

Calendar No. 119108TH CONGRESS
1ST SESSION**S. 791****[Report No. 108-57]**

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

IN THE SENATE OF THE UNITED STATES

APRIL 3, 2003

Mr. INHOFE (for himself, Mr. VOINOVICH, Mr. TALENT, and Mr. HAGEL) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

JUNE 3, 2003

Reported by Mr. INHOFE, with an amendment

[Strike out all after the enacting clause and insert the part printed in *italie*]

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,*

1 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

2 (a) **SHORT TITLE.**—This Act may be cited as the
3 “Reliable Fuels Act”.

4 (b) **TABLE OF CONTENTS.**—The table of contents of
5 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—GENERAL PROVISIONS

Sec. 101. Renewable content of gasoline.

Sec. 102. Survey of renewable fuels consumption.

TITLE II—FEDERAL REFORMULATED FUELS

Sec. 201. Short title.

Sec. 202. Leaking underground storage tanks.

Sec. 203. Restrictions on the use of MTBE.

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

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

Sec. 206. Analyses of motor vehicle fuel changes.

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

Sec. 208. Federal enforcement of State fuels requirements.

Sec. 209. Fuel system requirements harmonization study.

6 **TITLE I—GENERAL PROVISIONS**

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

8 (a) **IN GENERAL.**—Section 211 of the Clean Air Act
9 (42 U.S.C. 7545) is amended—

10 (1) by redesignating subsection (o) as sub-
11 section (r); and

12 (2) by inserting after subsection (n) the fol-
13 lowing:

14 “(o) **RENEWABLE FUEL PROGRAM.**—

15 “(1) **DEFINITIONS.**—In this section:

16 “(A) **CELLULOSIC BIOMASS ETHANOL.**—

17 The term ‘cellulosic biomass ethanol’ means

1 ethanol derived from any lignocellulosic or
 2 hemicellulosic matter that is available on a re-
 3 newable or recurring basis, including—

4 “(i) dedicated energy crops and trees;

5 “(ii) wood and wood residues;

6 “(iii) plants;

7 “(iv) grasses;

8 “(v) agricultural residues;

9 “(vi) fibers;

10 “(vii) animal wastes and other waste
 11 materials; and

12 “(viii) municipal solid waste.

13 “(B) RENEWABLE FUEL.—

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

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

18 “(bb) is natural gas produced
 19 from a biogas source, including a
 20 landfill, sewage waste treatment plant,
 21 feedlot, or other place where decaying
 22 organic material is found; and

23 “(II) is used to replace or reduce
 24 the quantity of fossil fuel present in a

1 fuel mixture used to operate a motor
2 vehicle.

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

5 “(I) cellulose biomass ethanol;
6 and

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

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

17 “(2) RENEWABLE FUEL PROGRAM.—

18 “(A) REGULATIONS.—

19 “(i) IN GENERAL.—Not later than 1
20 year after the date of enactment of this
21 paragraph, the Administrator shall promul-
22 gate regulations to ensure that gasoline
23 sold or introduced into commerce in the
24 United States, on an annual average basis,
25 contains the applicable volume of renew-

1 able fuel determined in accordance with
2 subparagraph (B).

3 “(ii) PROVISIONS OF REGULATIONS.—

4 Regardless of the date of promulgation,
5 the regulations promulgated under clause
6 (i)—

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

13 “(II) shall not—

14 “(aa) restrict cases in which
15 renewable fuel may be used; or

16 “(bb) impose any per-gallon
17 obligation for the use of renew-
18 able fuel.

19 “(iii) REQUIREMENT IN CASE OF
20 FAILURE TO PROMULGATE REGULA-
21 TIONS.—If the Administrator does not pro-
22 mulgate regulations under clause (i), the
23 percentage of renewable fuel in gasoline
24 sold or dispensed to consumers in the

1 United States, on a volume basis, shall be
 2 1.8 percent for calendar year 2005.

3 “(B) APPLICABLE VOLUME.—

4 “(i) CALENDAR YEARS 2004 THROUGH
 5 2012.—For the purpose of subparagraph
 6 (A), the applicable volume for any of cal-
 7 endar years 2005 through 2012 shall be
 8 determined in accordance with the fol-
 9 lowing table:

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

10 “(ii) CALENDAR YEAR 2013 AND
 11 THEREAFTER.—For the purpose of sub-
 12 paragraph (A), the applicable volume for
 13 calendar year 2013 and each calendar year
 14 thereafter shall be equal to the product ob-
 15 tained by multiplying—

16 “(I) the number of gallons of
 17 gasoline that the Administrator esti-
 18 mates will be sold or introduced into
 19 commerce in the calendar year; and

20 “(II) the ratio that—

1 “(aa) 5,000,000,000 gallons
2 of renewable fuel; bears to

3 “(bb) the number of gallons
4 of gasoline sold or introduced
5 into commerce in calendar year
6 2012.

7 ~~“(3) APPLICABLE PERCENTAGES.—~~

8 ~~“(A) PROVISION OF ESTIMATE OF VOL-~~
9 ~~UMES OF GASOLINE SALES.—Not later than Oc-~~
10 ~~tober 31 of each of calendar years 2003~~
11 ~~through 2011, the Administrator of the Energy~~
12 ~~Information Administration shall provide to the~~
13 ~~Administrator of the Environmental Protection~~
14 ~~Agency an estimate of the volumes of gasoline~~
15 ~~sold or introduced into commerce in the United~~
16 ~~States during the following calendar year.~~

17 ~~“(B) DETERMINATION OF APPLICABLE~~
18 ~~PERCENTAGES.—~~

19 ~~“(i) IN GENERAL.—Not later than~~
20 ~~November 30 of each of calendar years~~
21 ~~2004 through 2011, based on the estimate~~
22 ~~provided under subparagraph (A), the Ad-~~
23 ~~ministrator of the Environmental Protec-~~
24 ~~tion Agency shall determine and publish in~~
25 ~~the Federal Register, with respect to the~~

1 following calendar year, the renewable fuel
2 obligation that ensures that the require-
3 ments of paragraph (2) are met.

4 “(ii) REQUIRED ELEMENTS.—The re-
5 newable fuel obligation determined for a
6 calendar year under clause (i) shall—

7 “(I) be applicable to refineries,
8 blenders, and importers, as appro-
9 priate;

10 “(II) be expressed in terms of a
11 volume percentage of gasoline; and

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

17 “(C) ADJUSTMENTS.—In determining the
18 applicable percentage for a calendar year, the
19 Administrator shall make adjustments—

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

23 “(ii) to account for the use of renew-
24 able fuel during the previous calendar year

1 by small refineries that are exempt under
2 paragraph (9).

3 “(4) CELLULOSIC BIOMASS ETHANOL.—For the
4 purpose of paragraph (2), 1 gallon of cellulose bio-
5 mass ethanol shall be considered to be the equivalent
6 of 1.5 gallons of renewable fuel.

7 “(5) CREDIT PROGRAM.—

8 “(A) IN GENERAL.—The regulations pro-
9 mulgated under paragraph (2)(A) shall pro-
10 vide—

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

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

19 “(iii) for the generation of credits by
20 small refineries in accordance with para-
21 graph (9)(C).

22 “(B) USE OF CREDITS.—A person that
23 generates credits under subparagraph (A) may
24 use the credits, or transfer all or a portion of

1 the credits to another person, for the purpose
2 of complying with paragraph (2).

3 “(C) DURATION OF CREDITS.—A credit
4 generated under this paragraph shall be valid to
5 show compliance—

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

9 “(ii) if the Administrator promulgates
10 regulations under paragraph (6), for the
11 calendar year in which the credit was gen-
12 erated or any of the following 2 calendar
13 years.

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

1 “(i) achieves compliance with the re-
 2 newable fuel requirement under paragraph
 3 (2); and

4 “(ii) generates or purchases additional
 5 renewable fuel credits to offset the renew-
 6 able fuel deficit of the previous year.

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

9 “(A) STUDY.—For each of calendar years
 10 2005 through 2012, the Administrator of the
 11 Energy Information Administration shall con-
 12 duct a study of renewable fuel blending to de-
 13 termine whether there are excessive seasonal
 14 variations in the use of renewable fuel.

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

1 fied in subparagraph (D) of each subsequent
2 calendar year.

3 “(C) DETERMINATIONS.—The determina-
4 tions referred to in subparagraph (B) are
5 that—

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

12 “(ii) a pattern of excessive seasonal
13 variation described in clause (i) will con-
14 tinue in subsequent calendar years.

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

17 “(i) April through September; and

18 “(ii) January through March and Oc-
19 tober through December.

20 “(E) EXCLUSION.—Renewable fuel blended
21 or consumed in calendar year 2005 in a State
22 that has received a waiver under section 209(b)
23 shall not be included in the study under sub-
24 paragraph (A).

25 “(7) WAIVERS.—

1 “(A) IN GENERAL.—The Administrator, in
2 consultation with the Secretary of Agriculture
3 and the Secretary of Energy, may waive the re-
4 quirements of paragraph (2) in whole or in part
5 on petition by 1 or more States by reducing the
6 national quantity of renewable fuel required
7 under paragraph (2)—

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

14 “(ii) based on a determination by the
15 Administrator, after public notice and op-
16 portunity for comment, that there is an in-
17 adequate domestic supply or distribution
18 capacity to meet the requirement.

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

1 “(C) TERMINATION OF WAIVERS.—A waiver
2 granted under subparagraph (A) shall terminate
3 after 1 year, but may be renewed by the
4 Administrator after consultation with the Secretary
5 of Agriculture and the Secretary of Energy.
6 energy.

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

9 “(A) IN GENERAL.—Not later than 180
10 days after the date of enactment of this paragraph,
11 the Secretary of Energy shall conduct for the Administrator
12 a study assessing whether the renewable fuel requirement under
13 paragraph (2) will likely result in significant adverse
14 impacts on consumers in 2005, on a national,
15 regional, or State basis.
16 regional, or State basis.

17 “(B) REQUIRED EVALUATIONS.—The
18 study shall evaluate renewable fuel—

19 “(i) supplies and prices;

20 “(ii) blendstock supplies; and

21 “(iii) supply and distribution system
22 capabilities.

23 “(C) RECOMMENDATIONS BY THE SECRETARY.—Based on the results of the study,
24 the Secretary of Energy shall make specific rec-
25 the Secretary of Energy shall make specific rec-

1 ommendations to the Administrator concerning
2 waiver of the requirements of paragraph (2), in
3 whole or in part, to prevent any adverse im-
4 pacts described in subparagraph (A).

5 “(D) WAIVER.—

6 “(i) IN GENERAL.—Not later than
7 270 days after the date of enactment of
8 this paragraph, the Administrator shall, if
9 and to the extent recommended by the Sec-
10 retary of Energy under subparagraph (C),
11 waive, in whole or in part, the renewable
12 fuel requirement under paragraph (2) by
13 reducing the national quantity of renew-
14 able fuel required under paragraph (2) in
15 calendar 2005.

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

21 “(9) SMALL REFINERIES.—

22 “(A) TEMPORARY EXEMPTION.—

23 “(i) IN GENERAL.—The requirements
24 of paragraph (2) shall not apply to small
25 refineries until calendar year 2011.

1 “(ii) EXTENSION OF EXEMPTION.—

2 “(I) STUDY BY SECRETARY OF
3 ENERGY.—Not later than December
4 31, 2007, the Secretary of Energy
5 shall conduct for the Administrator a
6 study to determine whether compli-
7 ance with the requirements of para-
8 graph (2) would impose a dispropor-
9 tionate economic hardship on small
10 refineries.

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

22 “(B) PETITIONS BASED ON DISPROPOR-
23 TIONATE ECONOMIC HARDSHIP.—

24 “(i) EXTENSION OF EXEMPTION.—A
25 small refinery may at any time petition the

1 Administrator for an extension of the ex-
2 emption under subparagraph (A) for the
3 reason of disproportionate economic hard-
4 ship.

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

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

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

1 “(D) OPT-IN FOR SMALL REFINERIES.—A
 2 small refinery shall be subject to the require-
 3 ments of paragraph (2) if the small refinery no-
 4 tifies the Administrator that the small refinery
 5 waives the exemption under subparagraph (A).

6 “(p) RENEWABLE FUEL SAFE HARBOR.—

7 “(1) IN GENERAL.—

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

16 “(i) the fuel does not violate a control
 17 or prohibition imposed by the Adminis-
 18 trator under this section; and

19 “(ii) the manufacturer of the fuel is in
 20 compliance with all requests for informa-
 21 tion under subsection (b).

22 “(B) SAFE HARBOR NOT APPLICABLE.—In
 23 any case in which subparagraph (A) does not
 24 apply to a quantity of fuel, the existence of a
 25 design defect or manufacturing defect with re-

1 spect to the fuel shall be determined under oth-
2 erwise applicable law.

3 “(2) EXCEPTION.—This subsection does not
4 apply to ethers.

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

8 (b) PENALTIES AND ENFORCEMENT.—Section
9 211(d) of the Clean Air Act (42 U.S.C. 7545(d)) is
10 amended—

11 (1) in paragraph (1)—

12 (A) in the first sentence, by striking “or
13 (n)” each place it appears and inserting “(n),
14 or (o)”; and

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

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

20 (c) EXCLUSION FROM ETHANOL WAIVER.—Section
21 211(h) of the Clean Air Act (42 U.S.C. 7545(h)) is
22 amended—

23 (1) by redesignating paragraph (5) as para-
24 graph (6); and

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

3 “(5) EXCLUSION FROM ETHANOL WAIVER.—

4 “(A) PROMULGATION OF REGULATIONS.—

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

20 “(B) DEADLINE FOR PROMULGATION.—

21 The Administrator shall promulgate regulations
22 under subparagraph (A) not later than 90 days
23 after the date of receipt of a notification from
24 a Governor under that subparagraph.

25 “(C) EFFECTIVE DATE.—

1 “(i) IN GENERAL.—With respect to an
2 area in a State for which the Governor
3 submits a notification under subparagraph
4 (A), the regulations under that subpara-
5 graph shall take effect on the later of—

6 “(I) the first day of the first high
7 ozone season for the area that begins
8 after the date of receipt of the notifi-
9 cation; or

10 “(II) 1 year after the date of re-
11 ceipt of the notification.

12 “(ii) EXTENSION OF EFFECTIVE DATE
13 BASED ON DETERMINATION OF INSUFFI-
14 CIENT SUPPLY.—

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

1 State, the Administrator, by regula-
2 tion—

3 “(aa) shall extend the effec-
4 tive date of the regulations under
5 clause (i) with respect to the area
6 for 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 (d) SURVEY OF RENEWABLE FUEL MARKET.—

18 (1) SURVEY AND REPORT.—Not later than De-
19 cember 1, 2006, and annually thereafter, the Admin-
20 istrator of the Environmental Protection Agency
21 shall—

22 (A) conduct, with respect to each conven-
23 tional gasoline use area and each reformulated
24 gasoline use area in each State, a survey to de-
25 termine the market shares of—

1 (i) conventional gasoline containing
2 ethanol;

3 (ii) reformulated gasoline containing
4 ethanol;

5 (iii) conventional gasoline containing
6 renewable fuel; and

7 (iv) reformulated gasoline containing
8 renewable fuel; and

9 (B) submit to Congress, and make publicly
10 available, a report on the results of the survey
11 under subparagraph (A).

12 ~~(2) RECORDKEEPING AND REPORTING RE-~~
13 ~~QUIREMENTS.—~~

14 (A) IN GENERAL.—The Administrator may
15 require any refiner, blender, or importer to keep
16 such records and make such reports as are nec-
17 essary to ensure that the survey conducted
18 under paragraph (1) is accurate.

19 (B) RELIANCE ON EXISTING REQUIRE-
20 MENTS.—To avoid duplicative requirements, in
21 carrying out subparagraph (A), the Adminis-
22 trator shall rely, to the maximum extent prac-
23 ticable, on reporting and recordkeeping require-
24 ments in effect on the date of enactment of this
25 Act.

1 (3) CONFIDENTIALITY.—Activities carried out
2 under this subsection shall be conducted in a man-
3 ner designed to protect confidentiality of individual
4 responses.

5 (f) AUTHORIZATION OF APPROPRIATIONS FOR RE-
6 SOURCE CENTER.—There is authorized to be appro-
7 priated, for a resource center to further develop bioconver-
8 sion technology using low-cost biomass for the production
9 of ethanol at the Center for Biomass-Based Energy at the
10 University of Mississippi and the University of Oklahoma,
11 \$4,000,000 for each of fiscal years 2004 through 2006.

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

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

16 “(m) SURVEY OF RENEWABLE FUELS CONSUMP-
17 TION.—

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

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

5 “(A) the quantity of renewable fuels pro-
6 duced;

7 “(B) the cost of production;

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

9 “(D) the quantity of renewable fuels blend-
10 ed;

11 “(E) the quantity of renewable fuels im-
12 ported; and

13 “(F) market price data.”.

14 **TITLE II—FEDERAL**
15 **REFORMULATED FUELS**

16 **SEC. 201. SHORT TITLE.**

17 This subtitle may be cited as the “Federal Reformu-
18 lated Fuels Act of 2003”.

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

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

24 (1) in paragraph (7)(A)—

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

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

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

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

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

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

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

23 “(ii) in the case of a State, in accord-
24 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(e)(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 2003, to remain avail-
 6 able until expended; and

7 “(2) to carry out section 9010—

8 “(A) \$50,000,000 for fiscal year 2003; and

9 “(B) \$30,000,000 for each of fiscal years
 10 2004 through 2008.”

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

“Sec. 9010. Release prevention and compliance.

“Sec. 9011. Authorization of appropriations.”

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

18 (3) Section 9003(f)(1) of the Solid Waste Disposal
 19 Act (42 U.S.C. 6991b(f)(1)) is amended by striking “sub-
 20 section (e) and (d) of this section” and inserting “sub-
 21 sections (e) and (d)”.

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

1 “referred to in subparagraph (A) or (B), or both, of sec-
2 tion 9001(2).”.

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

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

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

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

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

12 (a) FINDINGS.—Congress finds that—

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

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

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

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

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

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

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

10 ~~(A)~~ MTBE production capacity; and

11 ~~(B)~~ systems to deliver MTBE-containing
12 gasoline to the marketplace;

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

16 ~~(7)~~ in recent years, MTBE has been detected in
17 water sources throughout the United States;

18 ~~(8)~~ MTBE can be detected by smell and taste
19 at low concentrations;

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

24 ~~(10)~~ in the report entitled “Achieving Clean Air
25 and Clean Water: The Report of the Blue Ribbon

1 Panel on Oxygenates in Gasoline²² and dated Sep-
2 tember 1999, Congress was urged—

3 (A) to eliminate the fuel oxygenate stand-
4 ard;

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

6 (C) to maintain the environmental per-
7 formance of reformulated gasoline;

8 (11) Congress has—

9 (A) reconsidered the relative value of
10 MTBE in gasoline; and

11 (B) decided to eliminate use of MTBE as
12 a fuel additive;

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

17 (A) environmental protection;

18 (B) adequate energy supply; and

19 (C) reasonable fuel prices; and

20 (13) it is appropriate for Congress to provide
21 some limited transition assistance—

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

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

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

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

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

10 (c) AUTHORITY FOR WATER QUALITY PROTECTION

11 FROM FUELS.—Section 211(e) of the Clean Air Act (42
12 U.S.C. 7545(e)) is amended—

13 (1) in paragraph (1)(A)—

14 (A) by inserting “fuel or fuel additive or”
15 after “Administrator any”; and

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

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

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

22 “(5) RESTRICTIONS ON USE OF MTBE.—

23 “(A) IN GENERAL.—Subject to subpara-
24 graph (E), not later than 4 years after the date
25 of enactment of this paragraph, the use of

1 methyl tertiary butyl ether in motor vehicle fuel
2 in any State other than a State described in
3 subparagraph (C) is prohibited.

4 “(B) REGULATIONS.—The Administrator
5 shall promulgate regulations to effect the prohi-
6 bition in subparagraph (A).

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

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

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

23 “(6) MTBE MERCHANT PRODUCER CONVER-
24 SION ASSISTANCE.—

25 “(A) IN GENERAL.—

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

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

15 “(ii) any other fuel additive that
16 meets the criteria specified in subpara-
17 graph (B).

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

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

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

1 “(iii) the fuel additive has been reg-
2 istered and tested, or is being tested, in ac-
3 cordance with the requirements of this sec-
4 tion; and

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

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

13 “(i) is located in the United States;
14 and

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

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

20 “(II) ending on the effective date
21 of the prohibition on the use of methyl
22 tertiary butyl ether under paragraph
23 (5).

24 “(D) AUTHORIZATION OF APPROPRIA-
25 TIONS.—There is authorized to be appropriated

1 to carry out this paragraph \$250,000,000 for
2 each of fiscal years 2004 through 2007.”.

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

9 **SEC. 204. ELIMINATION OF OXYGEN CONTENT REQUIRE-**
10 **MENT FOR REFORMULATED GASOLINE.**

11 (a) ~~ELIMINATION.~~—

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

14 (A) in paragraph (2)—

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

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

20 (iii) by redesignating subparagraphs
21 (C) and (D) as subparagraphs (B) and
22 (C), respectively;

23 (B) in paragraph (3)(A), by striking clause
24 (v); and

25 (C) in paragraph (7)—

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

10 (2) APPLICABILITY.—The amendments made
 11 by paragraph (1) apply—

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

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

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

22 (1) by striking “Within 1 year after the enact-
 23 ment of the Clean Air Act Amendments of 1990,”
 24 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) DEFINITION OF PADD.—In this
8 subparagraph the term ‘PADD’ means a
9 Petroleum Administration for Defense Dis-
10 trict.

11 “(ii) REGULATIONS CONCERNING
12 EMISSIONS OF TOXIC AIR POLLUTANTS.—

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

1 or distributed by the refiner or importer
2 during calendar years 1999 and 2000 (as
3 determined on the basis of data collected
4 by the Administrator with respect to the
5 refiner or importer).

6 “(iii) STANDARDS APPLICABLE TO
7 SPECIFIC REFINERIES OR IMPORTERS.—

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

21 “(II) APPLICABILITY OF OTHER
22 STANDARDS.—For any calendar year,
23 the quantity of gasoline produced or
24 distributed by a refiner or importer
25 that is in excess of the quantity sub-

1 ject to subclause (I) shall be subject
2 to standards for emissions of toxic air
3 pollutants promulgated under sub-
4 paragraph (A) and paragraph (3)(B).

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

10 “(v) REGIONAL PROTECTION OF
11 TOXICS REDUCTION BASELINES.—

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

21 “(aa) the quantity of refor-
22 mulated gasoline produced that is
23 in excess of the average annual
24 quantity of reformulated gasoline
25 produced in 1999 and 2000; and

1 “(bb) the reduction of the
2 average annual aggregate emis-
3 sions of toxic air pollutants in
4 each PADD, based on retail sur-
5 vey data or data from other ap-
6 propriate sources.

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

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

1 that contributed to the failure;
2 and

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

19 “(vi) REGULATIONS TO CONTROL
20 HAZARDOUS AIR POLLUTANTS FROM
21 MOTOR VEHICLES AND MOTOR VEHICLE
22 FUELS.—Not later than July 1, 2004, the
23 Administrator shall promulgate final regu-
24 lations to control hazardous air pollutants
25 from motor vehicles and motor vehicle

1 fuels, as provided for in section 80.1045 of
 2 title 40, Code of Federal Regulations (as
 3 in effect on the date of enactment of this
 4 subparagraph).”.

5 (e) COMMINGLING.—

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

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

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

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

24 (d) CONSOLIDATION IN REFORMULATED GASOLINE
 25 REGULATIONS.—Not later than 180 days after the date

1 of enactment of this Act, the Administrator of the Envi-
2 ronmental Protection Agency shall revise the reformulated
3 gasoline regulations under subpart D of part 80 of title
4 40, Code of Federal Regulations, to consolidate the regula-
5 tions applicable to VOC-Control Regions 1 and 2 under
6 section 80.41 of that title by eliminating the less stringent
7 requirements applicable to gasoline designated for VOC-
8 Control Region 2 and instead applying the more stringent
9 requirements applicable to gasoline designated for VOC-
10 Control Region 1.

11 (e) SAVINGS CLAUSE.—

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

17 (A) emissions of toxic air pollutants from
18 motor vehicles; or

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

22 (2) ADJUSTMENT OF STANDARDS.—

23 (A) APPLICABILITY.—The Administrator
24 may apply any adjustments to the standards
25 applicable to a refinery or importer under sub-

1 paragraph (B)(iii)(I) of section 211(k)(1) of the
2 Clean Air Act (as added by subsection (b)(2));
3 except that—

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

7 (ii) any such adjustment shall not be
8 made at a level below the average percent-
9 age of reductions of emissions of toxic air
10 pollutants for reformulated gasoline sup-
11 plied to PADD I during calendar years
12 1999 and 2000; and

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

19 (I) the Administrator may revise
20 the adjustment to take account of the
21 scope of the prohibition on methyl ter-
22 tiary butyl ether imposed by para-
23 graph (5) of section 211(e) of the
24 Clean Air Act (as added by section
25 203(e)); and

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

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

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

14 (1) in paragraph (2)—

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

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

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

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

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

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

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

9 “(I) ethyl tertiary butyl ether;

10 “(II) tertiary amyl methyl ether;

11 “(III) di-isopropyl ether;

12 “(IV) tertiary butyl alcohol;

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

16 “(VI) ethanol;

17 “(VII) iso-octane; and

18 “(VIII) alkylates; and

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

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

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

11 “(i) the national energy laboratories; and

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

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

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

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

21 “(1) ANTI-BACKSLIDING ANALYSIS.—

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

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

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

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

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

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

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

24 “(6) OPT-IN AREAS.—

25 “(A) CLASSIFIED AREAS.—

1 “(i) IN GENERAL.—Upon”;

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

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

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

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

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

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

15 “(B) OZONE TRANSPORT REGION.—

16 “(i) APPLICATION OF PROHIBITION.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12 “(i) IN GENERAL.—A State”; and

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

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

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

24 (a) STUDY.—

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

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

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

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

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

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

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

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

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

4 (i) domestic refiners;

5 (ii) the fuel distribution system; and

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

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

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

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

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

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

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

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

5 (b) REPORT.—

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

11 (2) RECOMMENDATIONS.—

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

15 (i) to improve air quality;

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

18 (iii) to increase supply liquidity.

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

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

5 (A) the Governors of the States;

6 (B) automobile manufacturers;

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

9 (D) the public.

10 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

11 (a) *SHORT TITLE.*—This Act may be cited as the “Re-
 12 *liable Fuels Act*”.

13 (b) *TABLE OF CONTENTS.*—The table of contents of this
 14 *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 subsection
6 (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.*—The
12 term ‘cellulosic biomass ethanol’ means ethanol
13 derived from any lignocellulosic or hemicellulosic
14 matter that is available on a renewable or recur-
15 ring basis, including—

16 “(i) dedicated energy crops and trees;

17 “(ii) wood and wood residues;

18 “(iii) plants;

19 “(iv) grasses;

20 “(v) agricultural residues;

21 “(vi) fibers;

22 “(vii) animal wastes and other waste
23 materials; and

24 “(viii) municipal solid waste.

25 “(B) *RENEWABLE FUEL.*—

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

3 “(I)(aa) *is produced from grain,*
4 *starch, oilseeds, or other biomass; or*

5 “(bb) *is natural gas produced*
6 *from a biogas source, including a land-*
7 *fill, sewage waste treatment plant,*
8 *feedlot, or other place where decaying*
9 *organic material is found; and*

10 “(II) *is used to replace or reduce*
11 *the quantity of fossil fuel present in a*
12 *fuel mixture used to operate a motor*
13 *vehicle.*

14 “(ii) *INCLUSION.*—*The term ‘renewable*
15 *fuel’ includes—*

16 “(I) *cellulosic biomass ethanol;*
17 *and*

18 “(II) *biodiesel (as defined in sec-*
19 *tion 312(f) of the Energy Policy Act of*
20 *1992 (42 U.S.C. 13220(f)).*

21 “(C) *SMALL REFINERY.*—*The term ‘small*
22 *refinery’ means a refinery for which the average*
23 *aggregate daily crude oil throughput for a cal-*
24 *endar year (as determined by dividing the aggre-*
25 *gate throughput for the calendar year by the*

1 *number of days in the calendar year) does not*
2 *exceed 75,000 barrels.*

3 “(2) *RENEWABLE FUEL PROGRAM.*—

4 “(A) *REGULATIONS.*—

5 “(i) *IN GENERAL.*—*Not later than 1*
6 *year after the date of enactment of this*
7 *paragraph, the Administrator shall promul-*
8 *gate regulations to ensure that gasoline sold*
9 *or introduced into commerce in the United*
10 *States (except in Alaska and Hawaii), on*
11 *an annual average basis, contains the ap-*
12 *plicable volume of renewable fuel deter-*
13 *mined in accordance with subparagraph*
14 *(B).*

15 “(ii) *PROVISIONS OF REGULATIONS.*—
16 *Regardless of the date of promulgation, the*
17 *regulations promulgated under clause (i)—*

18 “(I) *shall contain compliance pro-*
19 *visions applicable to refineries, blend-*
20 *ers, distributors, and importers, as ap-*
21 *propriate, to ensure that the require-*
22 *ments of this paragraph are met; but*

23 “(II) *shall not—*

24 “(aa) *restrict cases in which*
25 *renewable fuel may be used; or*

1 “(bb) impose any per-gallon
 2 obligation for the use of renewable
 3 fuel.

4 “(iii) *REQUIREMENT IN CASE OF FAIL-*
 5 *URE TO PROMULGATE REGULATIONS.—If*
 6 *the Administrator does not promulgate reg-*
 7 *ulations under clause (i), the percentage of*
 8 *renewable fuel in gasoline sold or dispensed*
 9 *to consumers in the United States, on a vol-*
 10 *ume basis, shall be 1.8 percent for calendar*
 11 *year 2005.*

12 “(B) *APPLICABLE VOLUME.—*

13 “(i) *CALENDAR YEARS 2005 THROUGH*
 14 *2012.—For the purpose of subparagraph (A),*
 15 *the applicable volume for any of calendar*
 16 *years 2005 through 2012 shall be deter-*
 17 *mined in accordance with the following*
 18 *table:*

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

19 “(ii) *CALENDAR YEAR 2013 AND*
 20 *THEREAFTER.—For the purpose of subpara-*

1 *graph (A), the applicable volume for cal-*
2 *endar year 2013 and each calendar year*
3 *thereafter shall be equal to the product ob-*
4 *tained by multiplying—*

5 *“(I) the number of gallons of gaso-*
6 *line that the Administrator estimates*
7 *will be sold or introduced into com-*
8 *merce in the calendar year; and*

9 *“(II) the ratio that—*

10 *“(aa) 5,000,000,000 gallons*
11 *of renewable fuel; bears to*

12 *“(bb) the number of gallons*
13 *of gasoline sold or introduced into*
14 *commerce in calendar year 2012.*

15 *“(3) APPLICABLE PERCENTAGES.—*

16 *“(A) PROVISION OF ESTIMATE OF VOLUMES*
17 *OF GASOLINE SALES.—Not later than October 31*
18 *of each of calendar years 2003 through 2011, the*
19 *Administrator of the Energy Information Ad-*
20 *ministration shall provide to the Administrator*
21 *of the Environmental Protection Agency an esti-*
22 *mate of the volumes of gasoline sold or intro-*
23 *duced into commerce in the United States during*
24 *the following calendar year.*

1 “(B) *DETERMINATION OF APPLICABLE PER-*
2 *CENTAGES.—*

3 “(i) *IN GENERAL.—Not later than No-*
4 *vember 30 of each of calendar years 2005*
5 *through 2012, based on the estimate pro-*
6 *vided under subparagraph (A), the Admin-*
7 *istrator of the Environmental Protection*
8 *Agency shall determine and publish in the*
9 *Federal Register, with respect to the fol-*
10 *lowing calendar year, the renewable fuel ob-*
11 *ligation that ensures that the requirements*
12 *of paragraph (2) are met.*

13 “(ii) *REQUIRED ELEMENTS.—The re-*
14 *newable fuel obligation determined for a*
15 *calendar year under clause (i) shall—*

16 “(I) *be applicable to refineries,*
17 *blenders, and importers, as appro-*
18 *priate;*

19 “(II) *be expressed in terms of a*
20 *volume percentage of gasoline; and*

21 “(III) *subject to subparagraph*
22 *(C)(i), consist of a single applicable*
23 *percentage that applies to all categories*
24 *of persons specified in subclause (I).*

1 “(C) *ADJUSTMENTS.*—*In determining the*
2 *applicable percentage for a calendar year, the*
3 *Administrator shall make adjustments—*

4 “(i) *to prevent the imposition of redun-*
5 *dant obligations on any person specified in*
6 *subparagraph (B)(ii)(I); and*

7 “(ii) *to account for the use of renew-*
8 *able fuel during the previous calendar year*
9 *by small refineries that are exempt under*
10 *paragraph (9).*

11 “(4) *CELLULOSIC BIOMASS ETHANOL.*—*For the*
12 *purpose of paragraph (2), 1 gallon of cellulosic bio-*
13 *mass ethanol shall be considered to be the equivalent*
14 *of 1.5 gallons of renewable fuel.*

15 “(5) *CREDIT PROGRAM.*—

16 “(A) *IN GENERAL.*—*The regulations pro-*
17 *mulgated under paragraph (2)(A) shall pro-*
18 *vide—*

19 “(i) *for the generation of an appro-*
20 *priate amount of credits by any person that*
21 *refines, blends, or imports gasoline that con-*
22 *tains a quantity of renewable fuel that is*
23 *greater than the quantity required under*
24 *paragraph (2);*

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

3 “(iii) for the generation of credits by
4 small refineries in accordance with para-
5 graph (9)(C).

6 “(B) USE OF CREDITS.—A person that gen-
7 erates credits under subparagraph (A) may use
8 the credits, or transfer all or a portion of the
9 credits to another person, for the purpose of com-
10 plying with paragraph (2).

11 “(C) DURATION OF CREDITS.—A credit gen-
12 erated under this paragraph shall be valid to
13 show compliance—

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

17 “(ii) if the Administrator promulgates
18 regulations under paragraph (6), for the
19 calendar year in which the credit was gen-
20 erated or any of the following 2 calendar
21 years.

22 “(D) INABILITY TO GENERATE OR PUR-
23 CHASE SUFFICIENT CREDITS.—The regulations
24 promulgated under paragraph (2)(A) shall in-
25 clude provisions allowing any person that is un-

1 able to generate or purchase sufficient credits to
 2 meet the requirements of paragraph (2) to carry
 3 forward a renewable fuel deficit on condition
 4 that the person, in the calendar year following
 5 the year in which the renewable fuel deficit is
 6 created—

7 “(i) achieves compliance with the re-
 8 newable fuel requirement under paragraph
 9 (2); and

10 “(ii) generates or purchases additional
 11 renewable fuel credits to offset the renewable
 12 fuel deficit of the previous year.

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

15 “(A) STUDY.—For each of calendar years
 16 2005 through 2012, the Administrator of the En-
 17 ergy Information Administration shall conduct a
 18 study of renewable fuel blending to determine
 19 whether there are excessive seasonal variations in
 20 the use of renewable fuel.

21 “(B) REGULATION OF EXCESSIVE SEASONAL
 22 VARIATIONS.—If, for any calendar year, the Ad-
 23 ministrator of the Energy Information Adminis-
 24 tration, based on the study under subparagraph
 25 (A), makes the determinations specified in sub-

1 *paragraph (C), the Administrator of the Envi-*
 2 *ronmental Protection Agency shall promulgate*
 3 *regulations to ensure that 35 percent or more of*
 4 *the quantity of renewable fuel necessary to meet*
 5 *the requirements of paragraph (2) is used during*
 6 *each of the 2 periods specified in subparagraph*
 7 *(D) of each subsequent calendar year.*

8 “(C) *DETERMINATIONS.—The determina-*
 9 *tions referred to in subparagraph (B) are that—*

10 “(i) *less than 35 percent of the quan-*
 11 *tity of renewable fuel necessary to meet the*
 12 *requirements of paragraph (2) has been*
 13 *used during 1 of the 2 periods specified in*
 14 *subparagraph (D) of the calendar year; and*

15 “(ii) *a pattern of excessive seasonal*
 16 *variation described in clause (i) will con-*
 17 *tinue in subsequent calendar years.*

18 “(D) *PERIODS.—The 2 periods referred to*
 19 *in this paragraph are—*

20 “(i) *April through September; and*

21 “(ii) *January through March and Oc-*
 22 *tober through December.*

23 “(E) *EXCLUSION.—Renewable fuel blended*
 24 *or consumed in calendar year 2005 in a State*
 25 *that has received a waiver under section 209(b)*

1 *shall not be included in the study under sub-*
2 *paragraph (A).*

3 “(7) *WAIVERS.*—

4 “(A) *IN GENERAL.*—*The Administrator, in*
5 *consultation with the Secretary of Agriculture*
6 *and the Secretary of Energy, may waive the re-*
7 *quirements of paragraph (2) in whole or in part*
8 *on petition by 1 or more States by reducing the*
9 *national quantity of renewable fuel required*
10 *under paragraph (2)—*

11 “(i) *based on a determination by the*
12 *Administrator, after public notice and op-*
13 *portunity for comment, that implementa-*
14 *tion of the requirement would severely harm*
15 *the economy or environment of a State, a*
16 *region, or the United States; or*

17 “(ii) *based on a determination by the*
18 *Administrator, after public notice and op-*
19 *portunity for comment, that there is an in-*
20 *adequate domestic supply or distribution*
21 *capacity to meet the requirement.*

22 “(B) *PETITIONS FOR WAIVERS.*—*The Ad-*
23 *ministrator, in consultation with the Secretary*
24 *of Agriculture and the Secretary of Energy, shall*
25 *approve or disapprove a State petition for a*

1 *waiver of the requirements of paragraph (2)*
2 *within 90 days after the date on which the peti-*
3 *tion is received by the Administrator.*

4 “(C) *TERMINATION OF WAIVERS.—A waiver*
5 *granted under subparagraph (A) shall terminate*
6 *after 1 year, but may be renewed by the Admin-*
7 *istrator after consultation with the Secretary of*
8 *Agriculture and the Secretary of Energy.*

9 “(8) *STUDY AND WAIVER FOR INITIAL YEAR OF*
10 *PROGRAM.—*

11 “(A) *IN GENERAL.—Not later than 180*
12 *days after the date of enactment of this para-*
13 *graph, the Secretary of Energy shall conduct for*
14 *the Administrator a study assessing whether the*
15 *renewable fuel requirement under paragraph (2)*
16 *will likely result in significant adverse impacts*
17 *on consumers in 2005, on a national, regional,*
18 *or State basis.*

19 “(B) *REQUIRED EVALUATIONS.—The study*
20 *shall evaluate renewable fuel—*

21 “(i) *supplies and prices;*

22 “(ii) *blendstock supplies; and*

23 “(iii) *supply and distribution system*
24 *capabilities.*

1 “(C) *RECOMMENDATIONS BY THE SEC-*
2 *RETARY.—Based on the results of the study, the*
3 *Secretary of Energy shall make specific rec-*
4 *ommendations to the Administrator concerning*
5 *waiver of the requirements of paragraph (2), in*
6 *whole or in part, to prevent any adverse impacts*
7 *described in subparagraph (A).*

8 “(D) *WAIVER.—*

9 “(i) *IN GENERAL.—Not later than 270*
10 *days after the date of enactment of this*
11 *paragraph, the Administrator shall, if and*
12 *to the extent recommended by the Secretary*
13 *of Energy under subparagraph (C), waive,*
14 *in whole or in part, the renewable fuel re-*
15 *quirement under paragraph (2) by reducing*
16 *the national quantity of renewable fuel re-*
17 *quired under paragraph (2) in calendar*
18 *2005.*

19 “(ii) *NO EFFECT ON WAIVER AUTHOR-*
20 *ITY.—Clause (i) does not limit the author-*
21 *ity of the Administrator to waive the re-*
22 *quirements of paragraph (2) in whole, or in*
23 *part, under paragraph (7).*

24 “(9) *SMALL REFINERIES.—*

25 “(A) *TEMPORARY EXEMPTION.—*

1 “(i) *IN GENERAL.*—*The requirements*
2 *of paragraph (2) shall not apply to small*
3 *refineries until calendar year 2011.*

4 “(ii) *EXTENSION OF EXEMPTION.*—

5 “(I) *STUDY BY SECRETARY OF EN-*
6 *ERGY.*—*Not later than December 31,*
7 *2007, the Secretary of Energy shall*
8 *conduct for the Administrator a study*
9 *to determine whether compliance with*
10 *the requirements of paragraph (2)*
11 *would impose a disproportionate eco-*
12 *nomical hardship on small refineries.*

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

23 “(B) *PETITIONS BASED ON DISPROPOR-*
24 *TIONATE 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 under subparagraph (A) for the*
5 *reason of disproportionate economic hard-*
6 *ship.*

7 “(ii) *EVALUATION OF PETITIONS.*—In
8 *evaluating a petition under clause (i), the*
9 *Administrator, in consultation with the*
10 *Secretary of Energy, shall consider the find-*
11 *ings of the study under subparagraph*
12 *(A)(ii) and other economic factors.*

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

18 “(C) *CREDIT PROGRAM.*—If a small refin-
19 *ery notifies the Administrator that the small re-*
20 *finery waives the exemption under subparagraph*
21 *(A), the regulations promulgated under para-*
22 *graph (2)(A) shall provide for the generation of*
23 *credits by the small refinery under paragraph*
24 *(5) beginning in the calendar year following the*
25 *date of notification.*

1 “(D) *OPT-IN FOR SMALL REFINERIES.*—A
2 *small refinery shall be subject to the require-*
3 *ments of paragraph (2) if the small refinery no-*
4 *tifies the Administrator that the small refinery*
5 *waives the exemption under subparagraph (A).*

6 “(10) *ETHANOL MARKET CONCENTRATION ANAL-*
7 *YSIS.*—

8 “(A) *ANALYSIS.*—

9 “(i) *IN GENERAL.*—*Not later than 180*
10 *days after the date of enactment of this*
11 *paragraph, and annually thereafter, the*
12 *Federal Trade Commission shall perform a*
13 *market concentration analysis of the ethanol*
14 *production industry using the Herfindahl-*
15 *Hirschman Index to determine whether*
16 *there is sufficient competition among indus-*
17 *try participants to avoid price-setting and*
18 *other anticompetitive behavior.*

19 “(ii) *SCORING.*—*For the purpose of*
20 *scoring under clause (i) using the*
21 *Herfindahl-Hirschman Index, all marketing*
22 *arrangements among industry participants*
23 *shall be considered.*

24 “(B) *REPORT.*—*Not later than December 1,*
25 *2004, and annually thereafter, the Federal Trade*

1 *Commission shall submit to Congress and the*
2 *Administrator a report on the results of the mar-*
3 *ket concentration analysis performed under sub-*
4 *paragraph (A)(i).*

5 “(p) *RENEWABLE FUEL SAFE HARBOR.*—

6 “(1) *IN GENERAL.*—

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

15 “(i) *the fuel does not violate a control*
16 *or prohibition imposed by the Adminis-*
17 *trator under this section; and*

18 “(ii) *the manufacturer of the fuel is in*
19 *compliance with all requests for information*
20 *under subsection (b).*

21 “(B) *SAFE HARBOR NOT APPLICABLE.*—*In*
22 *any case in which subparagraph (A) does not*
23 *apply to a quantity of fuel, the existence of a de-*
24 *sign defect or manufacturing defect with respect*

1 to the fuel shall be determined under otherwise
2 applicable law.

3 “(2) *EXCEPTION.*—*This subsection does not*
4 *apply to ethers.*

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

8 (b) *PENALTIES AND ENFORCEMENT.*—*Section 211(d)*
9 *of the Clean Air Act (42 U.S.C. 7545(d)) is amended—*

10 (1) *in paragraph (1)—*

11 (A) *in the first sentence, by striking “or*
12 *(n)” each place it appears and inserting “(n), or*
13 *(o)”;* and

14 (B) *in the second sentence, by striking “or*
15 *(m)” and inserting “(m), or (o)”;* and

16 (2) *in the first sentence of paragraph (2), by*
17 *striking “and (n)” each place it appears and insert-*
18 *ing “(n), and (o)”.*

19 (c) *EXCLUSION FROM ETHANOL WAIVER.*—*Section*
20 *211(h) of the Clean Air Act (42 U.S.C. 7545(h)) is amend-*
21 *ed—*

22 (1) *by redesignating paragraph (5) as para-*
23 *graph (6); and*

24 (2) *by inserting after paragraph (4) the fol-*
25 *lowing:*

1 “(5) *EXCLUSION FROM ETHANOL WAIVER.*—

2 “(A) *PROMULGATION OF REGULATIONS.*—

3 *Upon notification, accompanied by supporting*
4 *documentation, from the Governor of a State*
5 *that the Reid vapor pressure limitation estab-*
6 *lished by paragraph (4) will increase emissions*
7 *that contribute to air pollution in any area in*
8 *the State, the Administrator shall, by regulation,*
9 *apply, in lieu of the Reid vapor pressure limita-*
10 *tion established by paragraph (4), the Reid*
11 *vapor pressure limitation established by para-*
12 *graph (1) to all fuel blends containing gasoline*
13 *and 10 percent denatured anhydrous ethanol*
14 *that are sold, offered for sale, dispensed, sup-*
15 *plied, offered for supply, transported, or intro-*
16 *duced into commerce in the area during the high*
17 *ozone season.*

18 “(B) *DEADLINE FOR PROMULGATION.*—*The*

19 *Administrator shall promulgate regulations*
20 *under subparagraph (A) not later than 90 days*
21 *after the date of receipt of a notification from a*
22 *Governor under that subparagraph.*

23 “(C) *EFFECTIVE DATE.*—

24 “(i) *IN GENERAL.*—*With respect to an*
25 *area in a State for which the Governor sub-*

1 mits a notification under subparagraph
2 (A), the regulations under that subpara-
3 graph shall take effect on the later of—

4 “(I) the first day of the first high
5 ozone season for the area that begins
6 after the date of receipt of the notifica-
7 tion; or

8 “(II) 1 year after the date of re-
9 ceipt of the notification.

10 “(i) *EXTENSION OF EFFECTIVE DATE*
11 *BASED ON DETERMINATION OF INSUFFI-*
12 *CIENT SUPPLY.—*

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

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

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

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

15 **SEC. 102. RENEWABLE FUEL.**

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

18 **“SEC. 212. RENEWABLE FUEL.**

19 “(a) *DEFINITIONS.*—In this section:

20 “(1) *MUNICIPAL SOLID WASTE.*—The term ‘mu-
 21 nicipal solid waste’ has the meaning given the term
 22 ‘solid waste’ in section 1004 of the Solid Waste Dis-
 23 posal Act (42 U.S.C. 6903).

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

4 “(3) *SECRETARY*.—The term ‘*Secretary*’ means
5 the Secretary of Energy.

6 “(b) *SURVEY OF RENEWABLE FUEL MARKET*.—

7 “(1) *SURVEY AND REPORT*.—Not later than De-
8 cember 1, 2006, and annually thereafter, the Admin-
9 istrator shall—

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

14 “(i) conventional gasoline containing
15 ethanol;

16 “(ii) reformulated gasoline containing
17 ethanol;

18 “(iii) conventional gasoline containing
19 renewable fuel; and

20 “(iv) reformulated gasoline containing
21 renewable fuel; and

22 “(B) submit to Congress, and make publicly
23 available, a report on the results of the survey
24 under subparagraph (A).

1 “(2) *RECORDKEEPING AND REPORTING REQUIRE-*
2 *MENTS.—*

3 “(A) *IN GENERAL.—The Administrator*
4 *may require any refiner, blender, or importer to*
5 *keep such records and make such reports as are*
6 *necessary to ensure that the survey conducted*
7 *under paragraph (1) is accurate.*

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

15 “(3) *CONFIDENTIALITY.—Activities carried out*
16 *under this subsection shall be conducted in a manner*
17 *designed to protect confidentiality of individual re-*
18 *sponses.*

19 “(c) *COMMERCIAL BYPRODUCTS FROM MUNICIPAL*
20 *SOLID WASTE LOAN GUARANTEE PROGRAM.—*

21 “(1) *ESTABLISHMENT OF PROGRAM.—The Sec-*
22 *retary shall establish a program to provide guarantees*
23 *of loans by private institutions for the construction of*
24 *facilities for the processing and conversion of munic-*

1 *ipal solid waste into fuel ethanol and other commer-*
2 *cial byproducts.*

3 “(2) *REQUIREMENTS.*—*The Secretary may pro-*
4 *vide a loan guarantee under paragraph (1) to an ap-*
5 *plicant if—*

6 “(A) *without a loan guarantee, credit is not*
7 *available to the applicant under reasonable*
8 *terms or conditions sufficient to finance the con-*
9 *struction of a facility described in paragraph*
10 *(1);*

11 “(B) *the prospective earning power of the*
12 *applicant and the character and value of the se-*
13 *curity pledged provide a reasonable assurance of*
14 *repayment of the loan to be guaranteed in ac-*
15 *cordance with the terms of the loan; and*

16 “(C) *the loan bears interest at a rate deter-*
17 *mined by the Secretary to be reasonable, taking*
18 *into account the current average yield on out-*
19 *standing obligations of the United States with*
20 *remaining periods of maturity comparable to the*
21 *maturity of the loan.*

22 “(3) *CRITERIA.*—*In selecting recipients of loan*
23 *guarantees from among applicants, the Secretary*
24 *shall give preference to proposals that—*

1 “(A) meet all applicable Federal and State
2 permitting requirements;

3 “(B) are most likely to be successful; and

4 “(C) are located in local markets that have
5 the greatest need for the facility because of—

6 “(i) the limited availability of land for
7 waste disposal; or

8 “(ii) a high level of demand for fuel
9 ethanol or other commercial byproducts of
10 the facility.

11 “(4) MATURITY.—A loan guaranteed under
12 paragraph (1) shall have a maturity of not more than
13 20 years.

14 “(5) TERMS AND CONDITIONS.—The loan agree-
15 ment for a loan guaranteed under paragraph (1) shall
16 provide that no provision of the loan agreement may
17 be amended or waived without the consent of the Sec-
18 retary.

19 “(6) ASSURANCE OF REPAYMENT.—The Sec-
20 retary shall require that an applicant for a loan
21 guarantee under paragraph (1) provide an assurance
22 of repayment in the form of a performance bond, in-
23 surance, collateral, or other means acceptable to the
24 Secretary in an amount equal to not less than 20 per-
25 cent of the amount of the loan.

1 “(7) *GUARANTEE FEE.*—*The recipient of a loan*
2 *guarantee under paragraph (1) shall pay the Sec-*
3 *retary an amount determined by the Secretary to be*
4 *sufficient to cover the administrative costs of the Sec-*
5 *retary relating to the loan guarantee.*

6 “(8) *FULL FAITH AND CREDIT.*—

7 “(A) *IN GENERAL.*—*The full faith and cred-*
8 *it the United States is pledged to the payment*
9 *of all guarantees made under this subsection.*

10 “(B) *CONCLUSIVE EVIDENCE.*—*Any guar-*
11 *antee made by the Secretary under this sub-*
12 *section shall be conclusive evidence of the eligi-*
13 *bility of the loan for the guarantee with respect*
14 *to principal and interest.*

15 “(C) *VALIDITY.*—*The validity of the guar-*
16 *antee shall be incontestable in the hands of a*
17 *holder of the guaranteed loan.*

18 “(9) *REPORTS.*—*Until each guaranteed loan*
19 *under this subsection has been repaid in full, the Sec-*
20 *retary shall annually submit to Congress a report on*
21 *the activities of the Secretary under this subsection.*

22 “(10) *AUTHORIZATION OF APPROPRIATIONS.*—
23 *There are authorized to be appropriated such sums as*
24 *are necessary to carry out this subsection.*

1 “(11) *TERMINATION OF AUTHORITY.*—*The au-*
2 *thority of the Secretary to issue a new loan guarantee*
3 *under paragraph (1) terminates on the date that is*
4 *10 years after the date of enactment of this section.*

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

12 “(e) *RENEWABLE FUEL PRODUCTION RESEARCH AND*
13 *DEVELOPMENT GRANTS.*—

14 “(1) *IN GENERAL.*—*The Administrator shall pro-*
15 *vide grants for the research into, and development*
16 *and implementation of, renewable fuel production*
17 *technologies in RFG States with low rates of ethanol*
18 *production, including low rates of production of cel-*
19 *lulosic biomass ethanol.*

20 “(2) *ELIGIBILITY.*—

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

1 *local government agencies in RFG States, that*
 2 *have proven experience and capabilities with rel-*
 3 *evant technologies.*

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

10 “(3) *AUTHORIZATION OF APPROPRIATIONS.—*
 11 *There is authorized to be appropriated to carry out*
 12 *this subsection \$25,000,000 for each of fiscal years*
 13 *2004 through 2008.*

14 “(f) *CELLULOSIC BIOMASS ETHANOL CONVERSION AS-*
 15 *SISTANCE—*

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

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

25 “(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) \$100,000,000 for fiscal year 2004;

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

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

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

 “212. *Renewable fuels.*”.

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

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

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

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

1 *United States monthly, and in a manner designed to*
 2 *protect the confidentiality of individual responses.*

3 “(2) *ELEMENTS OF SURVEY.*—*In conducting the*
 4 *survey, the Administrator shall collect information*
 5 *retrospectively to 1998, on a national basis and a re-*
 6 *gional 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 2003”.*

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

22 *(a) USE OF LUST FUNDS FOR REMEDIATION OF CON-*
 23 *TAMINATION FROM ETHER FUEL ADDITIVES.*—*Section*
 24 *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) *REMEDATION OF CONTAMINATION FROM*
9 *ETHER FUEL ADDITIVES.—*

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

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 sub-*
22 *paragraph (A) shall not be required to be*
23 *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 et*
5 *seq.) is amended by striking section 9010 and inserting the*
6 *following:*

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

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

12 *“(1) by a State (pursuant to section 9003(h)(7))*
13 *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 2003, to remain available
 6 until expended; and

7 “(2) to carry out section 9010—

8 “(A) \$50,000,000 for fiscal year 2003; and

9 “(B) \$30,000,000 for each of fiscal years
 10 2004 through 2008.”.

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

 “Sec. 9010. Release prevention and compliance.

 “Sec. 9011. Authorization of appropriations.”.

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

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

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

1 *ferred to in subparagraph (A) or (B), or both, of section*
2 *9001(2).”.*

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

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

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

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

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

12 *(a) FINDINGS.—Congress finds that—*

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

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

22 *(3) at the time of the adoption of the fuel oxygen-*
23 *ate standard, Congress was aware that—*

24 *(A) significant use of MTBE could result*
25 *from the adoption of that standard; and*

1 (B) the use of MTBE would likely be impor-
2 tant to the cost-effective implementation of that
3 standard;

4 (4) Congress is aware that gasoline and its com-
5 ponent additives have leaked from storage tanks, with
6 consequences for water quality;

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

10 (A) MTBE production capacity; and

11 (B) systems to deliver MTBE-containing
12 gasoline to the marketplace;

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

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

18 (8) MTBE can be detected by smell and taste at
19 low concentrations;

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

24 (10) in the report entitled “Achieving Clean Air
25 and Clean Water: The Report of the Blue Ribbon

1 *Panel on Oxygenates in Gasoline” and dated Sep-*
2 *tember 1999, Congress was urged—*

3 *(A) to eliminate the fuel oxygenate stand-*
4 *ard;*

5 *(B) to greatly reduce use of MTBE; and*

6 *(C) to maintain the environmental perform-*
7 *ance of reformulated gasoline;*

8 *(11) Congress has—*

9 *(A) reconsidered the relative value of MTBE*
10 *in gasoline; and*

11 *(B) decided to eliminate use of MTBE as a*
12 *fuel additive;*

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

17 *(A) environmental protection;*

18 *(B) adequate energy supply; and*

19 *(C) reasonable fuel prices; and*

20 *(13) it is appropriate for Congress to provide*
21 *some limited transition assistance—*

22 *(A) to merchant producers of MTBE who*
23 *produced MTBE in response to a market created*
24 *by the oxygenate requirement contained in the*
25 *Clean Air Act (42 U.S.C. 7401 et seq.); and*

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

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

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

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

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

13 (1) in paragraph (1)(A)—

14 (A) by inserting “fuel or fuel additive or”
15 after “Administrator any”; and

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

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

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

22 “(5) *RESTRICTIONS ON USE OF MTBE.*—

23 “(A) *IN GENERAL.*—Subject to subpara-
24 graph (E), not later than 4 years after the date
25 of enactment of this paragraph, the use of methyl

1 *tertiary butyl ether in motor vehicle fuel in any*
2 *State other than a State described in subpara-*
3 *graph (C) is prohibited.*

4 “(B) *REGULATIONS.*—*The Administrator*
5 *shall promulgate regulations to effect the prohibi-*
6 *tion in subparagraph (A).*

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

13 “(D) *PUBLICATION OF NOTICE.*—*The Ad-*
14 *ministrator shall publish in the Federal Register*
15 *each notice submitted by a State under subpara-*
16 *graph (C).*

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

23 “(6) *MTBE MERCHANT PRODUCER CONVERSION*
24 *ASSISTANCE.*—

25 “(A) *IN GENERAL.*—

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

9 “(I) iso-octane or alkylates, unless
10 the Administrator, in consultation
11 with the Secretary of Energy, deter-
12 mines that transition assistance for the
13 production of iso-octane or alkylates is
14 inconsistent with the criteria specified
15 in subparagraph (B); and

16 “(II) any other fuel additive that
17 meets the criteria specified in subpara-
18 graph (B).

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

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

23 “(ii) the Administrator has not deter-
24 mined that the fuel additive may reasonably

1 *be anticipated to endanger public health or*
2 *the environment;*

3 “(iii) *the fuel additive has been reg-*
4 *istered and tested, or is being tested, in ac-*
5 *cordance with the requirements of this sec-*
6 *tion; and*

7 “(iv) *the fuel additive will contribute*
8 *to replacing quantities of motor vehicle fuel*
9 *rendered unavailable as a result of para-*
10 *graph (5).*

11 “(C) *ELIGIBLE PRODUCTION FACILITIES.—*
12 *A production facility shall be eligible to receive*
13 *a grant under this paragraph if the production*
14 *facility—*

15 “(i) *is located in the United States;*
16 *and*

17 “(ii) *produced methyl tertiary butyl*
18 *ether for consumption in nonattainment*
19 *areas during the period—*

20 “(I) *beginning on the date of en-*
21 *actment of this paragraph; and*

22 “(II) *ending on the effective date*
23 *of the prohibition on the use of methyl*
24 *tertiary butyl ether under paragraph*
25 *(5).*

1 “(D) *AUTHORIZATION OF APPROPRIA-*
 2 *TIONS.—There is authorized to be appropriated*
 3 *to carry out this paragraph \$250,000,000 for*
 4 *each of fiscal years 2004 through 2007.”.*

5 (d) *NO EFFECT ON LAW CONCERNING STATE AUTHOR-*
 6 *ITY.—The amendments made by subsection (c) have no ef-*
 7 *fect on the law in effect on the day before the date of enact-*
 8 *ment of this Act concerning the authority of States to limit*
 9 *the use of methyl tertiary butyl ether in motor vehicle fuel.*

10 **SEC. 204. ELIMINATION OF OXYGEN CONTENT REQUIRE-**
 11 **MENT FOR REFORMULATED GASOLINE.**

12 (a) *ELIMINATION.—*

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

15 (A) *in paragraph (2)—*

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

20 (ii) *by striking subparagraph (B); and*

21 (iii) *by redesignating subparagraphs*
 22 *(C) and (D) as subparagraphs (B) and (C),*
 23 *respectively;*

24 (B) *in paragraph (3)(A), by striking clause*
 25 *(v); and*

1 (C) in paragraph (7)—

2 (i) in subparagraph (A)—

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

4 (II) by redesignating clauses (ii)
5 and (iii) as clauses (i) and (ii), respec-
6 tively; and

7 (ii) in subparagraph (C)—

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

9 (II) by redesignating clause (iii)
10 as clause (ii).

11 (2) *APPLICABILITY.*—The amendments made by
12 paragraph (1) apply—

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

17 (B) in the case of any other State, begin-
18 ning 270 days after the date of enactment of this
19 Act.

20 (b) *MAINTENANCE OF TOXIC AIR POLLUTANT EMIS-*
21 *SION REDUCTIONS.*—Section 211(k)(1) of the Clean Air Act
22 (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,” and
25 inserting the following:

1 “(A) *IN GENERAL.*—Not later than Novem-
2 ber 15, 1991,”; and

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

4 “(B) *MAINTENANCE OF TOXIC AIR POLLUT-*
5 *ANT EMISSIONS REDUCTIONS FROM REFORMU-*
6 *LATED GASOLINE.*—

7 “(i) *DEFINITION OF PADD.*—In this
8 subparagraph the term ‘PADD’ means a
9 Petroleum Administration for Defense Dis-
10 trict.

11 “(ii) *REGULATIONS CONCERNING EMIS-*
12 *SIONS OF TOXIC AIR POLLUTANTS.*—Not
13 later than 270 days after the date of enact-
14 ment of this subparagraph, the Adminis-
15 trator shall establish by regulation, for each
16 refinery or importer (other than a refiner or
17 importer in a State that has received a
18 waiver under section 209(b) with respect to
19 gasoline produced for use in that State),
20 standards for toxic air pollutants from use
21 of the reformulated gasoline produced or
22 distributed by the refiner or importer that
23 maintain the reduction of the average an-
24 nual aggregate emissions of toxic air pollut-
25 ants for reformulated gasoline produced or

1 *distributed by the refiner or importer dur-*
2 *ing calendar years 1999 and 2000 (as deter-*
3 *mined on the basis of data collected by the*
4 *Administrator with respect to the refiner or*
5 *importer).*

6 “(iii) *STANDARDS APPLICABLE TO SPE-*
7 *CIFIC REFINERIES OR IMPORTERS.—*

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

20 “(II) *APPLICABILITY OF OTHER*
21 *STANDARDS.—For any calendar year,*
22 *the quantity of gasoline produced or*
23 *distributed by a refiner or importer*
24 *that is in excess of the quantity subject*
25 *to subclause (I) shall be subject to*

1 standards for emissions of toxic air
2 pollutants promulgated under subpara-
3 graph (A) and paragraph (3)(B).

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

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

11 “(I) *IN GENERAL.*—Not later than
12 60 days after the date of enactment of
13 this subparagraph, and not later than
14 April 1 of each calendar year that be-
15 gins after that date of enactment, the
16 Administrator shall publish in the
17 *Federal Register* a report that specifies,
18 with respect to the previous calendar
19 year—

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

1 “(bb) the reduction of the av-
2 erage annual aggregate emissions
3 of toxic air pollutants in each
4 PADD, based on retail survey
5 data or data from other appro-
6 priate sources.

7 “(II) EFFECT OF FAILURE TO
8 MAINTAIN AGGREGATE TOXICS REDUC-
9 TIONS.—If, in any calendar year, the
10 reduction of the average annual aggre-
11 gate emissions of toxic air pollutants
12 in a PADD fails to meet or exceed the
13 reduction of the average annual aggre-
14 gate emissions of toxic air pollutants
15 in the PADD in calendar years 1999
16 and 2000, the Administrator, not later
17 than 90 days after the date of publica-
18 tion of the report for the calendar year
19 under subclause (I), shall—

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

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

17 “(vi) REGULATIONS TO CONTROL HAZ-
18 ARDOUS AIR POLLUTANTS FROM MOTOR VE-
19 HICLES AND MOTOR VEHICLE FUELS.—Not
20 later than July 1, 2004, the Administrator
21 shall promulgate final regulations to control
22 hazardous air pollutants from motor vehi-
23 cles and motor vehicle fuels, as provided for
24 in section 80.1045 of title 40, Code of Fed-

1 *eral Regulations (as in effect on the date of*
 2 *enactment of this subparagraph).”.*

3 (c) *COMMINGLING.*—

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

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

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

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

21 (d) *CONSOLIDATION IN REFORMULATED GASOLINE*
 22 *REGULATIONS.*—*Not later than 180 days after the date of*
 23 *enactment of this Act, the Administrator of the Environ-*
 24 *mental Protection Agency shall revise the reformulated gas-*
 25 *oline regulations under subpart D of part 80 of title 40,*

1 *Code of Federal Regulations, to consolidate the regulations*
2 *applicable to VOC-Control Regions 1 and 2 under section*
3 *80.41 of that title by eliminating the less stringent require-*
4 *ments applicable to gasoline designated for VOC-Control*
5 *Region 2 and instead applying the more stringent require-*
6 *ments applicable to gasoline designated for VOC-Control*
7 *Region 1.*

8 *(e) SAVINGS CLAUSE.—*

9 *(1) IN GENERAL.—Nothing in this section or any*
10 *amendment made by this section affects or prejudices*
11 *any legal claim or action with respect to regulations*
12 *promulgated by the Administrator before the date of*
13 *enactment of this Act regarding—*

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

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

19 *(2) ADJUSTMENT OF STANDARDS.—*

20 *(A) APPLICABILITY.—The Administrator*
21 *may apply any adjustments to the standards ap-*
22 *plicable to a refinery or importer under subpara-*
23 *graph (B)(iii)(I) of section 211(k)(1) of the*
24 *Clean Air Act (as added by subsection (b)(2)),*
25 *except that—*

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

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

10 (iii) *in the case of an adjustment based*
11 *on toxic air pollutant emissions from refor-*
12 *mulated gasoline significantly below the na-*
13 *tional annual average emissions of toxic air*
14 *pollutants from all reformulated gasoline—*

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

22 (II) *any such adjustment shall re-*
23 *quire the refiner or importer, to the*
24 *maximum extent practicable, to main-*
25 *tain the reduction achieved during cal-*

1 *endar years 1999 and 2000 in the av-*
 2 *erage annual aggregate emissions of*
 3 *toxic air pollutants from reformulated*
 4 *gasoline produced or distributed by the*
 5 *refiner or importer.*

6 **SEC. 205. PUBLIC HEALTH AND ENVIRONMENTAL IMPACTS**
 7 **OF FUELS AND FUEL ADDITIVES.**

8 *Section 211(b) of the Clean Air Act (42 U.S.C.*
 9 *7545(b)) is amended—*

10 *(1) in paragraph (2)—*

11 *(A) by striking “may also” and inserting*
 12 *“shall, on a regular basis,”; and*

13 *(B) by striking subparagraph (A) and in-*
 14 *serting the following:*

15 *“(A) to conduct tests to determine potential*
 16 *public health and environmental effects of the*
 17 *fuel or additive (including carcinogenic,*
 18 *teratogenic, or mutagenic effects); and”;* and

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

20 *“(4) STUDY ON CERTAIN FUEL ADDITIVES AND*
 21 *BLENDSTOCKS.—*

22 *“(A) IN GENERAL.—Not later than 2 years*
 23 *after the date of enactment of this paragraph, the*
 24 *Administrator shall—*

1 “(i) conduct a study on the effects on
2 public health (including the effects on chil-
3 dren, pregnant women, minority or low-in-
4 come communities, and other sensitive pop-
5 ulations), air quality, and water resources
6 of increased use of, and the feasibility of
7 using as substitutes for methyl tertiary
8 butyl ether in gasoline—

9 “(I) ethyl tertiary butyl ether;

10 “(II) tertiary amyl methyl ether;

11 “(III) di-isopropyl ether;

12 “(IV) tertiary butyl alcohol;

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

16 “(VI) ethanol;

17 “(VII) iso-octane; and

18 “(VIII) alkylates; and

19 “(ii) conduct a study on the effects on
20 public health (including the effects on chil-
21 dren, pregnant women, minority or low-in-
22 come communities, and other sensitive pop-
23 ulations), air quality, and water resources
24 of the adjustment for ethanol-blended refor-
25 mulated gasoline to the volatile organic

1 *compounds performance requirements that*
 2 *are applicable under paragraphs (1) and*
 3 *(3) of section 211(k); and*

4 *“(iii) submit to the Committee on En-*
 5 *vironment and Public Works of the Senate*
 6 *and the Committee on Energy and Com-*
 7 *merce of the House of Representatives a re-*
 8 *port describing the results of the studies*
 9 *under clauses (i) and (ii).*

10 *“(B) CONTRACTS FOR STUDY.—In carrying*
 11 *out this paragraph, the Administrator may enter*
 12 *into 1 or more contracts with nongovernmental*
 13 *entities such as—*

14 *“(i) the national energy laboratories;*
 15 *and*

16 *“(ii) institutions of higher education*
 17 *(as defined in section 101 of the Higher*
 18 *Education Act of 1965 (20 U.S.C. 1001)).”.*

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

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

23 **“(q) ANALYSES OF MOTOR VEHICLE FUEL CHANGES**
 24 **AND EMISSIONS MODEL.—**

25 **“(1) ANTI-BACKSLIDING ANALYSIS.—**

1 “(A) *DRAFT ANALYSIS*.—Not later than 4
2 years after the date of enactment of this para-
3 graph, the Administrator shall publish for public
4 comment a draft analysis of the changes in emis-
5 sions of air pollutants and air quality due to the
6 use of motor vehicle fuel and fuel additives re-
7 sulting from implementation of the amendments
8 made by the *Reliable Fuels Act*.

9 “(B) *FINAL ANALYSIS*.—After providing a
10 reasonable opportunity for comment but not
11 later than 5 years after the date of enactment of
12 this paragraph, the Administrator shall publish
13 the analysis in final form.

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

21 **SEC. 207. ADDITIONAL OPT-IN AREAS UNDER REFORMU-**
22 **LATED GASOLINE PROGRAM.**

23 Section 211(k)(6) of the Clean Air Act (42 U.S.C.
24 7545(k)(6)) is amended—

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

3 “*(6) OPT-IN AREAS.—*

4 “*(A) CLASSIFIED AREAS.—*

5 “*(i) IN GENERAL.—Upon*”;

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

8 “*(ii) EFFECT OF INSUFFICIENT DO-*
9 *MESTIC CAPACITY TO PRODUCE REFORMU-*
10 *LATED GASOLINE.—If*”;

11 (3) in subparagraph (A)(i) (as redesignated by
12 paragraph (2))—

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

15 (B) in the second sentence, by striking “*this*
16 *paragraph*” and inserting “*this subparagraph*”;
17 and

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

19 “*(B) OZONE TRANSPORT REGION.—*

20 “*(i) APPLICATION OF PROHIBITION.—*

21 “*(I) IN GENERAL.—On applica-*
22 *tion of the Governor of a State in the*
23 *ozone transport region established by*
24 *section 184(a), the Administrator, not*
25 *later than 180 days after the date of*

1 receipt of the application, shall apply
2 the prohibition specified in paragraph
3 (5) to any area in the State (other
4 than an area classified as a marginal,
5 moderate, serious, or severe ozone non-
6 attainment area under subpart 2 of
7 part D of title I) unless the Adminis-
8 trator determines under clause (iii)
9 that there is insufficient capacity to
10 supply reformulated gasoline.

11 “(II) PUBLICATION OF APPLICA-
12 TION.—As soon as practicable after the
13 date of receipt of an application under
14 subclause (I), the Administrator shall
15 publish the application in the Federal
16 Register.

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

20 “(I) commencing as soon as prac-
21 ticable but not later than 2 years after
22 the date of approval by the Adminis-
23 trator of the application of the Gov-
24 ernor of the State; and

1 “(II) ending not earlier than 4
2 years after the commencement date de-
3 termined under subclause (I).

4 “(iii) *EXTENSION OF COMMENCEMENT*
5 *DATE BASED ON INSUFFICIENT CAPACITY.—*

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

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

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

24 “(II) *DEADLINE FOR ACTION ON*
25 *PETITIONS.—*The Administrator shall

1 *act on any petition submitted under*
 2 *subclause (I) not later than 180 days*
 3 *after the date of receipt of the peti-*
 4 *tion.”.*

5 **SEC. 208. FEDERAL ENFORCEMENT OF STATE FUELS RE-**
 6 **QUIREMENTS.**

7 *Section 211(c)(4)(C) of the Clean Air Act (42 U.S.C.*
 8 *7545(c)(4)(C)) is amended—*

9 *(1) by striking “(C) A State” and inserting the*
 10 *following:*

11 *“(C) AUTHORITY OF STATE TO CONTROL*
 12 *FUELS AND FUEL ADDITIVES FOR REASONS OF*
 13 *NECESSITY.—*

14 *“(i) IN GENERAL.—A State”; and*

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

16 *“(ii) ENFORCEMENT BY THE ADMINIS-*
 17 *TRATOR.—In any case in which a State*
 18 *prescribes and enforces a control or prohibi-*
 19 *tion under clause (i), the Administrator, at*
 20 *the request of the State, shall enforce the*
 21 *control or prohibition as if the control or*
 22 *prohibition had been adopted under the*
 23 *other provisions of this section.”.*

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

2 **STUDY.**

3 *(a) STUDY.—*

4 *(1) IN GENERAL.—The Administrator of the En-*
5 *vironmental Protection Agency and the Secretary of*
6 *Energy shall jointly conduct a study of Federal,*
7 *State, and local requirements concerning motor vehi-*
8 *cle fuels, including—*

9 *(A) requirements relating to reformulated*
10 *gasoline, volatility (measured in Reid vapor*
11 *pressure), oxygenated fuel, and diesel fuel; and*

12 *(B) other requirements that vary from State*
13 *to State, region to region, or locality to locality.*

14 *(2) REQUIRED ELEMENTS.—The study shall as-*
15 *sess—*

16 *(A) the effect of the variety of requirements*
17 *described in paragraph (1) on the supply, qual-*
18 *ity, and price of motor vehicle fuels available to*
19 *the consumer;*

20 *(B) the effect of the requirements described*
21 *in paragraph (1) on achievement of—*

22 *(i) national, regional, and local air*
23 *quality standards and goals; and*

24 *(ii) related environmental and public*
25 *health protection standards and goals (in-*
26 *cluding the protection of children, pregnant*

1 *women, minority or low-income commu-*
2 *nities, and other sensitive populations);*

3 *(C) the effect of Federal, State, and local*
4 *motor vehicle fuel regulations, including multiple*
5 *motor vehicle fuel requirements, on—*

6 *(i) domestic refiners;*

7 *(ii) the fuel distribution system; and*

8 *(iii) industry investment in new ca-*
9 *capacity;*

10 *(D) the effect of the requirements described*
11 *in paragraph (1) on emissions from vehicles, re-*
12 *finers, and fuel handling facilities;*

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

18 *(i) enhance flexibility in the fuel dis-*
19 *tribution infrastructure and improve fuel*
20 *fungibility;*

21 *(ii) reduce price volatility and costs to*
22 *consumers and producers;*

23 *(iii) provide increased liquidity to the*
24 *gasoline market; and*

1 (iv) enhance fuel quality, consistency,
2 and supply; and
3 (F) the feasibility of providing incentives,
4 and the need for the development of national
5 standards necessary, to promote cleaner burning
6 motor vehicle fuel.

7 (b) *REPORT.*—

8 (1) *IN GENERAL.*—Not later than June 1, 2007,
9 the Administrator of the Environmental Protection
10 Agency and the Secretary of Energy shall submit to
11 Congress a report on the results of the study con-
12 ducted under subsection (a).

13 (2) *RECOMMENDATIONS.*—

14 (A) *IN GENERAL.*—The report shall contain
15 recommendations for legislative and administra-
16 tive actions that may be taken—

17 (i) to improve air quality;

18 (ii) to reduce costs to consumers and
19 producers; and

20 (iii) to increase supply liquidity.

21 (B) *REQUIRED CONSIDERATIONS.*—The rec-
22 ommendations under subparagraph (A) shall
23 take into account the need to provide advance
24 notice of required modifications to refinery and
25 fuel distribution systems in order to ensure an

1 *adequate supply of motor vehicle fuel in all*
2 *States.*

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

7 (A) *the Governors of the States;*

8 (B) *automobile manufacturers;*

9 (C) *State and local air pollution control*
10 *regulators;*

11 (D) *public health experts;*

12 (E) *motor vehicle fuel producers and dis-*
13 *tributors; and*

14 (F) *the public.*

Calendar No. 119

108TH CONGRESS
1ST SESSION

S. 791

[Report No. 108-57]

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.

JUNE 3, 2003

Reported with an amendment