

109TH CONGRESS
1ST SESSION

S. 1232

To amend the Clean Air Act to increase production and use of renewable fuel and to increase the energy independence of the United States, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 14, 2005

Mr. LAUTENBERG 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 increase production and use of renewable fuel and to increase the energy independence of the United States, 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 “Fuels Security Act of 2005”.

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 motor vehicle fuel.

- Sec. 102. Federal agency ethanol-blended gasoline and biodiesel purchasing requirement.
- Sec. 103. Data collection.

TITLE II—FEDERAL REFORMULATED FUELS

- Sec. 201. Elimination of oxygen content requirement for reformulated gasoline.
- Sec. 202. Public health and environmental impacts of fuels and fuel additives.
- Sec. 203. Analyses of motor vehicle fuel changes.
- Sec. 204. Additional opt-in areas under reformulated gasoline program.
- Sec. 205. Federal enforcement of State fuels requirements.
- Sec. 206. Fuel system requirements harmonization study.
- Sec. 207. Review of Federal procurement initiatives relating to use of recycled products and fleet and transportation efficiency.
- Sec. 208. Report on renewable motor fuel.

TITLE III—CELLULOSIC BIOMASS

- Sec. 301. Commercial demonstration projects.

1 **TITLE I—GENERAL PROVISIONS**

2 **SEC. 101. RENEWABLE CONTENT OF MOTOR VEHICLE FUEL.**

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 (q); and

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

9 “(o) RENEWABLE FUEL PROGRAM.—

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

11 “(A) CELLULOSIC BIOMASS FUEL.—The
12 term ‘cellulosic biomass fuel’ means fuel derived
13 from—

14 “(i) any lignocellulosic or
15 hemicellulosic matter that is derived from
16 organic material of a plant that is planted
17 for the purpose of producing energy (ex-

1 cept a plant produced on land enrolled in
2 the conservation reserve program estab-
3 lished under subchapter B of chapter 1 of
4 subtitle D of title XII of the Food Security
5 Act of 1985 (16 U.S.C. 3831 et seq.), if
6 harvesting the plant would be inconsistent
7 with the purposes of the program); or

8 “(ii) nonhazardous lignocellulosic or
9 hemicellulosic matter that is segregated
10 from other waste materials and is derived
11 from—

12 “(I)(aa) trees and other plant
13 matter removed from the immediate
14 vicinity of homes, other occupied
15 structures, or essential community in-
16 frastructure; or

17 “(bb) precommercial thinning,
18 slash, or brush (except thinning,
19 slash, or brush from old growth for-
20 ests or publicly-owned roadless areas);

21 “(II) an agricultural crop, a crop
22 byproduct, or a residue resource (ex-
23 cept a plant produced on land enrolled
24 in the conservation reserve program,
25 if harvesting the plant would be incon-

1 sistent with the purposes of the pro-
2 gram); or

3 “**(III)** miscellaneous waste (such
4 as landscape or right-of-way tree trim-
5 mings), not including—

6 “**(aa)** recyclable
7 postconsumer waste paper, in-
8 cluding such paper in municipal
9 solid waste;

10 “**(bb)** painted, treated, or
11 pressurized wood; or

12 “**(cc)** wood that is contami-
13 nated by plastic or metal.

14 “**(B)** RENEWABLE FUEL.—The term ‘re-
15 newable fuel’ means motor vehicle fuel that—

16 “**(i)****(I)** is produced from grain, starch,
17 or oilseeds;

18 “**(II)** is natural biogas produced from
19 a landfill, a sewage waste treatment plant,
20 or animal waste;

21 “**(III)** is cellulosic biomass fuel;

22 “**(IV)** is biodiesel (as defined in sec-
23 tion 312(f) of the Energy Policy Act of
24 1992 (42 U.S.C. 13220(f))0; or

1 “(V) is composed of a mix of compo-
2 nents that are derived from renewable fuel;
3 and

4 “(ii) is used to replace or reduce the
5 quantity of fossil fuel present in a fuel
6 mixture used to operate a motor vehicle.

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

14 “(2) RENEWABLE FUEL PROGRAM.—

15 “(A) IN GENERAL.—

16 “(i) REGULATIONS.—Not later than 1
17 year after the date of enactment of this
18 subsection, the Administrator shall promul-
19 gate regulations ensuring that motor vehi-
20 cle fuel sold or dispensed to consumers in
21 the contiguous United States, on an an-
22 nual average basis, contains the applicable
23 volume of renewable fuel specified in sub-
24 paragraph (B).

1 “(ii) COMPLIANCE.—Regardless of the
 2 date of promulgation, the regulations shall
 3 contain compliance provisions for refiners,
 4 blenders, and importers, as appropriate, to
 5 ensure that the requirements of this sub-
 6 section are met, but shall not restrict
 7 where renewable fuel can be used, or im-
 8 pose any per-gallon obligation for the use
 9 of renewable fuel.

10 “(iii) NO REGULATIONS.—If the Ad-
 11 ministrator does not promulgate the regu-
 12 lations, the applicable percentage referred
 13 to in paragraph (3), on a volume percent-
 14 age of gasoline basis, shall be 3.2 in 2006.

15 “(B) APPLICABLE VOLUME.—

16 “(i) CALENDAR YEARS 2006 THROUGH
 17 2012.—For the purpose of subparagraph
 18 (A), the applicable volume for any of cal-
 19 endar years 2006 through 2012 shall be
 20 determined in accordance with the fol-
 21 lowing table:

“Applicable volume of renewable fuel

Calendar year:	(In billions of gallons)
2006	4.0
2007	4.7
2008	5.4
2009	6.15
2010	6.9
2011	7.55
2012	8.25

1 “(ii) CALENDAR YEARS 2013 AND
2 THEREAFTER.—For the purpose of sub-
3 paragraph (A), the applicable volume for
4 calendar year 2013 and each calendar year
5 thereafter shall be determined by the Ad-
6 ministrators, in coordination with the Sec-
7 retary of Energy and the Secretary of Ag-
8 riculture, based on a review of the imple-
9 mentation of the program during calendar
10 years 2006 through 2012, including a re-
11 view of—

12 “(I) the impact of the use of re-
13 newable fuels on the environment, air
14 quality, energy security, job creation,
15 and rural economic development; and

16 “(II) the expected annual rate of
17 future production of renewable fuels,
18 including cellulosic ethanol.

19 “(iii) LIMITATION.—The applicable
20 volume for a calendar year under clause
21 (ii) shall be not less than the sum of the
22 applicable volume for that year of cellulosic
23 biomass fuel referred to in clause (iv) and
24 the product obtained by multiplying—

1 “(I) the number of gallons of
 2 gasoline that the Administrator esti-
 3 mates will be sold or introduced into
 4 commerce during the calendar year;
 5 and

6 “(I) the quotient obtained by di-
 7 viding—

8 “(aa) 8,000,000,000; by

9 “(bb) the number of gallons
 10 of gasoline sold or introduced
 11 into commerce during calendar
 12 year 2012.

13 “(iv) CELLULOSIC BIOMASS FUEL.—
 14 For the purpose of subparagraph (A), the
 15 Administrator shall require, by regulation,
 16 that an applicable volume under clause (i)
 17 or (ii) include a volume of cellulosic bio-
 18 mass fuel of not less than—

19 “(I) in 2009, 50,000,000 gallons;

20 “(II) in 2010, 100,000,000 gal-
 21 lons;

22 “(III) in 2011, 150,000,000 gal-
 23 lons;

24 “(IV) in 2012, 250,000,000 gal-
 25 lons;

1 “(V) in 2013, 500,000,000 gal-
2 lons;

3 “(VI) in 2014, 800,000,000 gal-
4 lons; and

5 “(VII) in 2015 and each subse-
6 quent calendar year, 1,000,000,000
7 gallons.

8 “(v) INCLUSIONS IN CALCULA-
9 TIONS.—

10 “(I) BIOGAS.—For the purposes
11 of clauses (i) and (ii), any biogas that
12 is a renewable fuel may be included in
13 a calculation of the volume of renew-
14 able fuel using a conversion formula
15 to be determined by the Administrator
16 based on the energy content of a cubic
17 foot of biogas at standard tempera-
18 ture and pressure.

19 “(II) BLENDING COMPONENTS.—
20 For the purposes of clauses (i) and
21 (ii), only the renewable fuel portion of
22 a blending component derived from
23 renewable fuel may be considered to
24 be part of the applicable volume of re-
25 newable fuel.

1 “(3) APPLICABLE PERCENTAGES.—

2 “(A) PROVISION OF ESTIMATE OF VOL-
3 UMES OF GASOLINE SALES.—Not later than Oc-
4 tober 31 of each of calendar years 2006
5 through 2011, the Administrator of the Energy
6 Information Administration shall provide to the
7 Administrator of the Environmental Protection
8 Agency an estimate of the volumes of gasoline
9 that will be sold or introduced into commerce in
10 the United States during the following calendar
11 year.

12 “(B) DETERMINATION OF APPLICABLE
13 PERCENTAGES.—

14 “(i) IN GENERAL.—Not later than
15 November 30 of each of calendar years
16 2006 through 2011, based on the estimate
17 provided under subparagraph (A), the Ad-
18 ministrator shall determine and publish in
19 the Federal Register, with respect to the
20 following calendar year, the renewable fuel
21 obligation that ensures that the require-
22 ments under paragraph (2) are met.

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

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

4 “(II) be expressed in terms of a
5 volume percentage of gasoline sold or
6 introduced into commerce; and

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

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

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

18 “(ii) to account for the use of renew-
19 able fuel during the previous calendar year
20 by small refineries that are exempt under
21 paragraph (11).

22 “(4) EQUIVALENCY.—For the purpose of para-
23 graph (2), 1 gallon of cellulosic biomass fuel in ex-
24 cess of the volume required under paragraph

1 (2)(B)(iv) shall be considered to be the equivalent
2 of—

3 “(A) in 2006 through 2008, 2.5 gallons of
4 renewable fuel;

5 “(B) in 2009, 2 gallons of renewable fuel;

6 “(C) in 2010, 1.5 gallons of renewable
7 fuel; and

8 “(D) in 2011, and each subsequent cal-
9 endar year, 1 gallon of renewable fuel.

10 “(5) CREDIT PROGRAM.—

11 “(A) REGULATIONS.—The regulations pro-
12 mulgated to carry out this subsection shall pro-
13 vide for—

14 “(i) the generation of an appropriate
15 amount of credits by any person that re-
16 fines, blends, or imports gasoline that con-
17 tains a quantity of renewable fuel or cel-
18 lulosic biomass fuel that is greater than
19 the quantity required under paragraph (2);

20 “(ii) the generation of an appropriate
21 amount of credits for biodiesel fuel; and

22 “(iii) if a small refinery notifies the
23 Administrator that the small refinery
24 waives the exemption provided by this sub-
25 section, the generation of credits by the

1 small refinery beginning in the year fol-
2 lowing the notification.

3 “(B) USE OF CREDITS.—A person that
4 generates credits under subparagraph (A) may
5 use the credits, or transfer all or a portion of
6 the credits to another person, for the purpose
7 of complying with paragraph (2).

8 “(C) LIFE OF CREDITS.—A credit gen-
9 erated under this paragraph shall be valid to
10 demonstrate compliance for the calendar year in
11 which the credit was generated.

12 “(D) INABILITY TO PURCHASE SUFFICIENT
13 CREDITS.—The regulations promulgated to
14 carry out this subsection shall include provi-
15 sions permitting any person that is unable to
16 generate or purchase sufficient credits to meet
17 the requirement under paragraph (2) to carry
18 forward a renewable fuel or cellulosic biomass
19 fuel deficit if, for the calendar year following
20 the year in which the renewable fuel or cel-
21 lulosic biomass fuel deficit is created, the per-
22 son—

23 “(i) achieves compliance with the ap-
24 propriate requirement under paragraph
25 (2); and

1 “(ii) generates or purchases additional
2 renewable fuels or cellulosic biomass cred-
3 its to offset the deficit of the preceding
4 year.

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

7 “(A) STUDY.—For each of calendar years
8 2006 through 2012, the Administrator of the
9 Energy Information Administration shall con-
10 duct a study of renewable fuels blending to de-
11 termine whether there are excessive seasonal
12 variations in the use of renewable fuels.

13 “(B) REGULATION OF EXCESSIVE SEA-
14 SONAL VARIATIONS.—

15 “(i) DETERMINATION.—If, for any
16 calendar year, the Administrator of the
17 Energy Information Administration, based
18 on the study under subparagraph (A),
19 makes the determinations specified in sub-
20 paragraph (C), the Administrator of the
21 Environmental Protection Agency shall de-
22 termine whether promulgating regulations
23 described in clause (ii) would prevent or
24 interfere with the attainment or mainte-

1 nance of any national ambient air quality
2 standard.

3 “(ii) REGULATIONS.—

4 “(I) IN GENERAL.—The Admin-
5 istrator of the Environmental Protec-
6 tion Agency shall promulgate regula-
7 tions to ensure that 35 percent or
8 more of the quantity of renewable
9 fuels necessary to meet the require-
10 ments under paragraph (2) is used
11 during each of the periods specified in
12 subparagraph (D) of each subsequent
13 calendar year only if—

14 “(aa) the Administrator de-
15 termines under clause (i) that the
16 regulations would not prevent or
17 interfere with the attainment or
18 maintenance of national ambient
19 air quality standards; and

20 “(bb) final rules have been
21 promulgated under subsections
22 (h)(5) and (p)(2).

23 “(II) NEGATIVE DETERMINA-
24 TION.—The Administrator of the En-
25 vironmental Protection Agency shall

1 promulgate regulations requiring the
2 use, during each of the periods speci-
3 fied in subparagraph (D) of each sub-
4 sequent calendar year, of the max-
5 imum percentage of renewable fuels
6 necessary to meet the requirements
7 under paragraph (2) that can be used
8 without preventing or interfering with
9 the attainment or maintenance of na-
10 tional ambient air quality standards
11 if—

12 “(aa) the Administrator de-
13 termines under clause (i) that the
14 regulations would prevent or
15 interfere with the attainment or
16 maintenance of national ambient
17 air quality standards; and

18 “(bb) final rules have been
19 promulgated under subsections
20 (h)(5) and (p)(2).

21 “(C) DETERMINATIONS.—The determina-
22 tions referred to in subparagraph (B) are
23 that—

24 “(i) less than 35 percent of the quan-
25 tity of renewable fuels necessary to meet

1 the requirements under paragraph (2) has
2 been used during 1 of the periods specified
3 in subparagraph (D) of the calendar year;

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

7 “(iii) promulgating regulations or
8 other requirements to impose a 35 percent
9 or more seasonal use of renewable fuels
10 will not significantly increase the price of
11 motor fuels to the consumer.

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

14 “(i) April through September; and

15 “(ii) January through March and Oc-
16 tober through December.

17 “(E) EXCLUSIONS.—Renewable fuels
18 blended or consumed in 2006 in a State that
19 has received a waiver under section 209(b) shall
20 not be included in the study under subpara-
21 graph (A).

22 “(7) WAIVERS.—

23 “(A) IN GENERAL.—The Administrator, in
24 consultation with the Secretary of Agriculture
25 and the Secretary of Energy, may waive the re-

1 requirements under paragraph (2), in whole or in
2 part, on a petition by 1 or more States by re-
3 ducing the national quantity of renewable fuel
4 or cellulosic biomass fuel required under this
5 subsection—

6 “(i) based on a determination by the
7 Administrator, after public notice and op-
8 portunity for comment, that implementa-
9 tion of the requirement would severely
10 harm the economy or environment of a
11 State, a region, or the United States; or

12 “(ii) based on a determination by the
13 Administrator, after public notice and op-
14 portunity for comment, that there is an in-
15 adequate domestic supply to meet the re-
16 quirement.

17 “(B) PETITIONS FOR WAIVERS.—Not later
18 than 90 days after the date on which a petition
19 is received by the Administrator under subpara-
20 graph (A), the Administrator, in consultation
21 with the Secretary of Agriculture and the Sec-
22 retary of Energy, shall approve or disapprove
23 the petition.

24 “(C) TERMINATION OF WAIVERS.—A waiv-
25 er granted under subparagraph (A) shall termi-

1 nate on the date that is 1 year after the date
2 on which the waiver was granted, but may be
3 renewed by the Administrator, after consulta-
4 tion with the Secretary of Agriculture and the
5 Secretary of Energy.

6 “(8) SMALL REFINERIES.—

7 “(A) IN GENERAL.—Paragraph (2) shall
8 not apply to small refineries until the first cal-
9 endar year beginning more than 5 years after
10 the first year set forth in the table in paragraph
11 (2)(B)(i).

12 “(B) STUDY.—Not later than December
13 31, 2008, the Secretary of Energy shall com-
14 plete for the Administrator a study to deter-
15 mine whether the requirements under para-
16 graph (2) would impose a disproportionate eco-
17 nomic hardship on small refineries.

18 “(C) SMALL REFINERIES AND ECONOMIC
19 HARDSHIP.—For any small refinery that the
20 Secretary of Energy determines would experi-
21 ence a disproportionate economic hardship, the
22 Administrator shall extend the small refinery
23 exemption for the small refinery for not less
24 than 2 additional years.

25 “(D) ECONOMIC HARDSHIP.—

1 “(i) EXTENSION OF EXEMPTION.—A
2 small refinery may at any time petition the
3 Administrator for an extension of the ex-
4 emption from the requirements under
5 paragraph (2) for the reason of dispropor-
6 tionate economic hardship.

7 “(ii) EVALUATION.—In evaluating a
8 hardship petition, the Administrator, in
9 consultation with the Secretary of Energy,
10 shall consider the findings of the study in
11 addition to other economic factors.

12 “(iii) DEADLINE FOR ACTION ON PE-
13 TITIONS.—The Administrator shall act on
14 any petition submitted by a small refinery
15 for a hardship exemption not later than 90
16 days after the receipt of the petition.

17 “(E) CREDIT PROGRAM.—Paragraph
18 (6)(A)(iii) shall apply to each small refinery
19 that waives an exemption under this paragraph.

20 “(F) OPT-IN FOR SMALL REFINERS.—A
21 small refinery shall be subject to paragraph (2)
22 if the small refinery notifies the Administrator
23 that the small refinery waives the exemption
24 under subparagraph (C).”.

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)” and inserting “(n), or (o)” each place it
 7 appears; 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)” and inserting “(n), and (o)” each
 12 place it appears.

13 **SEC. 102. FEDERAL AGENCY ETHANOL-BLENDED GASOLINE**
 14 **AND BIODIESEL PURCHASING REQUIRE-**
 15 **MENT.**

16 Title III of the Energy Policy Act of 1992 is amended
 17 by striking section 306 (42 U.S.C. 13215) and inserting
 18 the following:

19 **“SEC. 306. FEDERAL AGENCY ETHANOL-BLENDED GASO-**
 20 **LINE AND BIODIESEL PURCHASING REQUIRE-**
 21 **MENT.**

22 “(a) ETHANOL-BLENDED GASOLINE.—The head of
 23 each Federal agency shall ensure that, in areas in which
 24 ethanol-blended gasoline is reasonably available at a gen-
 25 erally competitive price, the Federal agency purchases eth-

1 anol-blended gasoline containing at least 10 percent eth-
2 anol rather than nonethanol-blended gasoline, for use in
3 vehicles used by the agency that use gasoline.

4 “(b) BIODIESEL.—

5 “(1) DEFINITION OF BIODIESEL.—In this sub-
6 section, the term ‘biodiesel’ has the meaning given
7 the term in section 312(f).

8 “(2) REQUIREMENT.—The head of each Fed-
9 eral agency shall ensure that the Federal agency
10 purchases, for use in fueling fleet vehicles that use
11 diesel fuel used by the Federal agency at the loca-
12 tion at which fleet vehicles of the Federal agency are
13 centrally fueled, in areas in which the biodiesel-
14 blended diesel fuel described in subparagraphs (A)
15 and (B) is available at a generally competitive
16 price—

17 “(A) as of the date that is 5 years after
18 the date of enactment of this paragraph, bio-
19 diesel-blended diesel fuel that contains at least
20 2 percent biodiesel, rather than nonbiodiesel-
21 blended diesel fuel; and

22 “(B) as of the date that is 10 years after
23 the date of enactment of this paragraph, bio-
24 diesel-blended diesel fuel that contains at least

1 20 percent biodiesel, rather than nonbiodiesel-
2 blended diesel fuel.

3 “(3) REQUIREMENT OF FEDERAL LAW.—The
4 provisions of this subsection shall not be considered
5 a requirement of Federal law for the purposes of
6 section 312.

7 “(c) EXEMPTION.—This section does not apply to
8 fuel used in vehicles excluded from the definition of ‘fleet’
9 by subparagraphs (A) through (H) of section 301(9).”.

10 **SEC. 103. DATA COLLECTION.**

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

14 “(m)(1) In order to improve the ability to evaluate
15 the effectiveness of the renewable fuels mandate of the
16 United States, the Administrator shall conduct and pub-
17 lish the results of a survey of renewable fuels demand in
18 the motor vehicle fuels market in the United States
19 monthly, and in a manner designed to protect the con-
20 fidentiality of individual responses.

21 “(2) In conducting the survey, the Administrator
22 shall collect information both on a national and regional
23 basis, including—

24 “(A) information on—

1 “(i) the quantity of renewable fuels pro-
2 duced;

3 “(ii) the quantity of renewable fuels blend-
4 ed;

5 “(iii) the quantity of renewable fuels im-
6 ported; and

7 “(iv) the quantity of renewable fuels de-
8 manded; and

9 “(B) market price data.”.

10 **TITLE II—FEDERAL**
11 **REFORMULATED FUELS**

12 **SEC. 201. ELIMINATION OF OXYGEN CONTENT REQUIRE-**
13 **MENT FOR REFORMULATED GASOLINE.**

14 (a) ELIMINATION.—

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

17 (A) in paragraph (2)—

18 (i) in the second sentence of subpara-
19 graph (A), by striking “(including the oxy-
20 gen content requirement contained in sub-
21 paragraph (B))”;

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

23 (iii) by redesignating subparagraphs
24 (C) and (D) as subparagraphs (B) and
25 (C), respectively;

1 (B) in paragraph (3)(A), by striking clause
2 (v); and

3 (C) in paragraph (7)—

4 (i) in subparagraph (A)—

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

6 (II) by redesignating clauses (ii)

7 and (iii) as clauses (i) and (ii), respec-
8 tively; and

9 (ii) in subparagraph (C)—

10 (I) by striking clause (ii); and

11 (II) by redesignating clause (iii)

12 as clause (ii).

13 (2) EFFECTIVE DATE.—The amendments made
14 by paragraph (1) take effect on the date that is 1
15 year after the date of enactment of this Act, except
16 that the amendments shall take effect upon that
17 date of enactment in any State that has received a
18 waiver under section 209(b) of the Clean Air Act
19 (42 U.S.C. 7543(b)).

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

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

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

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

4 “(B) MAINTENANCE OF TOXIC AIR POL-
5 LUTANT EMISSIONS REDUCTIONS FROM REFOR-
6 MULATED GASOLINE.—

7 “(i) REGULATIONS CONCERNING
8 EMISSIONS OF TOXIC AIR POLLUTANTS.—

9 Not later than 270 days after the date of
10 enactment of this subparagraph, the Ad-
11 ministrator shall establish by regulation,
12 for each refinery or importer (other than a
13 refiner or importer in a State that has re-
14 ceived a waiver under section 209(b) with
15 respect to gasoline produced for use in that
16 State), standards for toxic air pollutants
17 from use of the reformulated gasoline pro-
18 duced or distributed by the refiner or im-
19 porter that maintain the reduction of the
20 average annual emissions of toxic air pol-
21 lutants for each gallon of reformulated
22 gasoline produced or distributed by the re-
23 finer or importer during calendar years
24 2002 and 2003 (as determined on the
25 basis of data collected by the Adminis-

1 trator with respect to the refiner or im-
2 porter).

3 “(ii) 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 (i) shall apply
9 to the total quantity of gasoline pro-
10 duced or distributed by the refiner or
11 importer in such calendar year.

12 “(II) STANDARDS APPLICABLE
13 TO NEW REFINERIES AND IMPORT-
14 ERS.—For any calendar year, the
15 standard applicable under clause (i) to
16 a refiner or importer that did not
17 produce or import reformulated gaso-
18 line during 2002 or 2003 shall be a
19 standard that achieves the reduction
20 of average annual emissions of toxic
21 air pollutants for each gallon of refor-
22 mulated gasoline produced or distrib-
23 uted during the preceding calendar
24 year.

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

6 (c) CONSOLIDATION IN REFORMULATED GASOLINE
7 REGULATIONS.—Not later than 180 days after the date
8 of enactment of this Act, the Administrator of the Envi-
9 ronmental Protection Agency shall revise the reformulated
10 gasoline regulations under subpart D of part 80 of title
11 40, Code of Federal Regulations (or any successor regula-
12 tions), to consolidate the regulations applicable to VOC-
13 Control Regions 1 and 2 under section 80.41 of that title
14 by eliminating the less stringent requirements applicable
15 to gasoline designated for VOC-Control Region 2 and in-
16 stead applying the more stringent requirements applicable
17 to gasoline designated for VOC-Control Region 1.

18 (d) AUTHORITY OF ADMINISTRATOR.—Nothing in
19 this section affects or prejudices any legal claim or action
20 with respect to regulations promulgated by the Adminis-
21 trator of the Environmental Protection Agency before the
22 date of enactment of this Act regarding—

23 (1) emissions of toxic air pollutants from motor
24 vehicles; or

1 (2) the adjustment of standards applicable to a
2 specific refinery or importer made under the prior
3 regulations.

4 (e) DETERMINATION REGARDING A STATE PETI-
5 TION.—Section 211(k) of the Clean Air Act (42 U.S.C.
6 7545(k)) is amended by inserting after paragraph (10) the
7 following:

8 “(11) DETERMINATION REGARDING A STATE
9 PETITION.—

10 “(A) IN GENERAL.—Notwithstanding any
11 other provision of this section, not later than 30
12 days after the date of enactment of this para-
13 graph, the Administrator shall determine the
14 adequacy of any petition received from a Gov-
15 ernor of a State to exempt gasoline sold in that
16 State from the requirements under paragraph
17 (2)(B).

18 “(B) APPROVAL.—If a determination
19 under subparagraph (A) is not made by the
20 date that is 30 days after the date of enactment
21 of this paragraph, the petition shall be consid-
22 ered to be approved.”.

1 **SEC. 202. PUBLIC HEALTH AND ENVIRONMENTAL IMPACTS**
2 **OF FUELS AND FUEL ADDITIVES.**

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

5 (1) in paragraph (2)—

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

8 (B) by striking subparagraph (A) and in-
9 serting the following:

10 “(A) to conduct tests to determine poten-
11 tial public health and environmental effects of
12 the fuel or additive (including, but not limited
13 to, carcinogenic, teratogenic, or mutagenic ef-
14 fects); and”;

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

16 “(4) STUDY ON CERTAIN FUEL ADDITIVES AND
17 BLENDSTOCKS.—

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

21 “(i) conduct a study on the effects on
22 public health, air quality, and water re-
23 sources of increased use of, and the feasi-
24 bility of using as substitutes for methyl
25 tertiary butyl ether in gasoline—

26 “(I) ethyl tertiary butyl ether;

1 “(II) tertiary amyl methyl ether;

2 “(III) di-isopropyl ether;

3 “(IV) tertiary butyl alcohol;

4 “(V) other ethers and heavy alco-
5 hols, as determined by the Adminis-
6 trator;

7 “(VI) ethanol;

8 “(VII) iso-octane; and

9 “(VIII) alkylates;

10 “(ii) conduct a study on the effects on
11 public health, air quality, and water re-
12 sources of the adjustment for ethanol-
13 blended reformulated gasoline to the VOC
14 performance requirements otherwise appli-
15 cable under sections 211(k)(1) and
16 211(k)(3); and

17 “(iii) submit to the Committee on En-
18 vironment and Public Works of the Senate
19 and the Committee on Energy and Com-
20 merce of the House of Representatives a
21 report describing the results of these stud-
22 ies.

23 “(B) CONTRACTS FOR STUDY.—In car-
24 rying out this paragraph, the Administrator
25 may enter into one or more contracts with non-

1 governmental entities including but not limited
 2 to National Energy Laboratories and institu-
 3 tions of higher education (as defined in section
 4 101 of the Higher Education Act of 1965 (20
 5 U.S.C. 1001)).”.

6 **SEC. 203. ANALYSES OF MOTOR VEHICLE FUEL CHANGES.**

7 (a) ANALYSES OF MOTOR VEHICLE FUEL CHANGES
 8 AND EMISSIONS MODEL.—Section 211 of the Clean Air
 9 Act (42 U.S.C. 7545) is amended by inserting after sub-
 10 section (o) (as added by section 101(a)(2)) the following:

11 “(p) ANALYSES OF MOTOR VEHICLE FUEL CHANGES
 12 AND EMISSIONS MODEL.—

13 “(1) DRAFT ANTI-BACKSLIDING ANALYSIS AND
 14 PROPOSED EMISSIONS MODEL.—Not later than 18
 15 months after the date of enactment of this sub-
 16 section, the Administrator shall publish for public
 17 comment—

18 “(A) a draft analysis of the changes in
 19 emissions of air pollutants and air quality due
 20 to the use of motor vehicle fuel and fuel addi-
 21 tives resulting from implementation of the
 22 amendments made by the Fuels Security Act of
 23 2005; and

24 “(B) a proposed emissions model for the
 25 purposes of certifying fuel under subsection

1 (k)(4)(B) that reflects the effects of gasoline
2 characteristics and components on emissions
3 from vehicles in the motor vehicle fleet during
4 calendar year 2005, taking into account the
5 best available scientific information on exhaust
6 emissions, nonexhaust emissions, and perme-
7 ation of gasoline components through the soft
8 fuel system components of a motor vehicle.

9 “(2) FINAL ANALYSIS AND EMISSIONS
10 MODEL.—After providing a reasonable opportunity
11 for public comment and peer review by the National
12 Academy of Sciences, but not later than 2 years
13 after the date of enactment of this subsection, the
14 Administrator shall publish the analysis and emis-
15 sions model described in paragraph (1) in final
16 form.”.

17 (b) REID VAPOR PRESSURE REQUIREMENTS.—Sec-
18 tion 211(h) of the Clean Air Act (42 U.S.C. 7545(h)) is
19 amended—

20 (1) by redesignating paragraph (5) as para-
21 graph (7); and

22 (2) by inserting after paragraph (4) the fol-
23 lowing:

24 “(5) EXCLUSION FROM ETHANOL WAIVER.—

1 “(A) PROPOSED STANDARD.—Not later
2 than 18 months after the date of enactment of
3 this subparagraph, the Administrator shall pub-
4 lish for public comment a proposed Reid vapor
5 pressure standard for fuel blends containing
6 gasoline and 10 percent denatured anhydrous
7 ethanol that—

8 “(i) causes those blends to have an
9 equivalent effect on ozone formation to fuel
10 that is subject to the Reid vapor pressure
11 limitation under paragraph (1); and

12 “(ii) reflects the effects of gasoline
13 characteristics and components on emis-
14 sions from vehicles in the motor vehicle
15 fleet during calendar year 2005, taking
16 into account the best available scientific in-
17 formation relating to exhaust emissions,
18 nonexhaust emissions, and permeation of
19 gasoline components through the soft fuel
20 system components of a motor vehicle.

21 “(B) FINAL RULE.—

22 “(i) PUBLICATION.—After providing a
23 reasonable opportunity for public comment
24 and peer review by the National Academy
25 of Sciences, but not later than 2 years

1 after the date of enactment of this sub-
2 paragraph, the Administrator shall publish
3 the Reid vapor pressure standard described
4 in subparagraph (A) in final form.

5 “(ii) EFFECT OF PUBLICATION.—Be-
6 ginning on the date of publication under
7 clause (i), the Reid vapor pressure stand-
8 ard described in subparagraph (A) shall re-
9 place the ethanol waiver under paragraph
10 (4).

11 “(6) EXCLUSION FROM ETHANOL WAIVER.—On
12 notification, accompanied by supporting documenta-
13 tion, from the Governor of a State that the Reid
14 vapor pressure limitation established by paragraph
15 (4) will increase emissions that contribute to air pol-
16 lution in any area in the State, the Administrator
17 shall, by regulation, apply, in lieu of the Reid vapor
18 pressure limitation established by paragraph (4), the
19 Reid vapor pressure limitation established by para-
20 graph (1) to all fuel blends containing gasoline and
21 10 percent denatured anhydrous ethanol that are
22 sold, offered for sale, dispensed, supplied, offered for
23 supply, transported, or introduced into commerce in
24 the area during the high ozone season.”.

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

4 (1) in paragraph (1)(A)—

5 (A) by inserting “fuel or fuel additive or”
6 after “Administrator any”; and

7 (B) by striking “air pollution which” and
8 inserting “air pollution, or water pollution,
9 that”;

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

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

13 “(5) RESTRICTIONS ON USE OF MTBE.—

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

20 “(B) REGULATIONS.—The Administrator
21 shall promulgate regulations to effect the prohi-
22 bition in subparagraph (A).

23 “(C) STATES THAT AUTHORIZE USE.—A
24 State described in this subparagraph is a State
25 that submits to the Administrator a notice that

1 the State authorizes use of methyl tertiary
2 butyl ether in motor vehicle fuel sold or used in
3 the State.

4 “(D) PUBLICATION OF NOTICE.—The Ad-
5 ministrator shall publish in the Federal Reg-
6 ister each notice submitted by a State under
7 subparagraph (C).

8 “(E) TRACE QUANTITIES.—In carrying out
9 subparagraph (A), the Administrator may allow
10 trace quantities of methyl tertiary butyl ether,
11 not to exceed 0.5 percent by volume, to be
12 present in motor vehicle fuel in cases that the
13 Administrator determines to be appropriate.

14 “(6) MTBE MERCHANT PRODUCER CONVERSION
15 ASSISTANCE.—

16 “(A) IN GENERAL.—

17 “(i) GRANTS.—The Secretary of En-
18 ergy, in consultation with the Adminis-
19 trator, may make grants to merchant pro-
20 ducers of methyl tertiary butyl ether in the
21 United States to assist the producers in
22 the conversion of eligible production facili-
23 ties described in subparagraph (C) to the
24 production of—

1 “(I) iso-octane or alkylates, un-
2 less the Administrator, in consultation
3 with the Secretary of Energy, deter-
4 mines that transition assistance for
5 the production of iso-octane or
6 alkylates is inconsistent with the cri-
7 teria specified in subparagraph (B);
8 and

9 “(II) any other fuel additive that
10 meets the criteria specified in sub-
11 paragraph (B).

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

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

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

20 “(iii) the fuel additive has been reg-
21 istered and tested, or is being tested, in ac-
22 cordance with the requirements of this sec-
23 tion;

24 “(iv) the fuel additive will contribute
25 to replacing quantities of motor vehicle fuel

1 rendered unavailable as a result of para-
2 graph (5); and

3 “(v) the fuel additive is not an ether
4 or a metal.

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

9 “(i) is located in the United States;
10 and

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

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

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

20 “(D) AUTHORIZATION OF APPROPRIA-
21 TIONS.—There is authorized to be appropriated
22 to carry out this paragraph \$250,000,000 for
23 each of fiscal years 2005 through 2008.”.

1 **SEC. 204. ADDITIONAL OPT-IN AREAS UNDER REFORMU-**
2 **LATED GASOLINE PROGRAM.**

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

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

7 “(6) OPT-IN AREAS.—

8 “(A) CLASSIFIED AREAS.—

9 “(i) IN GENERAL.—Upon”;

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

12 “(ii) EFFECT OF INSUFFICIENT DO-
13 MESTIC CAPACITY TO PRODUCE REFORMU-
14 LATED GASOLINE.—If”;

15 (3) in subparagraph (A)(i) (as redesignated by
16 paragraph (2)), by striking “under subpart 2” and
17 all that follows through “250,000.” and inserting
18 “nonattainment for ozone.”;

19 (4) in subparagraph (A)(ii) (as redesignated by
20 paragraph (2))—

21 (A) in the first sentence, by striking “Mar-
22 ginal, Moderate, Serious, or Severe Areas re-
23 ferred to in subparagraph (A)” and inserting
24 “nonattainment areas referred to in clause (i)”;
25 and

1 (B) in the second sentence, by striking
2 “this paragraph” and inserting “this subpara-
3 graph”; and

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

5 “(B) OZONE TRANSPORT REGION.—

6 “(i) APPLICATION OF PROHIBITION.—

7 “(I) IN GENERAL.—In addition
8 to the provisions of subparagraph (A),
9 upon the application of the Governor
10 of a State in the ozone transport re-
11 gion established by section 184(a), the
12 Administrator, not later than 180
13 days after the date of receipt of the
14 application, shall apply the prohibition
15 specified in paragraph (5) to any area
16 in the State (other than an area clas-
17 sified as a marginal, moderate, seri-
18 ous, or severe ozone nonattainment
19 area under subpart 2 of part D of
20 title I) unless the Administrator deter-
21 mines under clause (iii) that there is
22 insufficient capacity to supply refor-
23 mulated gasoline.

24 “(II) PUBLICATION OF APPLICA-
25 TION.—As soon as practicable after

1 the date of receipt of an application
2 under subclause (I), the Adminis-
3 trator shall publish the application in
4 the Federal Register.

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

8 “(I) commencing as soon as prac-
9 ticable but not later than 2 years
10 after the date of approval by the Ad-
11 ministrator of the application of the
12 Governor of the State; and

13 “(II) ending not earlier than 4
14 years after the commencement date
15 determined under subclause (I).

16 “(iii) EXTENSION OF COMMENCEMENT
17 DATE BASED ON INSUFFICIENT CAPAC-
18 ITY.—

19 “(I) IN GENERAL.—If, after re-
20 ceipt of an application from a Gov-
21 ernor of a State under clause (i), the
22 Administrator determines, on the Ad-
23 ministrator’s own motion or on peti-
24 tion of any person, after consultation
25 with the Secretary of Energy, that

1 there is insufficient capacity to supply
 2 reformulated gasoline, the Adminis-
 3 trator, by regulation—

4 “(aa) shall extend the com-
 5 mencement date with respect to
 6 the State under clause (ii)(I) for
 7 not more than 1 year; and

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

12 “(II) DEADLINE FOR ACTION ON
 13 PETITIONS.—The Administrator shall
 14 act on any petition submitted under
 15 subclause (I) not later than 180 days
 16 after the date of receipt of the peti-
 17 tion.”.

18 **SEC. 205. FEDERAL ENFORCEMENT OF STATE FUELS RE-**
 19 **QUIREMENTS.**

20 Section 211(c)(4)(C) of the Clean Air Act (42 U.S.C.
 21 7545(c)(4)(C)) is amended—

22 (1) by striking “(C) A State” and inserting the
 23 following:

1 “(C) AUTHORITY OF STATE TO CONTROL
2 FUELS AND FUEL ADDITIVES FOR REASONS OF
3 NECESSITY.—

4 “(i) IN GENERAL.—A State”; and
5 (2) by adding at the end the following:

6 “(ii) ENFORCEMENT BY THE ADMIN-
7 ISTRATOR.—In any case in which a State
8 prescribes and enforces a control or prohi-
9 bition under clause (i), the Administrator,
10 at the request of the State, shall enforce
11 the control or prohibition as if the control
12 or prohibition had been adopted under the
13 other provisions of this section.”.

14 **SEC. 206. FUEL SYSTEM REQUIREMENTS HARMONIZATION**
15 **STUDY.**

16 (a) STUDY.—

17 (1) IN GENERAL.—The Administrator of the
18 Environmental Protection Agency and the Secretary
19 of Energy shall jointly conduct a study of Federal,
20 State, and local requirements concerning motor vehi-
21 cle fuels, including—

22 (A) requirements relating to reformulated
23 gasoline, volatility (measured in Reid vapor
24 pressure), oxygenated fuel, and diesel fuel; and

1 (B) other requirements that vary from
2 State to State, region to region, or locality to
3 locality.

4 (2) REQUIRED ELEMENTS.—The study shall as-
5 sess—

6 (A) the effect of the variety of require-
7 ments described in paragraph (1) on the supply,
8 quality, and price of motor vehicle fuels avail-
9 able to the consumer;

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

12 (i) national, regional, and local air
13 quality standards and goals; and

14 (ii) related environmental and public
15 health protection standards and goals;

16 (C) the effect of Federal, State, and local
17 motor vehicle fuel regulations, including mul-
18 tiple motor vehicle fuel requirements, on—

19 (i) domestic refineries;

20 (ii) the fuel distribution system; and

21 (iii) industry investment in new capac-
22 ity;

23 (D) the effect of the requirements de-
24 scribed in paragraph (1) on emissions from ve-
25 hicles, refineries, and fuel handling facilities;

1 (E) the feasibility of developing national or
2 regional motor vehicle fuel slates for the 48
3 contiguous States that, while protecting and im-
4 proving air quality at the national, regional,
5 and local levels, could—

6 (i) enhance flexibility in the fuel dis-
7 tribution infrastructure and improve fuel
8 fungibility;

9 (ii) reduce price volatility and costs to
10 consumers and producers;

11 (iii) provide increased liquidity to the
12 gasoline market; and

13 (iv) enhance fuel quality, consistency,
14 and supply; and

15 (F) the feasibility of providing incentives,
16 and the need for the development of national
17 standards necessary, to promote cleaner burn-
18 ing motor vehicle fuel.

19 (b) REPORT.—

20 (1) IN GENERAL.—Not later than June 1,
21 2006, the Administrator of the Environmental Pro-
22 tection Agency and the Secretary of Energy shall
23 submit to Congress a report on the results of the
24 study conducted under subsection (a).

25 (2) RECOMMENDATIONS.—

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

4 (i) to improve air quality;

5 (ii) to reduce costs to consumers and
6 producers; and

7 (iii) to increase supply liquidity.

8 (B) REQUIRED CONSIDERATIONS.—The
9 recommendations under subparagraph (A) shall
10 take into account the need to provide advance
11 notice of required modifications to refinery and
12 fuel distribution systems in order to ensure an
13 adequate supply of motor vehicle fuel in all
14 States.

15 (3) CONSULTATION.—In developing the report,
16 the Administrator of the Environmental Protection
17 Agency and the Secretary of Energy shall consult
18 with—

19 (A) the Governors of the States;

20 (B) automobile manufacturers;

21 (C) motor vehicle fuel producers and dis-
22 tributors; and

23 (D) the public.

1 **SEC. 207. REVIEW OF FEDERAL PROCUREMENT INITIA-**
2 **TIVES RELATING TO USE OF RECYCLED**
3 **PRODUCTS AND FLEET AND TRANSPOR-**
4 **TATION EFFICIENCY.**

5 Not later than 180 days after the date of enactment
6 of this Act, the Administrator of General Services shall
7 submit to Congress a report that details efforts by each
8 Federal agency to implement the procurement policies
9 specified in Executive Order No. 13101 (63 Fed. Reg.
10 49643; relating to governmental use of recycled products)
11 and Executive Order No. 13149 (65 Fed. Reg. 24607; re-
12 lating to Federal fleet and transportation efficiency).

13 **SEC. 208. REPORT ON RENEWABLE MOTOR FUEL.**

14 Not later than January 1, 2007, the Secretary of En-
15 ergy and the Secretary of Agriculture shall jointly prepare
16 and submit to Congress a report containing recommenda-
17 tions for achieving, by January 1, 2025, at least 25 per-
18 cent renewable fuel content (calculated on an average an-
19 nual basis) for all gasoline sold or introduced into com-
20 merce in the United States.

21 **TITLE III—CELLULOSIC**
22 **BIOMASS**

23 **SEC. 301. COMMERCIAL DEMONSTRATION PROJECTS.**

24 The Federal Nonnuclear Energy Research and Devel-
25 opment Act of 1974 (42 U.S.C. 5901 et seq.) is amended
26 by adding at the end the following:

1 **“SEC. 21. CELLULOSIC BIOMASS COMMERCIAL DEM-**
2 **ONSTRATION PROJECTS.**

3 “(a) IN GENERAL.—The Secretary of Energy (re-
4 ferred to in this section as the ‘Secretary’) shall provide
5 loan guarantees to eligible entities (as determined under
6 subsection (b)) to carry out not more than 3 projects to
7 commercially demonstrate the feasibility and viability of
8 converting cellulosic biomass derived from agricultural res-
9 idue, such as corn stover or straw into ethanol.

10 “(b) ELIGIBLE ENTITIES.—

11 “(1) IN GENERAL.—To be eligible to receive a
12 loan guarantee under subsection (a), an entity shall,
13 with respect to a project described in subsection
14 (a)—

15 “(A) submit to the Secretary an applica-
16 tion in accordance with paragraph (2);

17 “(B) submit to the Secretary evidence of a
18 binding commitment from an equity investor to
19 provide to the project an initial equity contribu-
20 tion in an amount equal to not less than 20
21 percent of the total cost of the project;

22 “(C) validate the design of the project
23 through the operation of a continuous process
24 facility, the cumulative output of which pro-
25 duces at least 50,000 gallons of ethanol, a sig-
26 nificant quantity of which, as determined by the

1 Secretary, is produced using the protocols that
2 are incorporated into the design of the project;

3 “(D) carry out a due diligence review of
4 the design specifications of the project;

5 “(E) enter into 1 or more long-term sales
6 contracts for ethanol produced;

7 “(F) use quantities of feedstock that are
8 substantially in excess of the quantity of feed-
9 stock that would otherwise be used in the ab-
10 sence of the project, as determined by the Sec-
11 retary;

12 “(G) enter into 1 or more multi-year con-
13 tracts for feedstock acquisition;

14 “(H) maintain at least a minimum level of
15 inventory that is sufficient to protect against a
16 disruption in feedstock supply, as determined
17 by the Secretary;

18 “(I) prepare a strategy to protect the
19 project against weather-related risks; and

20 “(J) submit to the Secretary adequate
21 project performance guarantees, as determined
22 by the Secretary, including—

23 “(i) a binding commitment to com-
24 plete the construction of the project to the
25 original design specifications of the project,

1 backed by a performance bond that speci-
2 fies a maximum completion price;

3 “(ii) a binding commitment of each
4 project sponsor to contribute an amount
5 equal to 50 percent of the initial equity in-
6 vestment of the sponsor to correct any
7 shortfall in the technical performance of
8 the project during the first 2 years during
9 which the project is in operation, if the
10 shortfall poses a significant risk to the
11 debt repayment schedule for the project, as
12 determined by the Secretary; and

13 “(iii) a sustained operation guarantee
14 giving the Federal Government recourse to
15 reimbursement from each project partici-
16 pant if the project defaults on a loan guar-
17 anteed under subsection (a).

18 “(2) APPLICATION.—

19 “(A) IN GENERAL.—To receive a loan
20 guarantee under subsection (a), an eligible enti-
21 ty shall submit to the Secretary an application
22 in such time, in such a manner, and containing
23 such information as the Secretary may require.

1 “(B) CONTENTS.—An application under
2 subparagraph (A) shall include assurances by
3 the eligible entity that—

4 “(i) the project has been subject to a
5 full technical review;

6 “(ii) the project, with a loan guar-
7 antee under subsection (a), will be eco-
8 nomically viable; and

9 “(iii) the eligible entity will repay a
10 loan guaranteed under subsection (a) in
11 accordance with paragraph (3).

12 “(C) DEADLINE FOR DETERMINATION.—
13 The Secretary shall determine whether to ap-
14 prove an application of an eligible entity not
15 later than 90 days after the date on which the
16 Secretary receives the application.

17 “(3) ASSURANCE OF REPAYMENT.—To receive
18 a loan guarantee under subsection (a), an eligible
19 entity shall provide to the Secretary assurance that
20 the eligible entity will repay the loan by dem-
21 onstrating 1 or more of the following:

22 “(A) PROBABLE RISK ANALYSIS.—The
23 project has been subjected to a probable risk
24 analysis of the volatility of the project that—

25 “(i) demonstrates—

1 “(I) positive economic returns to
2 each equity investor in the project;
3 and

4 “(II) full repayment of the loan
5 under normal conditions;

6 “(ii) identifies—

7 “(I) each major element of risk
8 and volatility of the project, including
9 an estimate of the risk value for each
10 element of the project; and

11 “(II) the party that will bear the
12 risk; and

13 “(iii) identifies and evaluates any
14 mitigation measure that would reduce the
15 level of volatility in an estimate under
16 clause (ii)(I).

17 “(B) COMMITMENTS FROM EQUITY INVES-
18 TORS.—An equity investor in the project has
19 committed to provide an initial equity contribu-
20 tion to the project in an amount equal to the
21 sum of—

22 “(i) not less than 20 percent of the
23 total cost of the project; and

1 “(ii) any additional amount, as needed
2 to meet a performance guarantee under
3 paragraph (1)(J).

4 “(C) CONTRIBUTIONS BACKED BY FED-
5 ERAL GUARANTEE.—Each equity investor in the
6 project made a proportional contribution with
7 disbursements of loans with a Federal guar-
8 antee.

9 “(c) PROJECT REQUIREMENTS.—

10 “(1) DESIGN CAPACITY.—A demonstration
11 project that receives a loan guarantee under sub-
12 section (a) shall have a design capacity that will
13 produce not less than 30,000,000 gallons of cellulose
14 ethanol each year.

15 “(2) CEREAL STRAW.—At least 1 project that
16 receives a loan guarantee under subsection (a) shall
17 use cereal straw as a feedstock.

18 “(d) AMOUNT OF GUARANTEE; EXTENT OF RE-
19 COURSE.—

20 “(1) AMOUNT OF GUARANTEE.—

21 “(A) IN GENERAL.—Except as provided in
22 subparagraph (B), the amount of a loan guar-
23 antee provided for a project under this section
24 shall not exceed the lesser of—

1 “(i) 80 percent of the estimated cost
2 of the project; or

3 “(ii) \$250,000,000.

4 “(B) ADDITIONAL GUARANTEES.—

5 “(i) IN GENERAL.—If the actual cost
6 of a project under this section exceeds the
7 estimated cost of the project under sub-
8 paragraph (A), the Secretary may issue an
9 additional loan guarantee for the project in
10 an amount not to exceed the lesser of—

11 “(I) 80 percent of the excess; or

12 “(II) 15 percent of the amount of
13 the original loan guarantee provided
14 for the project.

15 “(ii) PRINCIPAL AND INTEREST.—The
16 Secretary shall guarantee 100 percent of
17 the principal and interest of a loan made
18 under clause (i).

19 “(2) EXTENT OF RECOURSE.—

20 “(A) IN GENERAL.—The extent of recourse
21 by the Federal Government for a loan guaran-
22 teed under subsection (a) shall be limited to the
23 performance guarantees described in subsection
24 (b)(1)(J).

1 “(B) COMMITMENT OF PROJECT PARTICI-
2 PANTS.—

3 “(i) IN GENERAL.—Each project par-
4 ticipant described in clause (ii) shall enter
5 into a binding commitment to reimburse
6 the Federal Government for a loss caused
7 by a default on a loan guaranteed under
8 subsection (a) in an amount equal to the
9 difference between, during the 4-year pe-
10 riod preceding the default—

11 “(I) the amount paid to the
12 project participant for the supply of
13 goods or services for the project; and

14 “(II) the amount of any reason-
15 able direct or indirect costs, as deter-
16 mined by the Secretary, incurred by
17 the project participant in providing
18 goods or services for the project.

19 “(ii) PROJECT PARTICIPANTS.—The
20 project participants referred to in clause
21 (i) include—

22 “(I) each primary licensor of a
23 cellulose conversion technology used
24 for the project;

1 “(II) any supplier of a bio-
2 catalyst for the project; and

3 “(III) any equity participant that
4 provides design, project management,
5 or other services for the project.

6 “(e) DUE DILIGENCE REVIEWS.—

7 “(1) IN GENERAL.—A due diligence review of a
8 project under this section shall be carried out in
9 such manner and in accordance with such timeline
10 as the Secretary determines to be reasonable.

11 “(2) CONSIDERATION.—In establishing a
12 timeline for a due diligence review under paragraph
13 (1), the Secretary shall take into consideration the
14 90-day deadline for approval of an application under
15 subsection (b)(2)(C).

16 “(f) INSUFFICIENT APPROPRIATIONS.—If the
17 amount of appropriations made available for a fiscal year
18 are insufficient to provide 3 loan guarantees under sub-
19 section (a) during that fiscal year, the Secretary shall give
20 priority to applications under subsection (b)(2) based on
21 the order in which the Secretary receives the applications.

22 “(g) DIRECT LOANS BY FEDERAL FINANCING
23 BANK.—If the Federal Financing Bank makes a direct
24 loan to a project under the Federal Financing Bank Act
25 of 1973 (12 U.S.C. 2281 et seq.), the rate of interest of

- 1 the loan shall not exceed the yield of a Treasury security
- 2 of comparable maturity, as determined by the Secretary.”.

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