—

5 (A) in the first sentence, by striking “or
6 (n)” each place it appears and inserting “(n),
7 or (o)”; and

8 (B) in the second sentence, by striking “or
9 (m)” and inserting “(m), or (o)”; and

10 (2) in the first sentence of paragraph (2), by
11 striking “and (n)” each place it appears and insert-
12 ing “(n), and (o)”.

13 (c) EXCLUSION FROM ETHANOL WAIVER.—Section
14 211(h) of the Clean Air Act (42 U.S.C. 7545(h)) is
15 amended—

16 (1) by redesignating paragraph (5) as para-
17 graph (6); and

18 (2) by inserting after paragraph (4) the fol-
19 lowing:

20 “(5) EXCLUSION FROM ETHANOL WAIVER.—

21 “(A) PROMULGATION OF REGULATIONS.—

22 Upon notification, accompanied by supporting
23 documentation, from the Governor of a State
24 that the Reid vapor pressure limitation estab-
25 lished by paragraph (4) will increase emissions

1 that contribute to air pollution in any area in
2 the State, the Administrator shall, by regula-
3 tion, apply, in lieu of the Reid vapor pressure
4 limitation established by paragraph (4), the
5 Reid vapor pressure limitation established by
6 paragraph (1) to all fuel blends containing gas-
7 oiline and 10 percent denatured anhydrous eth-
8 anol that are sold, offered for sale, dispensed,
9 supplied, offered for supply, transported, or in-
10 troduced into commerce in the area during the
11 high ozone season.

12 “(B) DEADLINE FOR PROMULGATION.—
13 The Administrator shall promulgate regulations
14 under subparagraph (A) not later than 90 days
15 after the date of receipt of a notification from
16 a Governor under that subparagraph.

17 “(C) EFFECTIVE DATE.—

18 “(i) IN GENERAL.—With respect to an
19 area in a State for which the Governor
20 submits a notification under subparagraph
21 (A), the regulations under that subpara-
22 graph shall take effect on the later of—

23 “(I) the first day of the first high
24 ozone season for the area that begins

1 after the date of receipt of the notifi-
2 cation; or

3 “(II) 1 year after the date of re-
4 ceipt of the notification.

5 “(ii) EXTENSION OF EFFECTIVE DATE
6 BASED ON DETERMINATION OF INSUFFI-
7 CIENT SUPPLY.—

8 “(I) IN GENERAL.—If, after re-
9 ceipt of a notification with respect to
10 an area from a Governor of a State
11 under subparagraph (A), the Adminis-
12 trator determines, on the Administra-
13 tor’s own motion or on petition of any
14 person and after consultation with the
15 Secretary of Energy, that the promul-
16 gation of regulations described in sub-
17 paragraph (A) would result in an in-
18 sufficient supply of gasoline in the
19 State, the Administrator, by regula-
20 tion—

21 “(aa) shall extend the effec-
22 tive date of the regulations under
23 clause (i) with respect to the area
24 for not more than 1 year; and

1 “(bb) may renew the exten-
2 sion under item (aa) for 2 addi-
3 tional periods, each of which
4 shall not exceed 1 year.

5 “(II) DEADLINE FOR ACTION ON
6 PETITIONS.—The Administrator shall
7 act on any petition submitted under
8 subclause (I) not later than 180 days
9 after the date of receipt of the peti-
10 tion.”.

11 (d) SURVEY OF RENEWABLE FUEL MARKET.—

12 (1) SURVEY AND REPORT.—Not later than De-
13 cember 1, 2006, and annually thereafter, the Admin-
14 istrator of the Environmental Protection Agency
15 shall—

16 (A) conduct, with respect to each conven-
17 tional gasoline use area and each reformulated
18 gasoline use area in each State, a survey to de-
19 termine the market shares of—

20 (i) conventional gasoline containing
21 ethanol;

22 (ii) reformulated gasoline containing
23 ethanol;

24 (iii) conventional gasoline containing
25 renewable fuel; and

1 (iv) reformulated gasoline containing
2 renewable fuel; and

3 (B) submit to Congress, and make publicly
4 available, a report on the results of the survey
5 under subparagraph (A).

6 (2) RECORDKEEPING AND REPORTING RE-
7 QUIREMENTS.—

8 (A) IN GENERAL.—The Administrator may
9 require any refiner, blender, or importer to keep
10 such records and make such reports as are nec-
11 essary to ensure that the survey conducted
12 under paragraph (1) is accurate.

13 (B) RELIANCE ON EXISTING REQUIRE-
14 MENTS.—To avoid duplicative requirements, in
15 carrying out subparagraph (A), the Adminis-
16 trator shall rely, to the maximum extent prac-
17 ticable, on reporting and recordkeeping require-
18 ments in effect on the date of enactment of this
19 Act.

20 (3) CONFIDENTIALITY.—Activities carried out
21 under this subsection shall be conducted in a man-
22 ner designed to protect confidentiality of individual
23 responses.

24 (f) AUTHORIZATION OF APPROPRIATIONS FOR RE-
25 SOURCE CENTER.—There is authorized to be appro-

1 priated, for a resource center to further develop bioconver-
2 sion technology using low-cost biomass for the production
3 of ethanol at the Center for Biomass-Based Energy at the
4 University of Mississippi and the University of Oklahoma,
5 \$4,000,000 for each of fiscal years 2004 through 2006.

6 **SEC. 102. SURVEY OF RENEWABLE FUELS CONSUMPTION.**

7 Section 205 of the Department of Energy Organiza-
8 tion Act (42 U.S.C. 7135) is amended by adding at the
9 end the following:

10 “(m) SURVEY OF RENEWABLE FUELS CONSUMP-
11 TION.—

12 “(1) IN GENERAL.—In order to improve the
13 ability to evaluate the effectiveness of the Nation’s
14 renewable fuels mandate, the Administrator shall
15 conduct and publish the results of a survey of renew-
16 able fuels consumption in the motor vehicle fuels
17 market in the United States monthly, and in a man-
18 ner designed to protect the confidentiality of indi-
19 vidual responses.

20 “(2) ELEMENTS OF SURVEY.—In conducting
21 the survey, the Administrator shall collect informa-
22 tion retrospectively to 1998, on a national basis and
23 a regional basis, including—

24 “(A) the quantity of renewable fuels pro-
25 duced;

- 1 “(B) the cost of production;
- 2 “(C) the cost of blending and marketing;
- 3 “(D) the quantity of renewable fuels blend-
- 4 ed;
- 5 “(E) the quantity of renewable fuels im-
- 6 ported; and
- 7 “(F) market price data.”.

8 **TITLE II—FEDERAL**

9 **REFORMULATED FUELS**

10 **SEC. 201. SHORT TITLE.**

11 This subtitle may be cited as the “Federal Reformu-

12 lated Fuels Act of 2003”.

13 **SEC. 202. LEAKING UNDERGROUND STORAGE TANKS.**

14 (a) USE OF LUST FUNDS FOR REMEDIATION OF

15 CONTAMINATION FROM ETHER FUEL ADDITIVES.—Sec-

16 tion 9003(h) of the Solid Waste Disposal Act (42 U.S.C.

17 6991b(h)) is amended—

18 (1) in paragraph (7)(A)—

19 (A) by striking “paragraphs (1) and (2) of

20 this subsection” and inserting “paragraphs (1),

21 (2), and (12)”; and

22 (B) by inserting “and section 9010” before

23 “if”; and

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

1 “(12) REMEDIATION OF CONTAMINATION FROM
2 ETHER FUEL ADDITIVES.—

3 “(A) IN GENERAL.—The Administrator
4 and the States may use funds made available
5 under section 9013(1) to carry out corrective
6 actions with respect to a release of methyl ter-
7 tiary butyl ether or other ether fuel additive
8 that presents a threat to human health, welfare,
9 or the environment.

10 “(B) APPLICABLE AUTHORITY.—Subpara-
11 graph (A) shall be carried out—

12 “(i) in accordance with paragraph (2),
13 except that a release with respect to which
14 a corrective action is carried out under
15 subparagraph (A) shall not be required to
16 be from an underground storage tank; and

17 “(ii) in the case of a State, in accord-
18 ance with a cooperative agreement entered
19 into by the Administrator and the State
20 under paragraph (7).”.

21 (b) RELEASE PREVENTION AND COMPLIANCE.—Sub-
22 title I of the Solid Waste Disposal Act (42 U.S.C. 6991
23 et seq.) is amended by striking section 9010 and inserting
24 the following:

1 **“SEC. 9010. RELEASE PREVENTION AND COMPLIANCE.**

2 “Funds made available under section 9013(2) from
3 the Leaking Underground Storage Tank Trust Fund may
4 be used for conducting inspections, or for issuing orders
5 or bringing actions under this subtitle—

6 “(1) by a State (pursuant to section
7 9003(h)(7)) acting under—

8 “(A) a program approved under section
9 9004; or

10 “(B) State requirements regulating under-
11 ground storage tanks that are similar or iden-
12 tical to this subtitle, as determined by the Ad-
13 ministrator; and

14 “(2) by the Administrator, acting under this
15 subtitle or a State program approved under section
16 9004.

17 **“SEC. 9011. AUTHORIZATION OF APPROPRIATIONS.**

18 “In addition to amounts made available under section
19 2007(f), there are authorized to be appropriated from the
20 Leaking Underground Storage Tank Trust Fund, notwith-
21 standing section 9508(c)(1) of the Internal Revenue Code
22 of 1986—

23 “(1) to carry out section 9003(h)(12),
24 \$200,000,000 for fiscal year 2003, to remain avail-
25 able until expended; and

26 “(2) to carry out section 9010—

1 “(A) \$50,000,000 for fiscal year 2003; and
2 “(B) \$30,000,000 for each of fiscal years
3 2004 through 2008.”.

4 (c) TECHNICAL AMENDMENTS.—(1) Section 1001 of
5 the Solid Waste Disposal Act (42 U.S.C. prec. 6901) is
6 amended by striking the item relating to section 9010 and
7 inserting the following:

“Sec. 9010. Release prevention and compliance.

“Sec. 9011. Authorization of appropriations.”.

8 (2) Section 9001(3)(A) of the Solid Waste Disposal
9 Act (42 U.S.C. 6991(3)(A)) is amended by striking
10 “sustances” and inserting “substances”.

11 (3) Section 9003(f)(1) of the Solid Waste Disposal
12 Act (42 U.S.C. 6991b(f)(1)) is amended by striking “sub-
13 section (c) and (d) of this section” and inserting “sub-
14 sections (c) and (d)”.

15 (4) Section 9004(a) of the Solid Waste Disposal Act
16 (42 U.S.C. 6991c(a)) is amended in the second sentence
17 by striking “referred to” and all that follows and inserting
18 “referred to in subparagraph (A) or (B), or both, of sec-
19 tion 9001(2).”.

20 (5) Section 9005 of the Solid Waste Disposal Act (42
21 U.S.C. 6991d) is amended—

22 (A) in subsection (a), by striking “study tak-
23 ing” and inserting “study, taking”;

1 (B) in subsection (b)(1), by striking “relevent”
2 and inserting “relevant”; and

3 (C) in subsection (b)(4), by striking
4 “Evironmental” and inserting “Environmental”.

5 **SEC. 203. RESTRICTIONS ON THE USE OF MTBE.**

6 (a) FINDINGS.—Congress finds that—

7 (1) since 1979, methyl tertiary butyl ether (re-
8 ferred to in this section as “MTBE”) has been used
9 nationwide at low levels in gasoline to replace lead
10 as an octane booster or anti-knocking agent;

11 (2) Public Law 101–549 (commonly known as
12 the “Clean Air Act Amendments of 1990”) (42
13 U.S.C. 7401 et seq.) established a fuel oxygenate
14 standard under which reformulated gasoline must
15 contain at least 2 percent oxygen by weight;

16 (3) at the time of the adoption of the fuel oxy-
17 genate standard, Congress was aware that—

18 (A) significant use of MTBE could result
19 from the adoption of that standard; and

20 (B) the use of MTBE would likely be im-
21 portant to the cost-effective implementation of
22 that standard;

23 (4) Congress is aware that gasoline and its
24 component additives have leaked from storage tanks,
25 with consequences for water quality;

1 (5) the fuel industry responded to the fuel oxy-
2 genate standard established by Public Law 101–549
3 by making substantial investments in—

4 (A) MTBE production capacity; and

5 (B) systems to deliver MTBE-containing
6 gasoline to the marketplace;

7 (6) when leaked or spilled into the environment,
8 MTBE may cause serious problems of drinking
9 water quality;

10 (7) in recent years, MTBE has been detected in
11 water sources throughout the United States;

12 (8) MTBE can be detected by smell and taste
13 at low concentrations;

14 (9) while small quantities of MTBE can render
15 water supplies unpalatable, the precise human health
16 effects of MTBE consumption at low levels are yet
17 unknown as of the date of enactment of this Act;

18 (10) in the report entitled “Achieving Clean Air
19 and Clean Water: The Report of the Blue Ribbon
20 Panel on Oxygenates in Gasoline” and dated Sep-
21 tember 1999, Congress was urged—

22 (A) to eliminate the fuel oxygenate stand-
23 ard;

24 (B) to greatly reduce use of MTBE; and

1 (C) to maintain the environmental per-
2 formance of reformulated gasoline;

3 (11) Congress has—

4 (A) reconsidered the relative value of
5 MTBE in gasoline; and

6 (B) decided to eliminate use of MTBE as
7 a fuel additive;

8 (12) the timeline for elimination of use of
9 MTBE as a fuel additive must be established in a
10 manner that achieves an appropriate balance among
11 the goals of—

12 (A) environmental protection;

13 (B) adequate energy supply; and

14 (C) reasonable fuel prices; and

15 (13) it is appropriate for Congress to provide
16 some limited transition assistance—

17 (A) to merchant producers of MTBE who
18 produced MTBE in response to a market cre-
19 ated by the oxygenate requirement contained in
20 the Clean Air Act (42 U.S.C. 7401 et seq.); and

21 (B) for the purpose of mitigating any fuel
22 supply problems that may result from elimi-
23 nation of a widely-used fuel additive.

24 (b) PURPOSES.—The purposes of this section are—

1 (1) to eliminate use of MTBE as a fuel oxygen-
2 ate; and

3 (2) to provide assistance to merchant producers
4 of MTBE in making the transition from producing
5 MTBE to producing other fuel additives.

6 (c) AUTHORITY FOR WATER QUALITY PROTECTION
7 FROM FUELS.—Section 211(c) of the Clean Air Act (42
8 U.S.C. 7545(c)) is amended—

9 (1) in paragraph (1)(A)—

10 (A) by inserting “fuel or fuel additive or”
11 after “Administrator any”; and

12 (B) by striking “air pollution which” and
13 inserting “air pollution, or water pollution,
14 that”;

15 (2) in paragraph (4)(B), by inserting “or water
16 quality protection,” after “emission control,”; and

17 (3) by adding at the end the following:

18 “(5) RESTRICTIONS ON USE OF MTBE.—

19 “(A) IN GENERAL.—Subject to subpara-
20 graph (E), not later than 4 years after the date
21 of enactment of this paragraph, the use of
22 methyl tertiary butyl ether in motor vehicle fuel
23 in any State other than a State described in
24 subparagraph (C) is prohibited.

1 “(B) REGULATIONS.—The Administrator
2 shall promulgate regulations to effect the prohi-
3 bition in subparagraph (A).

4 “(C) STATES THAT AUTHORIZE USE.—A
5 State described in this subparagraph is a State
6 that submits to the Administrator a notice that
7 the State authorizes use of methyl tertiary
8 butyl ether in motor vehicle fuel sold or used in
9 the State.

10 “(D) PUBLICATION OF NOTICE.—The Ad-
11 ministrator shall publish in the Federal Reg-
12 ister each notice submitted by a State under
13 subparagraph (C).

14 “(E) TRACE QUANTITIES.—In carrying out
15 subparagraph (A), the Administrator may allow
16 trace quantities of methyl tertiary butyl ether,
17 not to exceed 0.5 percent by volume, to be
18 present in motor vehicle fuel in cases that the
19 Administrator determines to be appropriate.

20 “(6) MTBE MERCHANT PRODUCER CONVER-
21 SION ASSISTANCE.—

22 “(A) IN GENERAL.—

23 “(i) GRANTS.—The Secretary of En-
24 ergy, in consultation with the Adminis-
25 trator, may make grants to merchant pro-

1 ducers of methyl tertiary butyl ether in the
2 United States to assist the producers in
3 the conversion of eligible production facili-
4 ties described in subparagraph (C) to the
5 production of—

6 “(i) iso-octane or alkylates, unless the
7 Administrator, in consultation with the
8 Secretary of Energy, determines that tran-
9 sition assistance for the production of iso-
10 octane or alkylates is inconsistent with the
11 criteria specified in subparagraph (B); and

12 “(ii) any other fuel additive that
13 meets the criteria specified in subpara-
14 graph (B).

15 “(B) CRITERIA.—The criteria referred to
16 in subparagraph (A) are that—

17 “(i) use of the fuel additive is con-
18 sistent with this subsection;

19 “(ii) the Administrator has not deter-
20 mined that the fuel additive may reason-
21 ably be anticipated to endanger public
22 health or the environment;

23 “(iii) the fuel additive has been reg-
24 istered and tested, or is being tested, in ac-

1 cordance with the requirements of this sec-
2 tion; and

3 “(iv) the fuel additive will contribute
4 to replacing quantities of motor vehicle fuel
5 rendered unavailable as a result of para-
6 graph (5).

7 “(C) ELIGIBLE PRODUCTION FACILI-
8 TIES.—A production facility shall be eligible to
9 receive a grant under this paragraph if the pro-
10 duction facility—

11 “(i) is located in the United States;
12 and

13 “(ii) produced methyl tertiary butyl
14 ether for consumption in nonattainment
15 areas during the period—

16 “(I) beginning on the date of en-
17 actment of this paragraph; and

18 “(II) ending on the effective date
19 of the prohibition on the use of methyl
20 tertiary butyl ether under paragraph
21 (5).

22 “(D) AUTHORIZATION OF APPROPRIA-
23 TIONS.—There is authorized to be appropriated
24 to carry out this paragraph \$250,000,000 for
25 each of fiscal years 2004 through 2007.”.

1 (d) NO EFFECT ON LAW CONCERNING STATE AU-
2 THORITY.—The amendments made by subsection (c) have
3 no effect on the law in effect on the day before the date
4 of enactment of this Act concerning the authority of
5 States to limit the use of methyl tertiary butyl ether in
6 motor vehicle fuel.

7 **SEC. 204. ELIMINATION OF OXYGEN CONTENT REQUIRE-**
8 **MENT FOR REFORMULATED GASOLINE.**

9 (a) ELIMINATION.—

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

12 (A) in paragraph (2)—

13 (i) in the second sentence of subpara-
14 graph (A), by striking “(including the oxy-
15 gen content requirement contained in sub-
16 paragraph (B))”;

17 (ii) by striking subparagraph (B); and

18 (iii) by redesignating subparagraphs
19 (C) and (D) as subparagraphs (B) and
20 (C), respectively;

21 (B) in paragraph (3)(A), by striking clause
22 (v); and

23 (C) in paragraph (7)—

24 (i) in subparagraph (A)—

25 (I) by striking clause (i); and

1 (II) by redesignating clauses (ii)
2 and (iii) as clauses (i) and (ii), respec-
3 tively; and
4 (ii) in subparagraph (C)—
5 (I) by striking clause (ii); and
6 (II) by redesignating clause (iii)
7 as clause (ii).

8 (2) APPLICABILITY.—The amendments made
9 by paragraph (1) apply—

10 (A) in the case of a State that has received
11 a waiver under section 209(b) of the Clean Air
12 Act (42 U.S.C. 7543(b)), beginning on the date
13 of enactment of this Act; and

14 (B) in the case of any other State, begin-
15 ning 270 days after the date of enactment of
16 this Act.

17 (b) MAINTENANCE OF TOXIC AIR POLLUTANT EMIS-
18 SION REDUCTIONS.—Section 211(k)(1) of the Clean Air
19 Act (42 U.S.C. 7545(k)(1)) is amended—

20 (1) by striking “Within 1 year after the enact-
21 ment of the Clean Air Act Amendments of 1990,”
22 and inserting the following:

23 “(A) IN GENERAL.—Not later than No-
24 vember 15, 1991,”; and

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

1 “(B) MAINTENANCE OF TOXIC AIR POL-
2 LUTANT EMISSIONS REDUCTIONS FROM REFOR-
3 MULATED GASOLINE.—

4 “(i) DEFINITION OF PADD.—In this
5 subparagraph the term ‘PADD’ means a
6 Petroleum Administration for Defense Dis-
7 trict.

8 “(ii) REGULATIONS CONCERNING
9 EMISSIONS OF TOXIC AIR POLLUTANTS.—

10 Not later than 270 days after the date of
11 enactment of this subparagraph, the Ad-
12 ministrator shall establish, for each refin-
13 ery or importer (other than a refiner or
14 importer in a State that has received a
15 waiver under section 209(b) with respect
16 to gasoline produced for use in that State),
17 standards for toxic air pollutants from use
18 of the reformulated gasoline produced or
19 distributed by the refiner or importer that
20 maintain the reduction of the average an-
21 nual aggregate emissions of toxic air pol-
22 lutants for reformulated gasoline produced
23 or distributed by the refiner or importer
24 during calendar years 1999 and 2000 (as
25 determined on the basis of data collected

1 by the Administrator with respect to the
2 refiner or importer).

3 “(iii) STANDARDS APPLICABLE TO
4 SPECIFIC REFINERIES OR IMPORTERS.—

5 “(I) APPLICABILITY OF STAND-
6 ARDS.—For any calendar year, the
7 standards applicable to a refiner or
8 importer under clause (ii) shall apply
9 to the quantity of gasoline produced
10 or distributed by the refiner or im-
11 porter in the calendar year only to the
12 extent that the quantity is less than
13 or equal to the average annual quan-
14 tity of reformulated gasoline produced
15 or distributed by the refiner or im-
16 porter during calendar years 1999
17 and 2000.

18 “(II) APPLICABILITY OF OTHER
19 STANDARDS.—For any calendar year,
20 the quantity of gasoline produced or
21 distributed by a refiner or importer
22 that is in excess of the quantity sub-
23 ject to subclause (I) shall be subject
24 to standards for emissions of toxic air

1 pollutants promulgated under sub-
2 paragraph (A) and paragraph (3)(B).

3 “(iv) CREDIT PROGRAM.—The Admin-
4 istrator shall provide for the granting and
5 use of credits for emissions of toxic air pol-
6 lutants in the same manner as provided in
7 paragraph (7).

8 “(v) REGIONAL PROTECTION OF
9 TOXICS REDUCTION BASELINES.—

10 “(I) IN GENERAL.—Not later
11 than 60 days after the date of enact-
12 ment of this subparagraph, and not
13 later than April 1 of each calendar
14 year that begins after that date of en-
15 actment, the Administrator shall pub-
16 lish in the Federal Register a report
17 that specifies, with respect to the pre-
18 vious calendar year—

19 “(aa) the quantity of reformu-
20 lated gasoline produced that is
21 in excess of the average annual
22 quantity of reformulated gasoline
23 produced in 1999 and 2000; and

24 “(bb) the reduction of the
25 average annual aggregate emis-

1 sions of toxic air pollutants in
2 each PADD, based on retail sur-
3 vey data or data from other ap-
4 propriate sources.

5 “(II) EFFECT OF FAILURE TO
6 MAINTAIN AGGREGATE TOXICS RE-
7 Ductions.—If, in any calendar year,
8 the reduction of the average annual
9 aggregate emissions of toxic air pol-
10 lutants in a PADD fails to meet or
11 exceed the reduction of the average
12 annual aggregate emissions of toxic
13 air pollutants in the PADD in cal-
14 endar years 1999 and 2000, the Ad-
15 ministrator, not later than 90 days
16 after the date of publication of the re-
17 port for the calendar year under sub-
18 clause (I), shall—

19 “(aa) identify, to the max-
20 imum extent practicable, the rea-
21 sons for the failure, including the
22 sources, volumes, and character-
23 istics of reformulated gasoline
24 that contributed to the failure;
25 and

1 “(bb) promulgate revisions
2 to the regulations promulgated
3 under clause (ii), to take effect
4 not earlier than 180 days but not
5 later than 270 days after the
6 date of promulgation, to provide
7 that, notwithstanding clause
8 (iii)(II), all reformulated gasoline
9 produced or distributed at each
10 refiner or importer shall meet the
11 standards applicable under clause
12 (iii)(I) beginning not later than
13 April 1 of the calendar year fol-
14 lowing publication of the report
15 under subclause (I) and in each
16 calendar year thereafter.

17 “(vi) REGULATIONS TO CONTROL
18 HAZARDOUS AIR POLLUTANTS FROM
19 MOTOR VEHICLES AND MOTOR VEHICLE
20 FUELS.—Not later than July 1, 2004, the
21 Administrator shall promulgate final regu-
22 lations to control hazardous air pollutants
23 from motor vehicles and motor vehicle
24 fuels, as provided for in section 80.1045 of
25 title 40, Code of Federal Regulations (as

1 in effect on the date of enactment of this
2 subparagraph).”.

3 (c) COMMINGLING.—

4 (1) IN GENERAL.—Section 211(k) of the Clean
5 Air Act (42 U.S.C. 7545(k)) is amended by adding
6 at the end the following:

7 “(11) COMMINGLING.—The regulations under
8 paragraph (1) shall permit the commingling at a re-
9 tail station of reformulated gasoline containing eth-
10 anol and reformulated gasoline that does not contain
11 ethanol if, each time such commingling occurs—

12 “(A) the retailer notifies the Administrator
13 before the commingling, identifying the exact
14 location of the retail station and the specific
15 tank in which the commingling will take place;
16 and

17 “(B) the retailer certifies that the reformu-
18 lated gasoline resulting from the commingling
19 will meet all applicable requirements for refor-
20 mulated gasoline, including content and emis-
21 sion performance standards.

22 (d) CONSOLIDATION IN REFORMULATED GASOLINE
23 REGULATIONS.—Not later than 180 days after the date
24 of enactment of this Act, the Administrator of the Envi-
25 ronmental Protection Agency shall revise the reformulated

1 gasoline regulations under subpart D of part 80 of title
2 40, Code of Federal Regulations, to consolidate the regula-
3 tions applicable to VOC-Control Regions 1 and 2 under
4 section 80.41 of that title by eliminating the less stringent
5 requirements applicable to gasoline designated for VOC-
6 Control Region 2 and instead applying the more stringent
7 requirements applicable to gasoline designated for VOC-
8 Control Region 1.

9 (e) SAVINGS CLAUSE.—

10 (1) IN GENERAL.—Nothing in this section or
11 any amendment made by this section affects or prej-
12 udices any legal claim or action with respect to regu-
13 lations promulgated by the Administrator before the
14 date of enactment of this Act regarding—

15 (A) emissions of toxic air pollutants from
16 motor vehicles; or

17 (B) the adjustment of standards applicable
18 to a specific refinery or importer made under
19 those regulations.

20 (2) ADJUSTMENT OF STANDARDS.—

21 (A) APPLICABILITY.—The Administrator
22 may apply any adjustments to the standards
23 applicable to a refinery or importer under sub-
24 paragraph (B)(iii)(I) of section 211(k)(1) of the

1 Clean Air Act (as added by subsection (b)(2)),
2 except that—

3 (i) the Administrator shall revise the
4 adjustments to be based only on calendar
5 years 1999 and 2000;

6 (ii) any such adjustment shall not be
7 made at a level below the average percent-
8 age of reductions of emissions of toxic air
9 pollutants for reformulated gasoline sup-
10 plied to PADD I during calendar years
11 1999 and 2000; and

12 (iii) in the case of an adjustment
13 based on toxic air pollutant emissions from
14 reformulated gasoline significantly below
15 the national annual average emissions of
16 toxic air pollutants from all reformulated
17 gasoline—

18 (I) the Administrator may revise
19 the adjustment to take account of the
20 scope of the prohibition on methyl ter-
21 tiary butyl ether imposed by para-
22 graph (5) of section 211(c) of the
23 Clean Air Act (as added by section
24 203(c)); and

1 (II) any such adjustment shall
2 require the refiner or importer, to the
3 maximum extent practicable, to main-
4 tain the reduction achieved during cal-
5 endar years 1999 and 2000 in the av-
6 erage annual aggregate emissions of
7 toxic air pollutants from reformulated
8 gasoline produced or distributed by
9 the refiner or importer.

10 **SEC. 205. PUBLIC HEALTH AND ENVIRONMENTAL IMPACTS**
11 **OF FUELS AND FUEL ADDITIVES.**

12 Section 211(b) of the Clean Air Act (42 U.S.C.
13 7545(b)) is amended—

14 (1) in paragraph (2)—

15 (A) by striking “may also” and inserting
16 “shall, on a regular basis,”; and

17 (B) by striking subparagraph (A) and in-
18 serting the following:

19 “(A) to conduct tests to determine poten-
20 tial public health and environmental effects of
21 the fuel or additive (including carcinogenic,
22 teratogenic, or mutagenic effects); and”;

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

24 “(4) STUDY ON CERTAIN FUEL ADDITIVES AND
25 BLENDSTOCKS.—

1 “(A) IN GENERAL.—Not later than 2 years
2 after the date of enactment of this paragraph,
3 the Administrator shall—

4 “(i) conduct a study on the effects on
5 public health, air quality, and water re-
6 sources of increased use of, and the feasi-
7 bility of using as substitutes for methyl
8 tertiary butyl ether in gasoline—

9 “(I) ethyl tertiary butyl ether;

10 “(II) tertiary amyl methyl ether;

11 “(III) di-isopropyl ether;

12 “(IV) tertiary butyl alcohol;

13 “(V) other ethers and heavy alco-
14 hols, as determined by then Adminis-
15 trator;

16 “(VI) ethanol;

17 “(VII) iso-octane; and

18 “(VIII) alkylates; and

19 “(ii) conduct a study on the effects on
20 public health, air quality, and water re-
21 sources of the adjustment for ethanol-
22 blended reformulated gasoline to the vola-
23 tile organic compounds performance re-
24 quirements that are applicable under para-
25 graphs (1) and (3) of section 211(k); and

1 “(iii) submit to the Committee on En-
 2 vironment and Public Works of the Senate
 3 and the Committee on Energy and Com-
 4 merce of the House of Representatives a
 5 report describing the results of the studies
 6 under clauses (i) and (ii).

7 “(B) CONTRACTS FOR STUDY.—In car-
 8 rying out this paragraph, the Administrator
 9 may enter into 1 or more contracts with non-
 10 governmental entities such as—

11 “(i) the national energy laboratories; and

12 “(ii) institutions of higher education (as
 13 defined in section 101 of the Higher Education
 14 Act of 1965 (20 U.S.C. 1001)).”.

15 **SEC. 206. ANALYSES OF MOTOR VEHICLE FUEL CHANGES.**

16 Section 211 of the Clean Air Act (42 U.S.C. 7545)
 17 (as amended by section 101(a)) is amended by inserting
 18 after subsection (o) the following:

19 “(q) ANALYSES OF MOTOR VEHICLE FUEL CHANGES
 20 AND EMISSIONS MODEL.—

21 “(1) ANTI-BACKSLIDING ANALYSIS.—

22 “(A) DRAFT ANALYSIS.—Not later than 4
 23 years after the date of enactment of this para-
 24 graph, the Administrator shall publish for pub-
 25 lic comment a draft analysis of the changes in

1 emissions of air pollutants and air quality due
 2 to the use of motor vehicle fuel and fuel addi-
 3 tives resulting from implementation of the
 4 amendments made by the Federal Reformulated
 5 Fuels Act of 2002.

6 “(B) FINAL ANALYSIS.—After providing a
 7 reasonable opportunity for comment but not
 8 later than 5 years after the date of enactment
 9 of this paragraph, the Administrator shall pub-
 10 lish the analysis in final form.

11 “(2) EMISSIONS MODEL.—For the purposes of
 12 this subsection, as soon as the necessary data are
 13 available, the Administrator shall develop and final-
 14 ize an emissions model that reasonably reflects the
 15 effects of gasoline characteristics or components on
 16 emissions from vehicles in the motor vehicle fleet
 17 during calendar year 2006.”.

18 **SEC. 207. ADDITIONAL OPT-IN AREAS UNDER REFORMU-**
 19 **LATED GASOLINE PROGRAM.**

20 Section 211(k)(6) of the Clean Air Act (42 U.S.C.
 21 7545(k)(6)) is amended—

22 (1) by striking “(6) OPT-IN AREAS.—(A)
 23 Upon” and inserting the following:

24 “(6) OPT-IN AREAS.—

25 “(A) CLASSIFIED AREAS.—

1 “(i) IN GENERAL.—Upon”;

2 (2) in subparagraph (B), by striking “(B) If”
3 and inserting the following:

4 “(ii) EFFECT OF INSUFFICIENT DO-
5 MESTIC CAPACITY TO PRODUCE REFORMU-
6 LATED GASOLINE.—If”;

7 (3) in subparagraph (A)(ii) (as redesignated by
8 paragraph (2))—

9 (A) in the first sentence, by striking “sub-
10 paragraph (A)” and inserting “clause (i)”; and

11 (B) in the second sentence, by striking
12 “this paragraph” and inserting “this subpara-
13 graph”; and

14 (4) by adding at the end the following:

15 “(B) OZONE TRANSPORT REGION.—

16 “(i) APPLICATION OF PROHIBITION.—

17 “(I) IN GENERAL.—On applica-
18 tion of the Governor of a State in the
19 ozone transport region established by
20 section 184(a), the Administrator, not
21 later than 180 days after the date of
22 receipt of the application, shall apply
23 the prohibition specified in paragraph
24 (5) to any area in the State (other
25 than an area classified as a marginal,

1 moderate, serious, or severe ozone
2 nonattainment area under subpart 2
3 of part D of title I) unless the Admin-
4 istrator determines under clause (iii)
5 that there is insufficient capacity to
6 supply reformulated gasoline.

7 “(II) PUBLICATION OF APPLICA-
8 TION.—As soon as practicable after
9 the date of receipt of an application
10 under subclause (I), the Adminis-
11 trator shall publish the application in
12 the Federal Register.

13 “(ii) PERIOD OF APPLICABILITY.—
14 Under clause (i), the prohibition specified
15 in paragraph (5) shall apply in a State—

16 “(I) commencing as soon as prac-
17 ticable but not later than 2 years
18 after the date of approval by the Ad-
19 ministrator of the application of the
20 Governor of the State; and

21 “(II) ending not earlier than 4
22 years after the commencement date
23 determined under subclause (I).

1 “(iii) EXTENSION OF COMMENCEMENT
2 DATE BASED ON INSUFFICIENT CAPAC-
3 ITY.—

4 “(I) IN GENERAL.—If, after re-
5 ceipt of an application from a Gov-
6 ernor of a State under clause (i), the
7 Administrator determines, on the Ad-
8 ministrators’ own motion or on peti-
9 tion of any person, after consultation
10 with the Secretary of Energy, that
11 there is insufficient capacity to supply
12 reformulated gasoline, the Adminis-
13 trator, by regulation—

14 “(aa) shall extend the com-
15 mencement date with respect to
16 the State under clause (ii)(I) for
17 not more than 1 year; and

18 “(bb) may renew the exten-
19 sion under item (aa) for 2 addi-
20 tional periods, each of which
21 shall not exceed 1 year.

22 “(II) DEADLINE FOR ACTION ON
23 PETITIONS.—The Administrator shall
24 act on any petition submitted under
25 subclause (I) not later than 180 days

1 after the date of receipt of the peti-
2 tion.”.

3 **SEC. 208. FEDERAL ENFORCEMENT OF STATE FUELS RE-**
4 **QUIREMENTS.**

5 Section 211(c)(4)(C) of the Clean Air Act (42 U.S.C.
6 7545(c)(4)(C)) is amended—

7 (1) by striking “(C) A State” and inserting the
8 following:

9 “(C) AUTHORITY OF STATE TO CONTROL
10 FUELS AND FUEL ADDITIVES FOR REASONS OF
11 NECESSITY.—

12 “(i) IN GENERAL.—A State”; and

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

14 “(ii) ENFORCEMENT BY THE ADMIN-
15 ISTRATOR.—In any case in which a State
16 prescribes and enforces a control or prohi-
17 bition under clause (i), the Administrator,
18 at the request of the State, shall enforce
19 the control or prohibition as if the control
20 or prohibition had been adopted under the
21 other provisions of this section.”.

22 **SEC. 209. FUEL SYSTEM REQUIREMENTS HARMONIZATION**
23 **STUDY.**

24 (a) STUDY.—

1 (1) IN GENERAL.—The Administrator of the
2 Environmental Protection Agency and the Secretary
3 of Energy shall jointly conduct a study of Federal,
4 State, and local requirements concerning motor vehi-
5 cle fuels, including—

6 (A) requirements relating to reformulated
7 gasoline, volatility (measured in Reid vapor
8 pressure), oxygenated fuel, and diesel fuel; and

9 (B) other requirements that vary from
10 State to State, region to region, or locality to
11 locality.

12 (2) REQUIRED ELEMENTS.—The study shall as-
13 sess—

14 (A) the effect of the variety of require-
15 ments described in paragraph (1) on the supply,
16 quality, and price of motor vehicle fuels avail-
17 able to the consumer;

18 (B) the effect of the requirements de-
19 scribed in paragraph (1) on achievement of—

20 (i) national, regional, and local air
21 quality standards and goals; and

22 (ii) related environmental and public
23 health protection standards and goals;

1 (C) the effect of Federal, State, and local
2 motor vehicle fuel regulations, including mul-
3 tiple motor vehicle fuel requirements, on—

4 (i) domestic refiners;

5 (ii) the fuel distribution system; and

6 (iii) industry investment in new capac-
7 ity;

8 (D) the effect of the requirements de-
9 scribed in paragraph (1) on emissions from ve-
10 hicles, refiners, and fuel handling facilities;

11 (E) the feasibility of developing national or
12 regional motor vehicle fuel slates for the 48
13 contiguous States that, while protecting and im-
14 proving air quality at the national, regional,
15 and local levels, could—

16 (i) enhance flexibility in the fuel dis-
17 tribution infrastructure and improve fuel
18 fungibility;

19 (ii) reduce price volatility and costs to
20 consumers and producers;

21 (iii) provide increased liquidity to the
22 gasoline market; and

23 (iv) enhance fuel quality, consistency,
24 and supply; and

1 (F) the feasibility of providing incentives,
2 and the need for the development of national
3 standards necessary, to promote cleaner burn-
4 ing motor vehicle fuel.

5 (b) REPORT.—

6 (1) IN GENERAL.—Not later than June 1,
7 2007, the Administrator of the Environmental Pro-
8 tection Agency and the Secretary of Energy shall
9 submit to Congress a report on the results of the
10 study conducted under subsection (a).

11 (2) RECOMMENDATIONS.—

12 (A) IN GENERAL.—The report shall con-
13 tain recommendations for legislative and admin-
14 istrative actions that may be taken—

15 (i) to improve air quality;

16 (ii) to reduce costs to consumers and
17 producers; and

18 (iii) to increase supply liquidity.

19 (B) REQUIRED CONSIDERATIONS.—The
20 recommendations under subparagraph (A) shall
21 take into account the need to provide advance
22 notice of required modifications to refinery and
23 fuel distribution systems in order to ensure an
24 adequate supply of motor vehicle fuel in all
25 States.

1 (3) CONSULTATION.—In developing the report,
2 the Administrator of the Environmental Protection
3 Agency and the Secretary of Energy shall consult
4 with—

5 (A) the Governors of the States;

6 (B) automobile manufacturers;

7 (C) motor vehicle fuel producers and dis-
8 tributors; and

9 (D) the public.

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