

108TH CONGRESS
1ST SESSION

S. 385

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

FEBRUARY 13, 2003

Mr. DASCHLE (for himself, Mr. LUGAR, Mr. HAGEL, Mr. DORGAN, Mr. JOHNSON, Mr. VOINOVICH, Mr. HARKIN, Mr. BOND, Mr. NELSON of Nebraska, Mr. GRASSLEY, Mr. DURBIN, Mr. TALENT, Mr. DAYTON, Mr. FITZGERALD, Mr. COLEMAN, and Mr. CONRAD) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

A BILL

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

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

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

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

1 (b) TABLE OF CONTENTS.—The table of contents of
 2 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.

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

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

6 (1) by redesignating subsection (o) as sub-
 7 section (q); and

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

10 “(o) RENEWABLE FUEL PROGRAM.—

11 “(1) DEFINITIONS.—In this section:

12 “(A) CELLULOSIC BIOMASS ETHANOL.—

13 The term ‘cellulosic biomass ethanol’ means
 14 ethanol derived from any lignocellulosic or

1 hemicellulosic matter that is available on a re-
2 newable or recurring basis, including—

3 “(i) dedicated energy crops and trees;

4 “(ii) wood and wood residues;

5 “(iii) plants;

6 “(iv) grasses;

7 “(v) agricultural residues;

8 “(vi) fibers;

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

11 “(viii) municipal solid waste.

12 “(B) RENEWABLE FUEL.—

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

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

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

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

1 “(ii) INCLUSION.—The term ‘renew-
2 able fuel’ includes cellulosic biomass eth-
3 anol and biodiesel (as defined in section
4 312(f) of the Energy Policy Act of 1992
5 (42 U.S.C. 13220(f))).

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

13 “(2) RENEWABLE FUEL PROGRAM.—

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

1 be used, or impose any per-gallon obligation for
 2 the use of renewables. If the Administrator does
 3 not promulgate such regulations, the applicable
 4 percentage, on a volume percentage of gasoline
 5 basis, shall be 1.62 in 2004.

6 “(B) APPLICABLE VOLUME.—

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

Applicable volume of renewable fuel

“Calendar year:	(In billions of gallons)
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.

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

19 “(I) the number of gallons of
 20 gasoline that the Administrator esti-

1 mates will be sold or introduced into
2 commerce in the calendar year; and

3 “(II) the ratio that—

4 “(aa) 5.0 billion gallons of
5 renewable fuels; bears to

6 “(bb) the number of gallons
7 of gasoline sold or introduced
8 into commerce in calendar year
9 2012.

10 “(3) APPLICABLE PERCENTAGES.—Not later
11 than October 31 of each calendar year, through
12 2011, the Administrator of the Energy Information
13 Administration shall provide the Administrator an
14 estimate of the volumes of gasoline sales in the
15 United States for the coming calendar year. Based
16 on such estimates, the Administrator shall by No-
17 vember 30 of each calendar year, through 2011, de-
18 termine and publish in the Federal Register, the re-
19 newable fuel obligation, on a volume percentage of
20 gasoline basis, applicable to refiners, blenders, dis-
21 tributors and importers, as appropriate, for the com-
22 ing calendar year, to ensure that the requirements
23 of paragraph (2) are met. For each calendar year,
24 the Administrator shall establish a single applicable
25 percentage that applies to all parties, and make pro-

1 vision to avoid redundant obligations. In determining
2 the applicable percentages, the Administrator shall
3 make adjustments to account for the use of renew-
4 able fuels by exempt small refineries during the pre-
5 vious year.

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

10 “(5) CREDIT PROGRAM.—

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

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

6 “(C) LIFE OF CREDITS.—A credit gen-
7 erated under this paragraph shall be valid to
8 show compliance:

9 “(i) in the calendar year in which the
10 credit was generated or the next calendar
11 year, or

12 “(ii) in the calendar year in which the
13 credit was generated or next two consecu-
14 tive calendar years if the Administrator
15 promulgates regulations under paragraph
16 (6).

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

1 achieve compliance with the renewables require-
2 ment under paragraph (2), and shall generate
3 or purchase additional renewables credits to off-
4 set the renewables deficit of the previous year.

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

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

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

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

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

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

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

15 “(i) April through September; and

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

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

23 “(7) WAIVERS.—

24 “(A) IN GENERAL.—The Administrator, in
25 consultation with the Secretary of Agriculture

1 and the Secretary of Energy, may waive the re-
2 quirement of paragraph (2) in whole or in part
3 on petition by one or more States by reducing
4 the national quantity of renewable fuel required
5 under this subsection—

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

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

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

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

1 nate after 1 year, but may be renewed by the
2 Administrator after consultation with the Sec-
3 retary of Agriculture and the Secretary of En-
4 ergy.

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

1 ments of paragraph (2) in whole, or in part, under
2 paragraph (7), pertaining to waivers.

3 “(9) SMALL REFINERIES.—

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

17 “(B) ECONOMIC HARDSHIP.—

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

1 shall consider the findings of the study in
2 addition to other economic factors.

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

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

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

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

22 (1) in paragraph (1)—

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

1 (B) in the second sentence, by striking “or
2 (m)” and inserting “(m), or (o)”; and
3 (2) in the first sentence of paragraph (2), by
4 striking “and (n)” each place it appears and insert-
5 ing “(n), and (o)”.

6 (c) EXCLUSION FROM ETHANOL WAIVER.—Section
7 211(h) of the Clean Air Act (42 U.S.C. 7545(h)) is
8 amended—

9 (1) by redesignating paragraph (5) as para-
10 graph (6); and

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

13 “(5) EXCLUSION FROM ETHANOL WAIVER.—

14 “(A) PROMULGATION OF REGULATIONS.—

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

1 anol that are sold, offered for sale, dispensed,
2 supplied, offered for supply, transported or in-
3 troduced into commerce in the area during the
4 high ozone season.

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

10 “(C) EFFECTIVE DATE.—

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

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

20 “(II) 1 year after the date of re-
21 ceipt of the notification.

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

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

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

18 “(bb) may renew the exten-
19 sion under item (aa) for two ad-
20 ditional 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 (d) SURVEY OF RENEWABLE FUEL MARKET.—

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

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

11 (i) conventional gasoline containing
12 ethanol;

13 (ii) reformulated gasoline containing
14 ethanol;

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

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

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

22 (2) RECORDKEEPING AND REPORTING RE-
23 QUIREMENTS.—The Administrator may require any
24 refiner, blender, or importer to keep such records
25 and make such reports as are necessary to ensure

1 that the survey conducted under paragraph (1) is
2 accurate. The Administrator shall rely, to the extent
3 practicable, on existing reporting and recordkeeping
4 requirements to avoid duplicative requirements.

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

9 (e) RENEWABLE FUELS SAFE HARBOR.—

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

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

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

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

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

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

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

22 “(b) BIODIESEL.—

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

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

9 “(A) as of the date that is 5 years after
10 the date of enactment of this paragraph, bio-
11 diesel-blended diesel fuel that contains at least
12 2 percent biodiesel, rather than nonbiodiesel-
13 blended diesel fuel; and

14 “(B) as of the date that is 10 years after
15 the date of enactment of this paragraph, bio-
16 diesel-blended diesel fuel that contains at least
17 20 percent biodiesel, rather than nonbiodiesel-
18 blended diesel fuel.

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

23 “(c) EXEMPTION.—This section does not apply to
24 fuel used in vehicles excluded from the definition of ‘fleet’
25 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 an 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 ministrator; 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 (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; and

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.

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 ministrator’s 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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