

108TH CONGRESS  
1ST SESSION

# H. R. 837

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.

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## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 13, 2003

Mr. PETERSON of Minnesota (for himself and Mr. OSBORNE) introduced the following bill; which was referred to the Committee on Energy and Commerce

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## A BILL

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

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

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

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “Fuels Security Act of 2003”.

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

## TITLE I—GENERAL PROVISIONS

- Sec. 101. Renewable content of motor vehicle fuel.  
 Sec. 102. Federal agency ethanol-blended gasoline and biodiesel purchasing requirement.  
 Sec. 103. Commercial byproducts from municipal solid waste loan guarantee program.  
 Sec. 104. Data collection.

## TITLE II—FEDERAL REFORMULATED FUELS

- Sec. 201. Short title.  
 Sec. 202. Leaking underground storage tanks.  
 Sec. 203. Authority for water quality protection from fuels.  
 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.  
 Sec. 210. Review of Federal procurement initiatives relating to use of recycled products and fleet and transportation efficiency.

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

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

4 (1) by redesignating subsection (o) as sub-  
 5 section (q); and

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

8 “(o) RENEWABLE FUEL PROGRAM.—

9 “(1) DEFINITIONS.—In this section:

10 “(A) CELLULOSIC BIOMASS ETHANOL.—

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

15 “(i) dedicated energy crops and trees;

1 “(ii) wood and wood residues;

2 “(iii) plants;

3 “(iv) grasses;

4 “(v) agricultural residues;

5 “(vi) fibers;

6 “(vii) animal wastes and other waste

7 materials; and

8 “(viii) municipal solid waste.

9 “(B) RENEWABLE FUEL.—

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

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

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

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

23 “(ii) INCLUSION.—The term ‘renew-  
24 able fuel’ includes cellulosic biomass eth-  
25 anol and biodiesel (as defined in section

1           312(f) of the Energy Policy Act of 1992  
2           (42 U.S.C. 13220(f)).

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

10          “(2) RENEWABLE FUEL PROGRAM.—

11           “(A) IN GENERAL.—Not later than 1 year  
12 from enactment of this provision, the Adminis-  
13 trator shall promulgate regulations ensuring  
14 that gasoline sold or dispensed to consumers in  
15 the United States, on an annual average basis,  
16 contains the applicable volume of renewable fuel  
17 as specified in subparagraph (B). Regardless of  
18 the date of promulgation, such regulations shall  
19 contain compliance provisions for refiners,  
20 blenders, and importers, as appropriate, to en-  
21 sure that the requirements of this section are  
22 met, but shall not restrict where renewables can  
23 be used, or impose any per-gallon obligation for  
24 the use of renewables. If the Administrator does  
25 not promulgate such regulations, the applicable

1 percentage, on a volume percentage of gasoline  
 2 basis, shall be 1.62 in 2004.

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 2004 through 2012 shall be  
 8 determined in accordance with the fol-  
 9 lowing table:

**“Applicable volume of renewable fuel**

<b>“Calendar year:</b>	<b>(In billions of gallons)</b>
2004 .....	2.3
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) 5.0 billion gallons of  
2                   renewable fuels; 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.—Not later  
8                   than October 31 of each calendar year, through  
9                   2011, the Administrator of the Energy Information  
10                  Administration shall provide the Administrator an  
11                  estimate of the volumes of gasoline sales in the  
12                  United States for the coming calendar year. Based  
13                  on such estimates, the Administrator shall by No-  
14                  vember 30 of each calendar year, through 2011, de-  
15                  termine and publish in the Federal Register, the re-  
16                  newable fuel obligation, on a volume percentage of  
17                  gasoline basis, applicable to refiners, blenders, dis-  
18                  tributors and importers, as appropriate, for the com-  
19                  ing calendar year, to ensure that the requirements  
20                  of paragraph (2) are met. For each calendar year,  
21                  the Administrator shall establish a single applicable  
22                  percentage that applies to all parties, and make pro-  
23                  vision to avoid redundant obligations. In determining  
24                  the applicable percentages, the Administrator shall  
25                  make adjustments to account for the use of renew-

1       able fuels by exempt small refineries during the pre-  
2       vious year.

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

7               “(5) CREDIT PROGRAM.—

8                       “(A) IN GENERAL.—The regulations pro-  
9       mulgated to carry out this subsection shall pro-  
10      vide for the generation of an appropriate  
11      amount of credits by any person that refines,  
12      blends, or imports gasoline that contains a  
13      quantity of renewable fuel that is greater than  
14      the quantity required under paragraph (2).  
15      Such regulations shall provide for the genera-  
16      tion of an appropriate amount of credits for  
17      biodiesel fuel. If a small refinery notifies the  
18      Administrator that it waives the exemption pro-  
19      vided by this Act, the regulations shall provide  
20      for the generation of credits by the small refin-  
21      ery beginning in the year following such notifi-  
22      cation.

23                      “(B) USE OF CREDITS.—A person that  
24      generates credits under subparagraph (A) may  
25      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) LIFE OF CREDITS.—A credit gen-  
4 erated under this paragraph shall be valid to  
5 show compliance:

6 (i) in the calendar year in which the  
7 credit was generated or the next calendar  
8 year, or

9 (ii) in the calendar year in which the  
10 credit was generated or next two consecu-  
11 tive calendar years if the Administrator  
12 promulgates regulations under paragraph  
13 (6).

14 “(D) INABILITY TO PURCHASE SUFFICIENT  
15 CREDITS.—The regulations promulgated to  
16 carry out this subsection shall include provi-  
17 sions allowing any person that is unable to gen-  
18 erate or purchase sufficient credits to meet the  
19 requirements under paragraph (2) to carry for-  
20 ward a renewables deficit provided that, in the  
21 calendar year following the year in which the  
22 renewables deficit is created, such person shall  
23 achieve compliance with the renewables require-  
24 ment under paragraph (2), and shall generate

1 or purchase additional renewables credits to off-  
2 set the renewables deficit of the previous year.

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

5 “(A) STUDY.—For each of calendar years  
6 2004 through 2012, the Administrator of the  
7 Energy Information Administration, shall con-  
8 duct a study of renewable fuels blending to de-  
9 termine whether there are excessive seasonal  
10 variations in the use of renewable fuels.

11 “(B) REGULATION OF EXCESSIVE SEA-  
12 SONAL VARIATIONS.—If, for any calendar year,  
13 the Administrator of the Energy Information  
14 Administration, based on the study under sub-  
15 paragraph (A), makes the determinations speci-  
16 fied in subparagraph (C), the Administrator  
17 shall promulgate regulations to ensure that 35  
18 percent or more of the quantity of renewable  
19 fuels necessary to meet the requirement of  
20 paragraph (2) is used during each of the peri-  
21 ods specified in subparagraph (D) of each sub-  
22 sequent calendar year.

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

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

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

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

12           “(i) April through September; and

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

15           “(E) EXCLUSIONS.—Renewable fuels  
16           blended or consumed in 2004 in a state which  
17           has received a waiver under section 209(b) shall  
18           not be included in the study in subparagraph  
19           (A).

20           “(7) WAIVERS.—

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

1 the national quantity of renewable fuel required  
2 under this subsection—

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

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

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

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

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

3           “(8) STUDY AND WAIVER FOR INITIAL YEAR OF  
4           PROGRAM.—Not later than 180 days from enact-  
5           ment, the Secretary of Energy shall complete for the  
6           Administrator a study assessing whether the renew-  
7           able fuels requirement under paragraph (2) will like-  
8           ly result in significant adverse consumer impacts in  
9           2004, on a national, regional or state basis. Such  
10          study shall evaluate renewable fuel supplies and  
11          prices, blendstock supplies, and supply and distribu-  
12          tion system capabilities. Based on such study, the  
13          Secretary shall make specific recommendations to  
14          the Administrator regarding waiver of the require-  
15          ments of paragraph (2), in whole or in part, to avoid  
16          any such adverse impacts. Within 270 days from en-  
17          actment, the Administrator shall, consistent with the  
18          recommendations of the Secretary waive, in whole or  
19          in part, the renewable fuels requirement under para-  
20          graph (2) by reducing the national quantity of re-  
21          newable fuel required under this subsection in 2004.  
22          This provision shall not be interpreted as limiting  
23          the Administrator’s authority to waive the require-  
24          ments of paragraph (2) in whole, or in part, under  
25          paragraph (7), pertaining to waivers.

1           “(9) SMALL REFINERIES.—

2                   “(A) IN GENERAL.—The requirement of  
3 paragraph (2) shall not apply to small refineries  
4 until January 1, 2008. Not later than Decem-  
5 ber 31, 2006, the Secretary of Energy shall  
6 complete for the Administrator a study to de-  
7 termine whether the requirement of paragraph  
8 (2) would impose a disproportionate economic  
9 hardship on small refineries. For any small re-  
10 finery that the Secretary of Energy determines  
11 would experience a disproportionate economic  
12 hardship, the Administrator shall extend the  
13 small refinery exemption for such small refinery  
14 for no less than two additional years.

15           “(B) ECONOMIC HARDSHIP.—

16                   “(i) EXTENSION OF EXEMPTION.—A  
17 small refinery may at any time petition the  
18 Administrator for an extension of the ex-  
19 emption from the requirement of para-  
20 graph (2) for the reason of dispropor-  
21 tionate economic hardship. In evaluating a  
22 hardship petition, the Administrator, in  
23 consultation with the Secretary of Energy,  
24 shall consider the findings of the study in  
25 addition to other economic factors.

1           “(ii) DEADLINE FOR ACTION ON PETI-  
2           TIONS.—The Administrator shall act on  
3           any petition submitted by a small refinery  
4           for a hardship exemption not later than 90  
5           days after the receipt of the petition.

6           “(C) CREDIT PROGRAM.—If a small refin-  
7           ery notifies the Administrator that it waives the  
8           exemption provided by this Act, the regulations  
9           shall provide for the generation of credits by  
10          the small refinery beginning in the year fol-  
11          lowing such notification.

12          “(D) OPT-IN FOR SMALL REFINERS.—A  
13          small refinery shall be subject to the require-  
14          ments of this section if it notifies the Adminis-  
15          trator that it waives the exemption under sub-  
16          paragraph (A).”.

17          (b) PENALTIES AND ENFORCEMENT.—Section  
18          211(d) of the Clean Air Act (42 U.S.C. 7545(d)) is  
19          amended—

20                 (1) in paragraph (1)—

21                         (A) in the first sentence, by striking “or  
22                         (n)” each place it appears and inserting “(n) or  
23                         (o)”; and

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

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

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

7           (1) by redesignating paragraph (5) as para-  
8           graph (6); and

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

11          “(5) EXCLUSION FROM ETHANOL WAIVER.—

12                       “(A) PROMULGATION OF REGULATIONS.—

13           Upon notification, accompanied by supporting  
14           documentation, from the Governor of a State  
15           that the Reid vapor pressure limitation estab-  
16           lished by paragraph (4) will increase emissions  
17           that contribute to air pollution in any area in  
18           the State, the Administrator shall, by regula-  
19           tion, apply, in lieu of the Reid vapor pressure  
20           limitation established by paragraph (4), the  
21           Reid vapor pressure limitation established by  
22           paragraph (1) to all fuel blends containing gas-  
23           oline and 10 percent denatured anhydrous eth-  
24           anol that are sold, offered for sale, dispensed,  
25           supplied, offered for supply, transported or in-

1           produced into commerce in the area during the  
2           high ozone season.

3           “(B) DEADLINE FOR PROMULGATION.—  
4           The Administrator shall promulgate regulations  
5           under subparagraph (A) not later than 90 days  
6           after the date of receipt of a notification from  
7           a Governor under that subparagraph.

8           “(C) EFFECTIVE DATE.—

9           “(i) IN GENERAL.—With respect to an  
10          area in a State for which the Governor  
11          submits a notification under subparagraph  
12          (A), the regulations under that subpara-  
13          graph shall take effect on the later of—

14                 “(I) the first day of the first high  
15                 ozone season for the area that begins  
16                 after the date of receipt of the notifi-  
17                 cation; or

18                 “(II) 1 year after the date of re-  
19                 ceipt of the notification.

20           “(ii) EXTENSION OF EFFECTIVE DATE  
21          BASED ON DETERMINATION OF INSUFFI-  
22          CIENT SUPPLY.—

23                 “(I) IN GENERAL.—If, after re-  
24                 ceipt of a notification with respect to  
25                 an area from a Governor of a State

1 under subparagraph (A), the Adminis-  
2 trator determines, on the Administra-  
3 tor's own motion or on petition of any  
4 person and after consultation with the  
5 Secretary of Energy, that the promul-  
6 gation of regulations described in sub-  
7 paragraph (A) would result in an in-  
8 sufficient supply of gasoline in the  
9 State, the Administrator, by regula-  
10 tion—

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

15 “(bb) may renew the exten-  
16 sion under item (aa) for two ad-  
17 ditional periods, each of which  
18 shall not exceed 1 year.

19 “(II) DEADLINE FOR ACTION ON  
20 PETITIONS.—The Administrator shall  
21 act on any petition submitted under  
22 subclause (I) not later than 180 days  
23 after the date of receipt of the peti-  
24 tion.”.

25 (d) SURVEY OF RENEWABLE FUEL MARKET.—

1           (1) SURVEY AND REPORT.—Not later than De-  
2           cember 1, 2005, and annually thereafter, the Admin-  
3           istrator shall—

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

8                           (i) conventional gasoline containing  
9                           ethanol;

10                           (ii) reformulated gasoline containing  
11                           ethanol;

12                           (iii) conventional gasoline containing  
13                           renewable fuel; and

14                           (iv) reformulated gasoline containing  
15                           renewable fuel; and

16                   (B) submit to Congress, and make publicly  
17                   available, a report on the results of the survey  
18                   under subparagraph (A).

19           (2) RECORDKEEPING AND REPORTING RE-  
20           QUIREMENTS.—The Administrator may require any  
21           refiner, blender, or importer to keep such records  
22           and make such reports as are necessary to ensure  
23           that the survey conducted under paragraph (1) is  
24           accurate. The Administrator shall rely, to the extent

1 practicable, on existing reporting and recordkeeping  
2 requirements to avoid duplicative requirements.

3 (3) APPLICABLE LAW.—Activities carried out  
4 under this subsection shall be conducted in a man-  
5 ner designed to protect confidentiality of individual  
6 responses.

7 (e) RENEWABLE FUELS SAFE HARBOR.—

8 (1) IN GENERAL.—Notwithstanding any other  
9 provision of federal or state law, no renewable fuel,  
10 as defined by this Act, used or intended to be used  
11 as a motor vehicle fuel, nor any motor vehicle fuel  
12 containing such renewable fuel, shall be deemed de-  
13 fective in design or manufacture by virtue of the fact  
14 that it is, or contains, such a renewable fuel, if it  
15 does not violate a control or prohibition imposed by  
16 the Administrator under section 211 of the Clean  
17 Air Act, as amended by this Act, and the manufac-  
18 turer is in compliance with all requests for informa-  
19 tion under section 211(b) of the Clean Air Act, as  
20 amended by this Act. In the event that the safe har-  
21 bor under this section does not apply, the existence  
22 of a design defect or manufacturing defect shall be  
23 determined under otherwise applicable law.

24 (2) EXCEPTIONS.—This subsection shall not  
25 apply to ethers.

1           (3) EFFECTIVE DATE.—This subsection shall be  
2           effective as of the date of enactment and shall apply  
3           with respect to all claims filed on or after that date.

4   **SEC. 102. FEDERAL AGENCY ETHANOL-BLENDED GASOLINE**  
5                   **AND BIODIESEL PURCHASING REQUIRE-**  
6                   **MENT.**

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

10   **“SEC. 306. FEDERAL AGENCY ETHANOL-BLENDED GASO-**  
11                   **LINE AND BIODIESEL PURCHASING REQUIRE-**  
12                   **MENT.**

13           “(a) ETHANOL-BLENDED GASOLINE.—The head of  
14           each Federal agency shall ensure that, in areas in which  
15           ethanol-blended gasoline is reasonably available at a gen-  
16           erally competitive price, the Federal agency purchases eth-  
17           anol-blended gasoline containing at least 10 percent eth-  
18           anol rather than nonethanol-blended gasoline, for use in  
19           vehicles used by the agency that use gasoline.

20           “(b) BIODIESEL.—

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

24                   “(2) REQUIREMENT.—The head of each Fed-  
25                   eral agency shall ensure that the Federal agency

1 purchases, for use in fueling fleet vehicles that use  
2 diesel fuel used by the Federal agency at the loca-  
3 tion at which fleet vehicles of the Federal agency are  
4 centrally fueled, in areas in which the biodiesel-  
5 blended diesel fuel described in paragraphs (A) and  
6 (B) is available at a generally competitive price—

7 “(A) as of the date that is 5 years after  
8 the date of enactment of this paragraph, bio-  
9 diesel-blended diesel fuel that contains at least  
10 2 percent biodiesel, rather than nonbiodiesel-  
11 blended diesel fuel; and

12 “(B) as of the date that is 10 years after  
13 the date of enactment of this paragraph, bio-  
14 diesel-blended diesel fuel that contains at least  
15 20 percent biodiesel, rather than nonbiodiesel-  
16 blended diesel fuel.

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

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

1 **SEC. 103. COMMERCIAL BYPRODUCTS FROM MUNICIPAL**  
2 **SOLID WASTE LOAN GUARANTEE PROGRAM.**

3 (a) DEFINITION OF MUNICIPAL SOLID WASTE.—In  
4 this section, the term “municipal solid waste” has the  
5 meaning given the term “solid waste” in section 1004 of  
6 the Solid Waste Disposal Act (42 U.S.C. 6903).

7 (b) ESTABLISHMENT OF PROGRAM.—The Secretary  
8 of Energy shall establish a program to provide guarantees  
9 of loans by private institutions for the construction of fa-  
10 cilities for the processing and conversion of municipal solid  
11 waste into fuel ethanol and other commercial byproducts.

12 (c) REQUIREMENTS.—The Secretary may provide a  
13 loan guarantee under subsection (b) to an applicant if—

14 (1) without a loan guarantee, credit is not  
15 available to the applicant under reasonable terms or  
16 conditions sufficient to finance the construction of a  
17 facility described in subsection (b);

18 (2) the prospective earning power of the appli-  
19 cant and the character and value of the security  
20 pledged provide a reasonable assurance of repayment  
21 of the loan to be guaranteed in accordance with the  
22 terms of the loan; and

23 (3) the loan bears interest at a rate determined  
24 by the Secretary to be reasonable, taking into ac-  
25 count the current average yield on outstanding obli-

1 gations of the United States with remaining periods  
2 of maturity comparable to the maturity of the loan.

3 (d) CRITERIA.—In selecting recipients of loan guar-  
4 antees from among applicants, the Secretary shall give  
5 preference to proposals that—

6 (1) meet all applicable Federal and State per-  
7 mitting requirements;

8 (2) are most likely to be successful; and

9 (3) are located in local markets that have the  
10 greatest need for the facility because of—

11 (A) the limited availability of land for  
12 waste disposal; or

13 (B) a high level of demand for fuel ethanol  
14 or other commercial byproducts of the facility.

15 (e) MATURITY.—A loan guaranteed under subsection  
16 (b) shall have a maturity of not more than 20 years.

17 (f) TERMS AND CONDITIONS.—The loan agreement  
18 for a loan guaranteed under subsection (b) shall provide  
19 that no provision of the loan agreement may be amended  
20 or waived without the consent of the Secretary.

21 (g) ASSURANCE OF REPAYMENT.—The Secretary  
22 shall require that an applicant for a loan guarantee under  
23 subsection (b) provide an assurance of repayment in the  
24 form of a performance bond, insurance, collateral, or other

1 means acceptable to the Secretary in an amount equal to  
2 not less than 20 percent of the amount of the loan.

3 (h) GUARANTEE FEE.—The recipient of a loan guar-  
4 antee under subsection (b) shall pay the Secretary an  
5 amount determined by the Secretary to be sufficient to  
6 cover the administrative costs of the Secretary relating to  
7 the loan guarantee.

8 (i) FULL FAITH AND CREDIT.—The full faith and  
9 credit of the United States is pledged to the payment of  
10 all guarantees made under this section. Any such guar-  
11 antee made by the Secretary shall be conclusive evidence  
12 of the eligibility of the loan for the guarantee with respect  
13 to principal and interest. The validity of the guarantee  
14 shall be incontestable in the hands of a holder of the guar-  
15 anteed loan.

16 (j) REPORTS.—Until each guaranteed loan under this  
17 section has been repaid in full, the Secretary shall annu-  
18 ally submit to Congress a report on the activities of the  
19 Secretary under this section.

20 (k) AUTHORIZATION OF APPROPRIATIONS.—There  
21 are authorized to be appropriated such sums as are nec-  
22 essary to carry out this section.

23 (l) TERMINATION OF AUTHORITY.—The authority of  
24 the Secretary to issue a loan guarantee under subsection

1 (b) terminates on the date that is 10 years after the date  
2 of enactment of this Act.

3 **SEC. 104. DATA COLLECTION.**

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

7 “(m) In order to improve the ability to evaluate the  
8 effectiveness of the Nation’s renewable fuels mandate, the  
9 Administrator shall conduct and publish the results of a  
10 survey of renewable fuels consumption in the motor vehicle  
11 fuels market in the United States monthly, and in a man-  
12 ner designed to protect the confidentiality of individual re-  
13 sponses. In conducting the survey, the Administrator shall  
14 collect information retrospectively to 1998, both on a na-  
15 tional basis and a regional basis, including—

16 “(1) the quantity of renewable fuels produced;

17 “(2) the cost of production;

18 “(3) the cost of blending and marketing;

19 “(4) the quantity of renewable fuels blended;

20 “(5) the quantity of renewable fuels imported;

21 and

22 “(6) market price data.”.

1                   **TITLE II—FEDERAL**  
2                   **REFORMULATED FUELS**

3   **SEC. 201. SHORT TITLE.**

4           This subtitle may be cited as the “Federal Reformu-  
5 lated Fuels Act of 2002”.

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

7           (a) USE OF LUST FUNDS FOR REMEDIATION OF  
8 CONTAMINATION FROM ETHER FUEL ADDITIVES.—Sec-  
9 tion 9003(h) of the Solid Waste Disposal Act (42 U.S.C.  
10 6991b(h)) is amended—

11                   (1) in paragraph (7)(A)—

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

15                           (B) by inserting “and section 9010” before  
16 “if”; and

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

18                           “(12) REMEDIATION OF CONTAMINATION FROM  
19 ETHER FUEL ADDITIVES.—

20                                   “(A) IN GENERAL.—The Administrator  
21 and the States may use funds made available  
22 under section 9013(1) to carry out corrective  
23 actions with respect to a release of methyl ter-  
24 tiary butyl ether or other ether fuel additive

1           that presents a threat to human health, welfare,  
2           or the environment.

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

5                   “(i) in accordance with paragraph (2),  
6                   except that a release with respect to which  
7                   a corrective action is carried out under  
8                   subparagraph (A) shall not be required to  
9                   be from an underground storage tank; and

10                   “(ii) in the case of a State, in accord-  
11                   ance with a cooperative agreement entered  
12                   into by the Administrator and the State  
13                   under paragraph (7).”.

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

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

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

23                   “(1) by a State (pursuant to section  
24                   9003(h)(7)) acting under—

1           “(A) a program approved under section  
2           9004; or

3           “(B) State requirements regulating under-  
4           ground storage tanks that are similar or iden-  
5           tical to this subtitle, as determined by the Ad-  
6           ministrators; and

7           “(2) by the Administrator, acting under this  
8           subtitle or a State program approved under section  
9           9004.

10 **“SEC. 9011. BEDROCK BIOREMEDIATION.**

11           “The Administrator shall establish, at an institution  
12 of higher education (as defined in section 101 of the High-  
13 er Education Act of 1965 (20 U.S.C. 1001)) with estab-  
14 lished expertise in bioremediation of contaminated bedrock  
15 aquifers, a resource center—

16           “(1) to conduct research concerning bioremedi-  
17           ation of methyl tertiary butyl ether in contaminated  
18           underground aquifers, including contaminated bed-  
19           rock; and

20           “(2) to provide for States a technical assistance  
21           clearinghouse for information concerning innovative  
22           technologies for bioremediation described in para-  
23           graph (1).

1 **“SEC. 9012. SOIL REMEDIATION.**

2 “The Administrator may establish a program to con-  
3 duct research concerning remediation of methyl tertiary  
4 butyl ether contamination of soil, including granitic or vol-  
5 canic soil.

6 **“SEC. 9013. AUTHORIZATION OF APPROPRIATIONS.**

7 “In addition to amounts made available under section  
8 2007(f), there are authorized to be appropriated from the  
9 Leaking Underground Storage Tank Trust Fund, notwith-  
10 standing section 9508(c)(1) of the Internal Revenue Code  
11 of 1986—

12 “(1) to carry out section 9003(h)(12),  
13 \$200,000,000 for fiscal year 2003, to remain avail-  
14 able until expended;

15 “(2) to carry out section 9010—

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

17 “(B) \$30,000,000 for each of fiscal years  
18 2004 through 2008;

19 “(3) to carry out section 9011—

20 “(A) \$500,000 for fiscal year 2003; and

21 “(B) \$300,000 for each of fiscal years  
22 2004 through 2008; and

23 “(4) to carry out section 9012—

24 “(A) \$100,000 for fiscal year 2003; and

25 “(B) \$50,000 for each of fiscal years 2004  
26 through 2008.”.

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

“Sec. 9010. Release prevention and compliance.

“Sec. 9011. Bedrock bioremediation.

“Sec. 9012. Soil remediation.

“Sec. 9013. Authorization of appropriations.”

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

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

12           (4) Section 9004(a) of the Solid Waste Disposal Act  
13 (42 U.S.C. 6991c(a)) is amended in the second sentence  
14 by striking “referred to” and all that follows and inserting  
15 “referred to in subparagraph (A) or (B), or both, of sec-  
16 tion 9001(2).”.

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

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

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

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

3 **SEC. 203. AUTHORITY FOR WATER QUALITY PROTECTION**  
4 **FROM FUELS.**

5 (a) FINDINGS.—Congress finds that—

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

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

15 (3) at the time of the adoption of the fuel oxy-  
16 gen standard, Congress was aware that significant  
17 use of MTBE could result from the adoption of that  
18 standard, and that the use of MTBE would likely be  
19 important to the cost-effective implementation of  
20 that program;

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

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

4                   (A) MTBE production capacity; and

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

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

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

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

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

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

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

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

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

3 (11) Congress has—

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

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

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

12 (A) environmental protection;

13 (B) adequate energy supply; and

14 (C) reasonable fuel prices; and

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

17 (A) to merchant producers of MTBE who  
18 produced MTBE in response to a market cre-  
19 ated by the oxygenate requirement contained in  
20 the Clean Air Act; and

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

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

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

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

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

9           (1) in paragraph (1)(A)—

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

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

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

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

18           “(5) PROHIBITION ON USE OF MTBE.—

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

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

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

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

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

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

22           “(A) IN GENERAL.—

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

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

6           “(ii) DETERMINATION.—The Admin-  
7           istrator, in consultation with the Secretary  
8           of Energy, may determine that transition  
9           assistance for the production of iso-octane  
10          and alkylates is inconsistent with the pro-  
11          visions of subparagraph (B) and, on that  
12          basis, may deny applications for grants au-  
13          thorized by this provision.

14          “(B) FURTHER GRANTS.—The Secretary  
15          of Energy, in consultation with the Adminis-  
16          trator, may also further make grants to mer-  
17          chant producers of MTBE in the United States  
18          to assist the producers in the conversion of eli-  
19          gible production facilities described in subpara-  
20          graph (C) to the production of such other fuel  
21          additives that, consistent with 211(c)—

22                  “(i) unless the Administrator deter-  
23                  mines that such fuel additives may reason-  
24                  ably be anticipated to endanger public  
25                  health or the environment;

1           “(ii) have been registered and have  
2           been tested or are being tested in accord-  
3           ance with the requirements of this section;  
4           and

5           “(iii) will contribute to replacing gaso-  
6           line volumes lost as a result of paragraph  
7           (5).

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

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

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

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

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

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

1           to carry out this paragraph \$250,000,000 for  
2           each of fiscal years 2003 through 2005.”.

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 regarding the authority of States  
7 to limit the use of methyl tertiary butyl ether in motor  
8 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);

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); and

10 (2) EFFECTIVE DATE.—The amendments made  
11 by paragraph (1) take effect 270 days after the date  
12 of enactment of this Act, except that such amend-  
13 ments shall take effect upon enactment in any State  
14 that has received a waiver under section 209(b) of  
15 the Clean Air Act.

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

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

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

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

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

4           “(i) DEFINITIONS.—In this subpara-  
5 graph the term ‘PADD’ means a Petro-  
6 leum Administration for Defense District.

7           “(ii) REGULATIONS REGARDING EMIS-  
8 SIONS OF TOXIC AIR POLLUTANTS.—Not  
9 later than 270 days after the date of en-  
10 actment of this subparagraph, the Admin-  
11 istrator shall establish, for each refinery or  
12 importer (other than a refinery or importer  
13 in a State that has received a waiver under  
14 section 209(b) with regard to gasoline pro-  
15 duced for use in that state), standards for  
16 toxic air pollutants from use of the refor-  
17 mulated gasoline produced or distributed  
18 by the refinery or importer that maintain  
19 the reduction of the average annual aggre-  
20 gate emissions of toxic air pollutants for  
21 reformulated gasoline produced or distrib-  
22 uted by the refinery or importer during  
23 calendar years 1999 and 2000, determined  
24 on the basis of data collected by the Ad-

1            administrator with respect to the refinery or  
2            importer.

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

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

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

1 promulgated under subparagraph (A)  
2 and paragraph (3)(B).

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

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

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

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

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

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

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

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

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

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

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

3           (c) CONSOLIDATION IN REFORMULATED GASOLINE  
4 REGULATIONS.—Not later than 180 days after the date  
5 of enactment of this Act, the Administrator shall revise  
6 the reformulated gasoline regulations under subpart D of  
7 part 80 of title 40, Code of Federal Regulations, to con-  
8 solidate the regulations applicable to VOC-Control Re-  
9 gions 1 and 2 under section 80.41 of that title by elimi-  
10 nating the less stringent requirements applicable to gaso-  
11 line designated for VOC-Control Region 2 and instead ap-  
12 plying the more stringent requirements applicable to gaso-  
13 line designated for VOC-Control Region 1.

14           (d) SAVINGS CLAUSE.—Nothing in this section is in-  
15 tended to affect or prejudice any legal claims or actions  
16 with respect to regulations promulgated by the Adminis-  
17 trator prior to enactment of this Act regarding emissions  
18 of toxic air pollutants from motor vehicles.

19           (e) DETERMINATION REGARDING A STATE PETI-  
20 TION.—Section 211(k) of the Clean Air Act (42 U.S.C.  
21 7545(k)) is amended by inserting after paragraph (10) the  
22 following:

23                   “(11) DETERMINATION REGARDING A STATE  
24                   PETITION.—

1           “(A) IN GENERAL.—Notwithstanding any  
2 other provision of this section, not less than 30  
3 days after enactment of this paragraph the Ad-  
4 ministrator must determine the adequacy of any  
5 petition received from a Governor of a State to  
6 exempt gasoline sold in that State from the re-  
7 quirements of paragraph (2)(B).

8           “(B) APPROVAL.—If the determination in  
9 (A) is not made within thirty days of enactment  
10 of this paragraph, the petition shall be deemed  
11 approved.”.

12 **SEC. 205. PUBLIC HEALTH AND ENVIRONMENTAL IMPACTS**  
13 **OF FUELS AND FUEL ADDITIVES.**

14       Section 211(b) of the Clean Air Act (42 U.S.C.  
15 7545(b)) is amended—

16           (1) in paragraph (2)—

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

19               (B) by striking subparagraph (A) and in-  
20 serting the following:

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

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

1           “(4) STUDY ON CERTAIN FUEL ADDITIVES AND  
2 BLENDSTOCKS.—

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

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

11                   “(I) ethyl tertiary butyl ether;

12                   “(II) tertiary amyl methyl ether;

13                   “(III) di-isopropyl ether;

14                   “(IV) tertiary butyl alcohol;

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

18                   “(VI) ethanol;

19                   “(VII) iso-octane; and

20                   “(VIII) alkylates;

21           “(ii) conduct a study on the effects on  
22 public health, air quality, and water re-  
23 sources of the adjustment for ethanol-  
24 blended reformulated gasoline to the VOC  
25 performance requirements otherwise appli-

1 cable under sections 211(k)(1) and  
2 211(k)(3) of the Clean Air Act; and

3 “(iii) submit to the Committee on En-  
4 vironment and Public Works of the Senate  
5 and the Committee on Energy and Com-  
6 merce of the House of Representatives a  
7 report describing the results of these stud-  
8 ies.

9 “(B) CONTRACTS FOR STUDY.—In car-  
10 rying out this paragraph, the Administrator  
11 may enter into one or more contracts with non-  
12 governmental entities including but not limited  
13 to National Energy Laboratories and institu-  
14 tions of higher education (as defined in section  
15 101 of the Higher Education Act of 1965 (20  
16 U.S.C. 1001)).”.

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

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

21 “(p) ANALYSES OF MOTOR VEHICLE FUEL CHANGES  
22 AND EMISSIONS MODEL.—

23 “(1) ANTI-BACKSLIDING ANALYSIS.—

24 “(A) DRAFT ANALYSIS.—Not later than 4  
25 years after the date of enactment of this para-

1 graph, the Administrator shall publish for pub-  
2 lic comment a draft analysis of the changes in  
3 emissions of air pollutants and air quality due  
4 to the use of motor vehicle fuel and fuel addi-  
5 tives resulting from implementation of the  
6 amendments made by the Federal Reformulated  
7 Fuels Act of 2002.

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

13 “(2) EMISSIONS MODEL.—For the purposes of  
14 this subsection, as soon as the necessary data are  
15 available, the Administrator shall develop and final-  
16 ize an emissions model that reasonably reflects the  
17 effects of gasoline characteristics or components on  
18 emissions from vehicles in the motor vehicle fleet  
19 during calendar year 2005.”.

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

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

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

1 “(6) OPT-IN AREAS.—

2 “(A) CLASSIFIED AREAS.—

3 “(i) IN GENERAL.—Upon”;

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

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

9 (3) in subparagraph (A)(ii) (as redesignated by  
10 paragraph (2))—

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

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

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

17 “(B) OZONE TRANSPORT REGION.—

18 “(i) APPLICATION OF PROHIBITION.—

19 “(I) IN GENERAL.—In addition  
20 to the provisions of subparagraph (A),  
21 upon the application of the Governor  
22 of a State in the ozone transport re-  
23 gion established by section 184(a), the  
24 Administrator, not later than 180  
25 days after the date of receipt of the

1 application, shall apply the prohibition  
2 specified in paragraph (5) to any area  
3 in the State (other than an area clas-  
4 sified as a marginal, moderate, seri-  
5 ous, or severe ozone nonattainment  
6 area under subpart 2 of part D of  
7 title I) unless the Administrator deter-  
8 mines under clause (iii) that there is  
9 insufficient capacity to supply reform-  
10 ulated gasoline.

11 “(II) PUBLICATION OF APPLICA-  
12 TION.—As soon as practicable after  
13 the date of receipt of an application  
14 under subclause (I), the Adminis-  
15 trator shall publish the application in  
16 the Federal 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  
22 after the date of approval by the Ad-  
23 ministrator of the application of the  
24 Governor of the State; and

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

4 “(iii) EXTENSION OF COMMENCEMENT  
5 DATE BASED ON INSUFFICIENT CAPAC-  
6 ITY.—

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

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

21 “(bb) may renew the exten-  
22 sion under item (aa) for two ad-  
23 ditional periods, each of which  
24 shall not exceed 1 year.

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

7   **SEC. 208. FEDERAL ENFORCEMENT OF STATE FUELS RE-**  
8                   **QUIREMENTS.**

9                   Section 211(c)(4)(C) of the Clean Air Act (42 U.S.C.  
10 7545(c)(4)(C)) is amended—

11                   (1) by striking “(C) A State” and inserting the  
12                   following:

13                   “(C) AUTHORITY OF STATE TO CONTROL  
14                   FUELS AND FUEL ADDITIVES FOR REASONS OF  
15                   NECESSITY.—

16                   “(i) IN GENERAL.—A State”; and

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

18                   “(ii) ENFORCEMENT BY THE ADMIN-  
19                   ISTRATOR.—In any case in which a State  
20                   prescribes and enforces a control or prohi-  
21                   bition under clause (i), the Administrator,  
22                   at the request of the State, shall enforce  
23                   the control or prohibition as if the control  
24                   or prohibition had been adopted under the  
25                   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  
5 Environmental Protection Agency and the Secretary  
6 of 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  
13 State to State, region to region, or locality to  
14 locality.

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

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

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

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

25 (ii) related environmental and public  
26 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 refineries;

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, refineries, and fuel handling facilities;

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

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

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

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

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

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

5 (b) REPORT.—

6 (1) IN GENERAL.—Not later than June 1,  
7 2006, 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 **SEC. 210. REVIEW OF FEDERAL PROCUREMENT INITIA-**  
11 **TIVES RELATING TO USE OF RECYCLED**  
12 **PRODUCTS AND FLEET AND TRANSPOR-**  
13 **TATION EFFICIENCY.**

14           Not later than 180 days after the date of enactment  
15 of this Act, the Administrator of General Services shall  
16 submit to Congress a report that details efforts by each  
17 Federal agency to implement the procurement policies  
18 specified in Executive Order No. 13101 (63 Fed. Reg.  
19 49643; relating to governmental use of recycled products)  
20 and Executive Order No. 13149 (65 Fed. Reg. 24607; re-  
21 lating to Federal fleet and transportation efficiency).

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