

109TH CONGRESS
1ST SESSION

S. 606

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

MARCH 11, 2005

Mr. THUNE (for himself, Mr. INHOFE, Mr. VOINOVICH, and Mr. BOND) 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. Renewable fuel.

Sec. 103. 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 (except in Alaska and Ha-
19 waii), on an annual average basis, contains
20 the applicable volume of renewable fuel de-
21 termined in accordance with subparagraph
22 (B).

23 “(ii) PROVISIONS OF REGULATIONS.—
24 Regardless of the date of promulgation,

1 the regulations promulgated under clause

2 (i)—

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

9 “(II) shall not—

10 “(aa) restrict cases in which
11 renewable fuel may be used; or

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

15 “(iii) REQUIREMENT IN CASE OF
16 FAILURE TO PROMULGATE REGULA-
17 TIONS.—If the Administrator does not pro-
18 mulgate regulations under clause (i), the
19 percentage of renewable fuel in gasoline
20 sold or dispensed to consumers in the
21 United States, on a volume basis, shall be
22 1.8 percent for calendar year 2006.

23 “(B) APPLICABLE VOLUME.—

24 “(i) CALENDAR YEARS 2006 THROUGH
25 2012.—For the purpose of subparagraph

1 (A), the applicable volume for any of cal-
2 endar years 2006 through 2012 shall be
3 determined in accordance with the fol-
4 lowing table:

Calendar year:	Applicable volume of renewable fuel (in billions of gal- lons):
2006	3.8
2007	4.1
2008	4.5
2009	4.9
2010	5.3
2011	5.7
2012	6.0

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

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

15 “(II) the ratio that—

16 “(aa) 5,000,000,000 gallons
17 of renewable fuel; bears to

18 “(bb) the number of gallons
19 of gasoline sold or introduced

1 into commerce in calendar year
2 2012.

3 “(3) APPLICABLE PERCENTAGES.—

4 “(A) PROVISION OF ESTIMATE OF VOL-
5 UMES OF GASOLINE SALES.—Not later than Oc-
6 tober 31 of each of calendar years 2005
7 through 2011, the Administrator of the Energy
8 Information Administration shall provide to the
9 Administrator of the Environmental Protection
10 Agency an estimate of the volumes of gasoline
11 sold or introduced into commerce in the United
12 States during the following calendar year.

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

15 “(i) IN GENERAL.—Not later than
16 November 30 of each of calendar years
17 2005 through 2011, based on the estimate
18 provided under subparagraph (A), the Ad-
19 ministrator of the Environmental Protec-
20 tion Agency shall determine and publish in
21 the Federal Register, with respect to the
22 following calendar year, the renewable fuel
23 obligation that ensures that the require-
24 ments of paragraph (2) are met.

1 “(ii) REQUIRED ELEMENTS.—The re-
2 newable fuel obligation determined for a
3 calendar year under clause (i) shall—

4 “(I) be applicable to refineries,
5 blenders, and importers, as appro-
6 priate;

7 “(II) be expressed in terms of a
8 volume percentage of gasoline; and

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

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

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

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

24 “(4) CELLULOSIC BIOMASS ETHANOL.—For the
25 purpose of paragraph (2), 1 gallon of cellulosic bio-

1 mass ethanol shall be considered to be the equivalent
2 of 1.5 gallons of renewable fuel.

3 “(5) CREDIT PROGRAM.—

4 “(A) IN GENERAL.—The regulations pro-
5 mulgated under paragraph (2)(A) shall pro-
6 vide—

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

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

15 “(iii) for the generation of credits by
16 small refineries in accordance with para-
17 graph (9)(C).

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

23 “(C) DURATION OF CREDITS.—A credit
24 generated under this paragraph shall be valid to
25 show compliance—

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

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

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

19 “(i) achieves compliance with the re-
20 newable fuel requirement under paragraph
21 (2); and

22 “(ii) generates or purchases additional
23 renewable fuel credits to offset the renew-
24 able fuel deficit of the previous year.

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

3 “(A) STUDY.—For each of calendar years
4 2006 through 2012, the Administrator of the
5 Energy Information Administration shall con-
6 duct a study of renewable fuel blending to de-
7 termine whether there are excessive seasonal
8 variations in the use of renewable fuel.

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

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

1 “(i) less than 35 percent of the quan-
2 tity of renewable fuel necessary to meet the
3 requirements of paragraph (2) has been
4 used during 1 of the 2 periods specified in
5 subparagraph (D) of the calendar year;
6 and

7 “(ii) a pattern of excessive seasonal
8 variation described in clause (i) will con-
9 tinue in subsequent calendar years.

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

12 “(i) April through September; and

13 “(ii) January through March and Oc-
14 tober through December.

15 “(E) EXCLUSION.—Renewable fuel blended
16 or consumed in calendar year 2006 in a State
17 that has received a waiver under section 209(b)
18 shall not be included in the study under sub-
19 paragraph (A).

20 “(7) WAIVERS.—

21 “(A) IN GENERAL.—The Administrator, in
22 consultation with the Secretary of Agriculture
23 and the Secretary of Energy, may waive the re-
24 quirements of paragraph (2) in whole or in part
25 on petition by 1 or more States by reducing the

1 national quantity of renewable fuel required
2 under paragraph (2)—

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

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

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

21 “(C) TERMINATION OF WAIVERS.—A waiv-
22 er granted under subparagraph (A) shall termi-
23 nate after 1 year, but may be renewed by the
24 Administrator after consultation with the Sec-

1 retary of Agriculture and the Secretary of En-
2 ergy.

3 “(8) STUDY AND WAIVER FOR INITIAL YEAR OF
4 PROGRAM.—

5 “(A) IN GENERAL.—Not later than 180
6 days after the date of enactment of this para-
7 graph, the Secretary of Energy shall conduct
8 for the Administrator a study assessing whether
9 the renewable fuel requirement under para-
10 graph (2) will likely result in significant adverse
11 impacts on consumers in 2006, on a national,
12 regional, or State basis.

13 “(B) REQUIRED EVALUATIONS.—The
14 study shall evaluate renewable fuel—

15 “(i) supplies and prices;

16 “(ii) blendstock supplies; and

17 “(iii) supply and distribution system
18 capabilities.

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

1 “(D) WAIVER.—

2 “(i) IN GENERAL.—Not later than
3 270 days after the date of enactment of
4 this paragraph, the Administrator shall, if
5 and to the extent recommended by the Sec-
6 retary of Energy under subparagraph (C),
7 waive, in whole or in part, the renewable
8 fuel requirement under paragraph (2) by
9 reducing the national quantity of renew-
10 able fuel required under paragraph (2) in
11 calendar year 2006.

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

17 “(9) SMALL REFINERIES.—

18 “(A) TEMPORARY EXEMPTION.—

19 “(i) IN GENERAL.—The requirements
20 of paragraph (2) shall not apply to small
21 refineries until calendar year 2011.

22 “(ii) EXTENSION OF EXEMPTION.—

23 “(I) STUDY BY SECRETARY OF
24 ENERGY.—Not later than December
25 31, 2008, the Secretary of Energy

1 shall conduct for the Administrator a
2 study to determine whether compli-
3 ance with the requirements of para-
4 graph (2) would impose a dispropor-
5 tionate economic hardship on small
6 refineries.

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

18 “(B) PETITIONS BASED ON DISPROPOR-
19 TIONATE ECONOMIC HARDSHIP.—

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

1 “(ii) EVALUATION OF PETITIONS.—In
2 evaluating a petition under clause (i), the
3 Administrator, in consultation with the
4 Secretary of Energy, shall consider the
5 findings of the study under subparagraph
6 (A)(ii) and other economic factors.

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

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

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

1 “(10) ETHANOL MARKET CONCENTRATION
2 ANALYSIS.—

3 “(A) ANALYSIS.—

4 “(i) IN GENERAL.—Not later than
5 180 days after the date of enactment of
6 this paragraph, and annually thereafter,
7 the Federal Trade Commission shall per-
8 form a market concentration analysis of
9 the ethanol production industry using the
10 Herfindahl-Hirschman Index to determine
11 whether there is sufficient competition
12 among industry participants to avoid price-
13 setting and other anticompetitive behavior.

14 “(ii) SCORING.—For the purpose of
15 scoring under clause (i) using the
16 Herfindahl-Hirschman Index, all mar-
17 keting arrangements among industry par-
18 ticipants shall be considered.

19 “(B) REPORT.—Not later than December
20 1, 2005, and annually thereafter, the Federal
21 Trade Commission shall submit to Congress
22 and the Administrator a report on the results
23 of the market concentration analysis performed
24 under subparagraph (A)(i).

25 “(p) RENEWABLE FUEL SAFE HARBOR.—

1 “(1) IN GENERAL.—

2 “(A) SAFE HARBOR.—Notwithstanding
3 any other provision of Federal or State law, no
4 renewable fuel (as defined in subsection (o)(1))
5 used or intended to be used as a motor vehicle
6 fuel, nor any motor vehicle fuel containing re-
7 newable fuel, shall be deemed to be defective in
8 design or manufacture by reason of the fact
9 that the fuel is, or contains, renewable fuel, if—

10 “(i) the fuel does not violate a control
11 or prohibition imposed by the Adminis-
12 trator under this section; and

13 “(ii) the manufacturer of the fuel is in
14 compliance with all requests for informa-
15 tion under subsection (b).

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

22 “(2) EXCEPTION.—This subsection does not
23 apply to ethers.

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

4 (b) PENALTIES AND ENFORCEMENT.—Section
5 211(d) of the Clean Air Act (42 U.S.C. 7545(d)) is
6 amended—

7 (1) in paragraph (1)—

8 (A) in the first sentence, by striking “or
9 (n)” each place it appears and inserting “(n),
10 or (o)”;

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

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

16 (c) EXCLUSION FROM ETHANOL WAIVER.—Section
17 211(h) of the Clean Air Act (42 U.S.C. 7545(h)) is
18 amended—

19 (1) by redesignating paragraph (5) as para-
20 graph (6); and

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

23 “(5) EXCLUSION FROM ETHANOL WAIVER.—

24 “(A) PROMULGATION OF REGULATIONS.—

25 Upon notification, accompanied by supporting

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

15 “(B) DEADLINE FOR PROMULGATION.—

16 The Administrator shall promulgate regulations
17 under subparagraph (A) not later than 90 days
18 after the date of receipt of a notification from
19 a Governor under that subparagraph.

20 “(C) EFFECTIVE DATE.—

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

1 “(I) the first day of the first high
2 ozone season for the area that begins
3 after the date of receipt of the notifi-
4 cation; or

5 “(II) 1 year after the date of re-
6 ceipt of the notification.

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

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

23 “(aa) shall extend the effec-
24 tive date of the regulations under

1 clause (i) with respect to the area
 2 for not more than 1 year; and

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

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

13 **SEC. 102. RENEWABLE FUEL.**

14 (a) IN GENERAL.—The Clean Air Act is amended by
 15 inserting after section 211 (42 U.S.C. 7411) the following:

16 **“SEC. 212. RENEWABLE FUEL.**

17 “(a) DEFINITIONS.—In this section:

18 “(1) MUNICIPAL SOLID WASTE.—The term
 19 ‘municipal solid waste’ has the meaning given the
 20 term ‘solid waste’ in section 1004 of the Solid Waste
 21 Disposal Act (42 U.S.C. 6903).

22 “(2) RFG STATE.—The term ‘RFG State’
 23 means a State in which is located 1 or more covered
 24 areas (as defined in section 211(k)(10)(D)).

1 “(3) SECRETARY.—The term ‘Secretary’ means
2 the Secretary of Energy.

3 “(b) SURVEY OF RENEWABLE FUEL MARKET.—

4 “(1) SURVEY AND REPORT.—Not later than
5 December 1, 2006, and annually thereafter, the Ad-
6 ministrator shall—

7 “(A) conduct, with respect to each conven-
8 tional gasoline use area and each reformulated
9 gasoline use area in each State, a survey to de-
10 termine the market shares of—

11 “(i) conventional gasoline containing
12 ethanol;

13 “(ii) reformulated gasoline containing
14 ethanol;

15 “(iii) conventional gasoline containing
16 renewable fuel; and

17 “(iv) reformulated gasoline containing
18 renewable fuel; and

19 “(B) submit to Congress, and make pub-
20 licly available, a report on the results of the
21 survey under subparagraph (A).

22 “(2) RECORDKEEPING AND REPORTING RE-
23 QUIREMENTS.—

24 “(A) IN GENERAL.—The Administrator
25 may require any refiner, blender, or importer to

1 keep such records and make such reports as are
2 necessary to ensure that the survey conducted
3 under paragraph (1) is accurate.

4 “(B) RELIANCE ON EXISTING REQUIRE-
5 MENTS.—To avoid duplicative requirements, in
6 carrying out subparagraph (A), the Adminis-
7 trator shall rely, to the maximum extent prac-
8 ticable, on reporting and recordkeeping require-
9 ments in effect on the date of enactment of this
10 section.

11 “(3) CONFIDENTIALITY.—Activities carried out
12 under this subsection shall be conducted in a man-
13 ner designed to protect confidentiality of individual
14 responses.

15 “(c) COMMERCIAL BYPRODUCTS FROM MUNICIPAL
16 SOLID WASTE LOAN GUARANTEE PROGRAM.—

17 “(1) IN GENERAL.—In addition to amounts ap-
18 propriated or otherwise made available by this Act
19 or any other Act, \$_____ shall be provided until
20 expended for the cost (as defined in the Federal
21 Credit Reform Act of 1990 (2 U.S.C. 661 et seq.))
22 of loan guarantees issued under section 19 of the
23 Federal Nonnuclear Energy Research and Develop-
24 ment Act of 1974 (42 U.S.C. 5919) to carry out
25 cellulosic biomass commercial demonstration projects.

1 “(2) DEMONSTRATION PROJECTS.—

2 “(A) IN GENERAL.—The Secretary shall
3 issue loan guarantees under this section to
4 carry out not more than 3 projects to commer-
5 cially demonstrate the feasibility and viability of
6 converting cellulosic biomass derived from agri-
7 cultural residue such as corn stover or straw
8 (including at least 1 project that uses cereal
9 straw as a feedstock or municipal solid waste)
10 into ethanol.

11 “(B) DESIGN CAPACITY.—Each project
12 shall have a design capacity to produce at least
13 30,000,000 gallons of cellulose ethanol each
14 year.

15 “(3) APPLICANT ASSURANCES.—An applicant
16 for a loan guarantee under this section shall provide
17 assurances, satisfactory to the Secretary, that—

18 “(A) the project design has been validated
19 through the operation of a continuous process
20 facility with a cumulative output of at least
21 50,000 gallons of ethanol;

22 “(B) the project has been subject to a full
23 technical review;

24 “(C) the project is covered by adequate
25 project performance guarantees;

1 “(D) the project, with the loan guarantee,
2 is economically viable; and

3 “(E) there is a reasonable assurance of re-
4 payment of the guaranteed loan.

5 “(4) LIMITATIONS.—

6 “(A) MAXIMUM GUARANTEE.—Except as
7 provided in subparagraph (B), notwithstanding
8 section 19(c)(2)(A) of the Federal Nonnuclear
9 Energy Research and Development Act of 1974
10 (42 U.S.C. 5919(c)(2)(A)), a loan guarantee
11 under this section may be issued for up to 80
12 percent of the estimated cost of a project, but
13 may not exceed \$250,000,000 for a project.

14 “(B) ADDITIONAL GUARANTEES.—

15 “(i) IN GENERAL.—The Secretary
16 may issue additional loan guarantees for a
17 project to cover up to 80 percent of the ex-
18 cess of actual project cost over estimated
19 project cost but not to exceed 15 percent
20 of the amount of the original guarantee.

21 “(ii) PRINCIPAL AND INTEREST.—
22 Subject to subparagraph (A), the Secretary
23 shall guarantee 100 percent of the prin-
24 cipal and interest of a loan made under
25 subparagraph (A).

1 “(5) EQUITY CONTRIBUTIONS.—To be eligible
2 for a loan guarantee under this section, an applicant
3 for the loan guarantee shall have binding commit-
4 ments from equity investors to provide an initial eq-
5 uity contribution of at least 20 percent of the total
6 project cost.

7 “(6) EFFECT OF OTHER LAWS.—The following
8 provisions are inapplicable to a loan guarantee made
9 under this section:

10 “(A) Subsections (m) and (p) of section 19
11 of the Federal Nonnuclear Energy Research
12 and Development Act of 1974 (42 U.S.C.
13 5919).

14 “(B) The first, third, and fourth sentences
15 of section 19(g)(4) of that Act.

16 “(7) INSUFFICIENT AMOUNTS.—If the amount
17 made available to carry out this section is insuffi-
18 cient to allow the Secretary to make loan guarantees
19 for 3 projects described in subsection (b), the Sec-
20 retary shall issue loan guarantees for 1 or more
21 qualifying projects under this section in the order in
22 which the applications for the projects are received
23 by the Secretary.

24 “(8) APPROVAL.—An application for a loan
25 guarantee under this section shall be approved or

1 disapproved by the Secretary not later than 90 days
2 after the application is received by the Secretary.

3 “(d) AUTHORIZATION OF APPROPRIATIONS FOR RE-
4 SOURCE CENTER.—There is authorized to be appro-
5 priated, for a resource center to further develop bioconver-
6 sion technology using low-cost biomass for the production
7 of ethanol at the Center for Biomass-Based Energy at the
8 University of Mississippi and the University of Oklahoma,
9 \$4,000,000 for each of fiscal years 2004 through 2006.

10 “(e) RENEWABLE FUEL PRODUCTION RESEARCH
11 AND DEVELOPMENT GRANTS.—

12 “(1) IN GENERAL.—The Administrator shall
13 provide grants for the research into, and develop-
14 ment and implementation of, renewable fuel produc-
15 tion technologies in RFG States with low rates of
16 ethanol production, including low rates of production
17 of cellulosic biomass ethanol.

18 “(2) ELIGIBILITY.—

19 “(A) IN GENERAL.—The entities eligible to
20 receive a grant under this subsection are aca-
21 demic institutions in RFG States, and consortia
22 made up of combinations of academic institu-
23 tions, industry, State government agencies, or
24 local government agencies in RFG States, that

1 have proven experience and capabilities with
2 relevant technologies.

3 “(B) APPLICATION.—To be eligible to re-
4 ceive a grant under this subsection, an eligible
5 entity shall submit to the Administrator an ap-
6 plication in such manner and form, and accom-
7 panied by such information, as the Adminis-
8 trator may specify.

9 “(3) AUTHORIZATION OF APPROPRIATIONS.—
10 There is authorized to be appropriated to carry out
11 this subsection \$25,000,000 for each of fiscal years
12 2006 through 2010.

13 “(f) CELLULOSIC BIOMASS ETHANOL CONVERSION
14 ASSISTANCE.—

15 “(1) IN GENERAL.—The Secretary may provide
16 grants to merchant producers of cellulosic biomass
17 ethanol in the United States to assist the producers
18 in building eligible production facilities described in
19 paragraph (2) for the production of cellulosic bio-
20 mass ethanol.

21 “(2) ELIGIBLE PRODUCTION FACILITIES.—A
22 production facility shall be eligible to receive a grant
23 under this subsection if the production facility—

24 “(A) is located in the United States; and

1 “(B) uses cellulosic biomass feedstocks de-
2 rived from agricultural residues or municipal
3 solid waste.

4 “(3) AUTHORIZATION OF APPROPRIATIONS.—
5 There is authorized to be appropriated to carry out
6 this subsection—

7 “(A) \$250,000,000 for fiscal year 2005;
8 and

9 “(B) \$400,000,000 for fiscal year 2006.”.

10 (b) CONFORMING AMENDMENT.—The table of con-
11 tents for the Clean Air Act (42 U.S.C. 7401 prec.) is
12 amended by inserting after the item relating to section
13 211 the following:

 “Sec. 212. Renewable fuels”.

14 **SEC. 103. SURVEY OF RENEWABLE FUELS CONSUMPTION.**

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

18 “(m) SURVEY OF RENEWABLE FUELS CONSUMP-
19 TION.—

20 “(1) IN GENERAL.—In order to improve the
21 ability to evaluate the effectiveness of the Nation’s
22 renewable fuels mandate, the Administrator shall
23 conduct and publish the results of a survey of renew-
24 able fuels consumption in the motor vehicle fuels
25 market in the United States monthly, and in a man-

1 ner designed to protect the confidentiality of indi-
2 vidual responses.

3 “(2) ELEMENTS OF SURVEY.—In conducting
4 the survey, the Administrator shall collect informa-
5 tion retrospectively to 1998, on a national basis and
6 a regional basis, including—

7 “(A) the quantity of renewable fuels pro-
8 duced;

9 “(B) the cost of production;

10 “(C) the cost of blending and marketing;

11 “(D) the quantity of renewable fuels blend-
12 ed;

13 “(E) the quantity of renewable fuels im-
14 ported; and

15 “(F) market price data.”.

16 **TITLE II—FEDERAL**
17 **REFORMULATED FUELS**

18 **SEC. 201. SHORT TITLE.**

19 This subtitle may be cited as the “Federal Reformu-
20 lated Fuels Act of 2005”.

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

22 (a) USE OF LUST FUNDS FOR REMEDIATION OF
23 CONTAMINATION FROM ETHER FUEL ADDITIVES.—Sec-
24 tion 9003(h) of the Solid Waste Disposal Act (42 U.S.C.
25 6991b(h)) is amended—

1 (1) in paragraph (7)(A)—

2 (A) by striking “paragraphs (1) and (2) of
3 this subsection” and inserting “paragraphs (1),
4 (2), and (12)”; and

5 (B) by inserting “and section 9010” before
6 “if”; and

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

8 “(12) REMEDIATION OF CONTAMINATION FROM
9 ETHER FUEL ADDITIVES.—

10 “(A) IN GENERAL.—The Administrator
11 and the States may use funds made available
12 under section 9013(1) to carry out corrective
13 actions with respect to a release of methyl ter-
14 tiary butyl ether or other ether fuel additive
15 that presents a threat to human health, welfare,
16 or the environment.

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

19 “(i) in accordance with paragraph (2),
20 except that a release with respect to which
21 a corrective action is carried out under
22 subparagraph (A) shall not be required to
23 be from an underground storage tank; and

24 “(ii) in the case of a State, in accord-
25 ance with a cooperative agreement entered

1 into by the Administrator and the State
2 under paragraph (7).”.

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

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

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

12 “(1) by a State (pursuant to section
13 9003(h)(7)) acting under—

14 “(A) a program approved under section
15 9004; or

16 “(B) State requirements regulating under-
17 ground storage tanks that are similar or iden-
18 tical to this subtitle, as determined by the Ad-
19 ministrator; and

20 “(2) by the Administrator, acting under this
21 subtitle or a State program approved under section
22 9004.

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

24 “In addition to amounts made available under section
25 2007(f), there are authorized to be appropriated from the

1 Leaking Underground Storage Tank Trust Fund, notwith-
2 standing section 9508(c)(1) of the Internal Revenue Code
3 of 1986—

4 “(1) to carry out section 9003(h)(12),
5 \$200,000,000 for fiscal year 2005, to remain avail-
6 able until expended; and

7 “(2) to carry out section 9010, \$30,000,000 for
8 each of fiscal years 2005 through 2009.”.

9 (c) TECHNICAL AMENDMENTS.—

10 (1) Section 1001 of the Solid Waste Disposal
11 Act (42 U.S.C. prec. 6901) is amended by striking
12 the item relating to section 9010 and inserting the
13 following:

“Sec. 9010. Release prevention and compliance.

“Sec. 9011. Authorization of appropriations.”.

14 (2) Section 9001(3)(A) of the Solid Waste Dis-
15 posal Act (42 U.S.C. 6991(3)(A)) is amended by
16 striking “sustances” and inserting “substances”.

17 (3) Section 9003(f)(1) of the Solid Waste Dis-
18 posal Act (42 U.S.C. 6991b(f)(1)) is amended by
19 striking “subsection (c) and (d) of this section” and
20 inserting “subsections (c) and (d)”.

21 (4) Section 9004(a) of the Solid Waste Disposal
22 Act (42 U.S.C. 6991c(a)) is amended in the second
23 sentence by striking “referred to” and all that fol-

1 lows and inserting “referred to in subparagraph (A)
2 or (B), or both, of section 9001(2).”.

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

5 (A) in subsection (a), by striking “study
6 taking” and inserting “study, taking”;

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

9 (C) in subsection (b)(4), by striking
10 “Environmental” and inserting “Environ-
11 mental”.

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

13 (a) FINDINGS.—Congress finds that—

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

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

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

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

3 (B) the use of MTBE would likely be im-
4 portant to the cost-effective implementation of
5 that standard;

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

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

12 (A) MTBE production capacity; and

13 (B) systems to deliver MTBE-containing
14 gasoline to the marketplace;

15 (6) when leaked or spilled into the environment,
16 MTBE may cause serious problems of drinking
17 water quality;

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

20 (8) MTBE can be detected by smell and taste
21 at low concentrations;

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

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

5 (A) to eliminate the fuel oxygenate stand-
6 ard;

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

8 (C) to maintain the environmental per-
9 formance of reformulated gasoline;

10 (11) Congress has—

11 (A) reconsidered the relative value of
12 MTBE in gasoline; and

13 (B) decided to eliminate use of MTBE as
14 a fuel additive;

15 (12) the timeline for elimination of use of
16 MTBE as a fuel additive must be established in a
17 manner that achieves an appropriate balance among
18 the goals of—

19 (A) environmental protection;

20 (B) adequate energy supply; and

21 (C) reasonable fuel prices; and

22 (13) it is appropriate for Congress to provide
23 some limited transition assistance—

24 (A) to merchant producers of MTBE who
25 produced MTBE in response to a market cre-

1 ated by the oxygenate requirement contained in
2 the Clean Air Act (42 U.S.C. 7401 et seq.); and

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

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

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

9 (2) to provide assistance to merchant producers
10 of MTBE in making the transition from producing
11 MTBE to producing other fuel additives.

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

15 (1) in paragraph (1)(A)—

16 (A) by inserting “fuel or fuel additive or”
17 after “Administrator any”; and

18 (B) by striking “air pollution which” and
19 inserting “air pollution, or water pollution,
20 that”;

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

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

24 “(5) RESTRICTIONS ON USE OF MTBE.—

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

7 “(B) REGULATIONS.—The Administrator
8 shall promulgate regulations to effect the prohi-
9 bition in subparagraph (A).

10 “(C) STATES THAT AUTHORIZE USE.—A
11 State described in this subparagraph is a State
12 that submits to the Administrator a notice that
13 the State authorizes use of methyl tertiary
14 butyl ether in motor vehicle fuel sold or used in
15 the State.

16 “(D) PUBLICATION OF NOTICE.—The Ad-
17 ministrator shall publish in the Federal Reg-
18 ister each notice submitted by a State under
19 subparagraph (C).

20 “(E) TRACE QUANTITIES.—In carrying out
21 subparagraph (A), the Administrator may allow
22 trace quantities of methyl tertiary butyl ether,
23 not to exceed 0.5 percent by volume, to be
24 present in motor vehicle fuel in cases that the
25 Administrator determines to be appropriate.

1 “(6) MTBE MERCHANT PRODUCER CONVER-
2 SION ASSISTANCE.—

3 “(A) IN GENERAL.—

4 “(i) GRANTS.—The Secretary of En-
5 ergy, in consultation with the Adminis-
6 trator, may make grants to merchant pro-
7 ducers of methyl tertiary butyl ether in the
8 United States to assist the producers in
9 the conversion of eligible production facili-
10 ties described in subparagraph (C) to the
11 production of—

12 “(I) iso-octane or alkylates, un-
13 less the Administrator, in consultation
14 with the Secretary of Energy, deter-
15 mines that transition assistance for
16 the production of iso-octane or
17 alkylates is inconsistent with the cri-
18 teria specified in subparagraph (B);
19 and

20 “(II) any other fuel additive that
21 meets the criteria specified in sub-
22 paragraph (B).

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

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

3 “(ii) the Administrator has not deter-
4 mined that the fuel additive may reason-
5 ably be anticipated to endanger public
6 health or the environment;

7 “(iii) the fuel additive has been reg-
8 istered and tested, or is being tested, in ac-
9 cordance with the requirements of this sec-
10 tion; and

11 “(iv) the fuel additive will contribute
12 to replacing quantities of motor vehicle fuel
13 rendered unavailable as a result of para-
14 graph (5).

15 “(C) ELIGIBLE PRODUCTION FACILI-
16 TIES.—A production facility shall be eligible to
17 receive a grant under this paragraph if the pro-
18 duction facility—

19 “(i) is located in the United States;
20 and

21 “(ii) produced methyl tertiary butyl
22 ether for consumption in nonattainment
23 areas during the period—

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

1 “(II) ending on the effective date
2 of the prohibition on the use of methyl
3 tertiary butyl ether under paragraph
4 (5).

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

9 (d) NO EFFECT ON LAW CONCERNING STATE AU-
10 THORITY.—The amendments made by subsection (c) have
11 no effect on the law in effect on the day before the date
12 of enactment of this Act concerning the authority of
13 States to limit the use of methyl tertiary butyl ether in
14 motor vehicle fuel.

15 **SEC. 204. ELIMINATION OF OXYGEN CONTENT REQUIRE-**
16 **MENT FOR REFORMULATED GASOLINE.**

17 (a) ELIMINATION.—

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

20 (A) in paragraph (2)—

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

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

1 (iii) by redesignating subparagraphs
2 (C) and (D) as subparagraphs (B) and
3 (C), respectively;

4 (B) in paragraph (3)(A), by striking clause
5 (v); and

6 (C) in paragraph (7)—

7 (i) in subparagraph (A)—

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

9 (II) by redesignating clauses (ii)
10 and (iii) as clauses (i) and (ii), respec-
11 tively; and

12 (ii) in subparagraph (C)—

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

14 (II) by redesignating clause (iii)
15 as clause (ii).

16 (2) APPLICABILITY.—The amendments made
17 by paragraph (1) apply—

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

22 (B) in the case of any other State, begin-
23 ning 270 days after the date of enactment of
24 this Act.

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

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

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

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

10 “(B) MAINTENANCE OF TOXIC AIR POL-
11 LUTANT EMISSIONS REDUCTIONS FROM REFOR-
12 MULATED GASOLINE.—

13 “(i) DEFINITION OF PADD.—In this
14 subparagraph the term ‘PADD’ means a
15 Petroleum Administration for Defense Dis-
16 trict.

17 “(ii) REGULATIONS CONCERNING
18 EMISSIONS OF TOXIC AIR POLLUTANTS.—
19 Not later than 270 days after the date of
20 enactment of this subparagraph, the Ad-
21 ministrator shall establish by regulation,
22 for each refinery or importer (other than a
23 refiner or importer in a State that has re-
24 ceived a waiver under section 209(b) with
25 respect to gasoline produced for use in that

1 State), standards for toxic air pollutants
2 from use of the reformulated gasoline pro-
3 duced or distributed by the refiner or im-
4 porter that maintain the reduction of the
5 average annual aggregate emissions of
6 toxic air pollutants for reformulated gaso-
7 line produced or distributed by the refiner
8 or importer during calendar years 1999
9 and 2000 (as determined on the basis of
10 data collected by the Administrator with
11 respect to the refiner or importer).

12 “(iii) STANDARDS APPLICABLE TO
13 SPECIFIC REFINERIES OR IMPORTERS.—

14 “(I) APPLICABILITY OF STAND-
15 ARDS.—For any calendar year, the
16 standards applicable to a refiner or
17 importer under clause (ii) shall apply
18 to the quantity of gasoline produced
19 or distributed by the refiner or im-
20 porter in the calendar year only to the
21 extent that the quantity is less than
22 or equal to the average annual quan-
23 tity of reformulated gasoline produced
24 or distributed by the refiner or im-

1 porter during calendar years 1999
2 and 2000.

3 “(II) APPLICABILITY OF OTHER
4 STANDARDS.—For any calendar year,
5 the quantity of gasoline produced or
6 distributed by a refiner or importer
7 that is in excess of the quantity sub-
8 ject to subclause (I) shall be subject
9 to standards for emissions of toxic air
10 pollutants promulgated under sub-
11 paragraph (A) and paragraph (3)(B).

12 “(iv) CREDIT PROGRAM.—The Admin-
13 istrator shall provide for the granting and
14 use of credits for emissions of toxic air pol-
15 lutants in the same manner as provided in
16 paragraph (7).

17 “(v) REGIONAL PROTECTION OF
18 TOXICS REDUCTION BASELINES.—

19 “(I) IN GENERAL.—Not later
20 than 60 days after the date of enact-
21 ment of this subparagraph, and not
22 later than April 1 of each calendar
23 year that begins after that date of en-
24 actment, the Administrator shall pub-
25 lish in the Federal Register a report

1 that specifies, with respect to the pre-
2 vious calendar year—

3 “(aa) the quantity of reformulated gasoline produced that is
4 in excess of the average annual
5 quantity of reformulated gasoline
6 produced in 1999 and 2000; and

7
8 “(bb) the reduction of the
9 average annual aggregate emis-
10 sions of toxic air pollutants in
11 each PADD, based on retail sur-
12 vey data or data from other ap-
13 propriate sources.

14 “(II) EFFECT OF FAILURE TO
15 MAINTAIN AGGREGATE TOXICS RE-
16 Ductions.—If, in any calendar year,
17 the reduction of the average annual
18 aggregate emissions of toxic air pol-
19 lutants in a PADD fails to meet or
20 exceed the reduction of the average
21 annual aggregate emissions of toxic
22 air pollutants in the PADD in cal-
23 endar years 1999 and 2000, the Ad-
24 ministrator, not later than 90 days
25 after the date of publication of the re-

1 port for the calendar year under sub-
2 clause (I), shall—

3 “(aa) identify, to the max-
4 imum extent practicable, the rea-
5 sons for the failure, including the
6 sources, volumes, and character-
7 istics of reformulated gasoline
8 that contributed to the failure;
9 and

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

1 “(vi) REGULATIONS TO CONTROL
2 HAZARDOUS AIR POLLUTANTS FROM
3 MOTOR VEHICLES AND MOTOR VEHICLE
4 FUELS.—Not later than July 1, 2005, the
5 Administrator shall promulgate final regu-
6 lations to control hazardous air pollutants
7 from motor vehicles and motor vehicle
8 fuels, as provided for in section 80.1045 of
9 title 40, Code of Federal Regulations (as
10 in effect on the date of enactment of this
11 subparagraph).”.

12 (c) COMMINGLING.—

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

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

21 “(A) the retailer notifies the Administrator
22 before the commingling, identifying the exact
23 location of the retail station and the specific
24 tank in which the commingling will take place;
25 and

1 “(B) the retailer certifies that the reformu-
2 lated gasoline resulting from the commingling
3 will meet all applicable requirements for refor-
4 mulated gasoline, including content and emis-
5 sion performance standards.”.

6 (d) 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, to consolidate the regula-
12 tions applicable to VOC-Control Regions 1 and 2 under
13 section 80.41 of that title by eliminating the less stringent
14 requirements applicable to gasoline designated for VOC-
15 Control Region 2 and instead applying the more stringent
16 requirements applicable to gasoline designated for VOC-
17 Control Region 1.

18 (e) SAVINGS CLAUSE.—

19 (1) IN GENERAL.—Nothing in this section or
20 any amendment made by this section affects or prej-
21 udices any legal claim or action with respect to regu-
22 lations promulgated by the Administrator before the
23 date of enactment of this Act regarding—

24 (A) emissions of toxic air pollutants from
25 motor vehicles; or

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

4 (2) ADJUSTMENT OF STANDARDS.—

5 (A) APPLICABILITY.—The Administrator
6 may apply any adjustments to the standards
7 applicable to a refinery or importer under sub-
8 paragraph (B)(iii)(I) of section 211(k)(1) of the
9 Clean Air Act (as added by subsection (b)(2)),
10 except that—

11 (i) the Administrator shall revise the
12 adjustments to be based only on calendar
13 years 1999 and 2000;

14 (ii) any such adjustment shall not be
15 made at a level below the average percent-
16 age of reductions of emissions of toxic air
17 pollutants for reformulated gasoline sup-
18 plied to PADD I during calendar years
19 1999 and 2000; and

20 (iii) in the case of an adjustment
21 based on toxic air pollutant emissions from
22 reformulated gasoline significantly below
23 the national annual average emissions of
24 toxic air pollutants from all reformulated
25 gasoline—

1 (I) the Administrator may revise
2 the adjustment to take account of the
3 scope of the prohibition on methyl ter-
4 tiary butyl ether imposed by para-
5 graph (5) of section 211(c) of the
6 Clean Air Act (as added by section
7 203(c)); and

8 (II) any such adjustment shall
9 require the refiner or importer, to the
10 maximum extent practicable, to main-
11 tain the reduction achieved during cal-
12 endar years 1999 and 2000 in the av-
13 erage annual aggregate emissions of
14 toxic air pollutants from reformulated
15 gasoline produced or distributed by
16 the refiner or importer.

17 **SEC. 205. PUBLIC HEALTH AND ENVIRONMENTAL IMPACTS**
18 **OF FUELS AND FUEL ADDITIVES.**

19 Section 211(b) of the Clean Air Act (42 U.S.C.
20 7545(b)) is amended—

21 (1) in paragraph (2)—

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

24 (B) by striking subparagraph (A) and in-
25 serting the following:

1 “(A) to conduct tests to determine poten-
2 tial public health and environmental effects of
3 the fuel or additive (including carcinogenic,
4 teratogenic, or mutagenic effects); and”;
5 (2) by adding at the end the following:

6 “(4) STUDY ON CERTAIN FUEL ADDITIVES AND
7 BLENDSTOCKS.—

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

11 “(i) conduct a study on the effects on
12 public health (including the effects on chil-
13 dren, pregnant women, minority or low-in-
14 come communities, and other sensitive pop-
15 ulations), air quality, and water resources
16 of increased use of, and the feasibility of
17 using as substitutes for methyl tertiary
18 butyl ether in gasoline—

19 “(I) ethyl tertiary butyl ether;

20 “(II) tertiary amyl methyl ether;

21 “(III) di-isopropyl ether;

22 “(IV) tertiary butyl alcohol;

23 “(V) other ethers and heavy alco-
24 hols, as determined by then Adminis-
25 trator;

1 “(VI) ethanol;

2 “(VII) iso-octane; and

3 “(VIII) alkylates; and

4 “(ii) conduct a study on the effects on
5 public health (including the effects on chil-
6 dren, pregnant women, minority or low-in-
7 come communities, and other sensitive pop-
8 ulations), air quality, and water resources
9 of the adjustment for ethanol-blended re-
10 formulated gasoline to the volatile organic
11 compounds performance requirements that
12 are applicable under paragraphs (1) and
13 (3) of section 211(k); and

14 “(iii) submit to the Committee on En-
15 vironment and Public Works of the Senate
16 and the Committee on Energy and Com-
17 merce of the House of Representatives a
18 report describing the results of the studies
19 under clauses (i) and (ii).

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

24 “(i) the national energy laboratories;

25 and

1 “(ii) institutions of higher education
2 (as defined in section 101 of the Higher
3 Education Act of 1965 (20 U.S.C.
4 1001)).”.

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

6 Section 211 of the Clean Air Act (42 U.S.C. 7545)
7 (as amended by section 101(a)) is amended by inserting
8 after subsection (p) the following:

9 “(q) ANALYSES OF MOTOR VEHICLE FUEL CHANGES
10 AND EMISSIONS MODEL.—

11 “(1) ANTI-BACKSLIDING ANALYSIS.—

12 “(A) DRAFT ANALYSIS.—Not later than 4
13 years after the date of enactment of this para-
14 graph, the Administrator shall publish for pub-
15 lic comment a draft analysis of the changes in
16 emissions of air pollutants and air quality due
17 to the use of motor vehicle fuel and fuel addi-
18 tives resulting from implementation of the
19 amendments made by the Federal Reformulated
20 Fuels Act of 2005.

21 “(B) FINAL ANALYSIS.—After providing a
22 reasonable opportunity for comment but not
23 later than 5 years after the date of enactment
24 of this paragraph, the Administrator shall pub-
25 lish the analysis in final form.

1 “(2) EMISSIONS MODEL.—For the purposes of
 2 this subsection, as soon as the necessary data are
 3 available, the Administrator shall develop and final-
 4 ize an emissions model that reasonably reflects the
 5 effects of gasoline characteristics or components on
 6 emissions from vehicles in the motor vehicle fleet
 7 during calendar year 2007.”.

8 **SEC. 207. ADDITIONAL OPT-IN AREAS UNDER REFORMU-**
 9 **LATED GASOLINE PROGRAM.**

10 Section 211(k)(6) of the Clean Air Act (42 U.S.C.
 11 7545(k)(6)) is amended—

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

14 “(6) OPT-IN AREAS.—

15 “(A) CLASSIFIED AREAS.—

16 “(i) IN GENERAL.—Upon”;

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

19 “(ii) EFFECT OF INSUFFICIENT DO-
 20 MESTIC CAPACITY TO PRODUCE REFORMU-
 21 LATED GASOLINE.—If”;

22 (3) in subparagraph (A)(ii) (as redesignated by
 23 paragraph (2))—

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

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

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

5 “(B) OZONE TRANSPORT REGION.—

6 “(i) APPLICATION OF PROHIBITION.—

7 “(I) IN GENERAL.—On applica-
8 tion of the Governor of a State in the
9 ozone transport region established by
10 section 184(a), the Administrator, not
11 later than 180 days after the date of
12 receipt of the application, shall apply
13 the prohibition specified in paragraph
14 (5) to any area in the State (other
15 than an area classified as a marginal,
16 moderate, serious, or severe ozone
17 nonattainment area under subpart 2
18 of part D of title I) unless the Admin-
19 istrator determines under clause (iii)
20 that there is insufficient capacity to
21 supply reformulated gasoline.

22 “(II) PUBLICATION OF APPLICA-
23 TION.—As soon as practicable after
24 the date of receipt of an application
25 under subclause (I), the Adminis-

1 trator shall publish the application in
2 the Federal Register.

3 “(ii) PERIOD OF APPLICABILITY.—

4 Under clause (i), the prohibition specified
5 in paragraph (5) shall apply in a State—

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

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

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

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

1 reformulated gasoline, the Adminis-
 2 trator, by regulation—

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

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

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

17 **SEC. 208. FEDERAL ENFORCEMENT OF STATE FUELS RE-**
 18 **QUIREMENTS.**

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

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

23 “(C) AUTHORITY OF STATE TO CONTROL
 24 FUELS AND FUEL ADDITIVES FOR REASONS OF
 25 NECESSITY.—

1 “(i) IN GENERAL.—A State”; and

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

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

11 **SEC. 209. FUEL SYSTEM REQUIREMENTS HARMONIZATION**

12 **STUDY.**

13 (a) STUDY.—

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

19 (A) requirements relating to reformulated
 20 gasoline, volatility (measured in Reid vapor
 21 pressure), oxygenated fuel, and diesel fuel; and

22 (B) other requirements that vary from
 23 State to State, region to region, or locality to
 24 locality.

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

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

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

9 (i) national, regional, and local air
10 quality standards and goals; and

11 (ii) related environmental and public
12 health protection standards and goals (in-
13 cluding the protection of children, preg-
14 nant women, minority or low-income com-
15 munities, and other sensitive populations);

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 refiners;

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, refiners, 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 2008, 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) State and local air pollution control
22 regulators;

23 (D) public health experts;

24 (E) motor vehicle fuel producers and dis-
25 tributors; and

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(F) the public.

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