

**Calendar No. 119**108TH CONGRESS  
1ST SESSION**S. 791****[Report No. 108-57]**

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

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**IN THE SENATE OF THE UNITED STATES**

APRIL 3, 2003

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

JUNE 3, 2003

Reported by Mr. INHOFE, with an amendment

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

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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,*

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

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

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

Sec. 1. Short title; table of contents.

**TITLE I—GENERAL PROVISIONS**

Sec. 101. Renewable content of gasoline.

Sec. 102. Survey of renewable fuels consumption.

**TITLE II—FEDERAL REFORMULATED FUELS**

Sec. 201. Short title.

Sec. 202. Leaking underground storage tanks.

Sec. 203. Restrictions on the use of MTBE.

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

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

Sec. 206. Analyses of motor vehicle fuel changes.

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

Sec. 208. Federal enforcement of State fuels requirements.

Sec. 209. Fuel system requirements harmonization study.

6 **TITLE I—GENERAL PROVISIONS**

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

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

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

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

14 “(o) **RENEWABLE FUEL PROGRAM.**—

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

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

17 The term ‘cellulosic biomass ethanol’ means

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

4 “(i) dedicated energy crops and trees;

5 “(ii) wood and wood residues;

6 “(iii) plants;

7 “(iv) grasses;

8 “(v) agricultural residues;

9 “(vi) fibers;

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

12 “(viii) municipal solid waste.

13 “(B) RENEWABLE FUEL.—

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

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

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

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

1 fuel mixture used to operate a motor  
2 vehicle.

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

5 “(I) cellulose biomass ethanol;  
6 and

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

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

17 “(2) RENEWABLE FUEL PROGRAM.—

18 “(A) REGULATIONS.—

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

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

3           “(ii) PROVISIONS OF REGULATIONS.—

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

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

13                   “(II) shall not—

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

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

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

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

3 “(B) APPLICABLE VOLUME.—

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

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

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

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

20 “(II) the ratio that—

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

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

7                   “(3) APPLICABLE PERCENTAGES.—

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

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

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

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

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

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

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

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

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

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

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

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

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

7 “(5) CREDIT PROGRAM.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17                   “(i) April through September; and

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

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

25           “(7) WAIVERS.—

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

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

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

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

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

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

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

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

19                 “(i) supplies and prices;

20                 “(ii) blendstock supplies; and

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

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

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

5           “(D) WAIVER.—

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

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

21          “(9) SMALL REFINERIES.—

22          “(A) TEMPORARY EXEMPTION.—

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

1 “(ii) EXTENSION OF EXEMPTION.—

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

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

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

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

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

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

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

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

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

6           “(p) RENEWABLE FUEL SAFE HARBOR.—

7           “(1) IN GENERAL.—

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

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

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

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

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

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

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

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

11           (1) in paragraph (1)—

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

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

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

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

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

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

3           “(5) EXCLUSION FROM ETHANOL WAIVER.—

4                   “(A) PROMULGATION OF REGULATIONS.—

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

20                   “(B) DEADLINE FOR PROMULGATION.—

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

25                   “(C) EFFECTIVE DATE.—

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

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

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

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

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

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

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

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

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

17 (d) SURVEY OF RENEWABLE FUEL MARKET.—

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

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

1 (i) conventional gasoline containing  
2 ethanol;

3 (ii) reformulated gasoline containing  
4 ethanol;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7                   “(B) the cost of production;

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

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

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

13                  “(F) market price data.”.

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

16   **SEC. 201. SHORT TITLE.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4 “(1) to carry out section 9003(h)(12),  
 5 \$200,000,000 for fiscal year 2003, to remain avail-  
 6 able until expended; and

7 “(2) to carry out section 9010—

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

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

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

“Sec. 9010. Release prevention and compliance.

“Sec. 9011. Authorization of appropriations.”

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

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

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

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

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

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

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

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

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

12 (a) FINDINGS.—Congress finds that—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 Panel on Oxygenates in Gasoline<sup>22</sup> and dated Sep-  
2 tember 1999, Congress was urged—

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

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

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

8 (11) Congress has—

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

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

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

17 (A) environmental protection;

18 (B) adequate energy supply; and

19 (C) reasonable fuel prices; and

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

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

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

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

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

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

10          (c) AUTHORITY FOR WATER QUALITY PROTECTION

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

13           (1) in paragraph (1)(A)—

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

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

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

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

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

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

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

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

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

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

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

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

25 “(A) IN GENERAL.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11 (a) ~~ELIMINATION.~~—

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

14 (A) in paragraph (2)—

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

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

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

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

25 (C) in paragraph (7)—

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

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

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

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

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

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

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

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

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

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

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

13 Not later than 270 days after the date of  
14 enactment of this subparagraph, the Ad-  
15 ministratoꝛ shall establish, foꝛ each refin-  
16 ery oꝛ impoꝛteꝛ (otheꝛ than a refineꝛ oꝛ  
17 impoꝛteꝛ in a State that has received a  
18 waiveꝛ undeꝛ section 209(b) with respect  
19 to gasoline produceꝛ foꝛ use in that State);  
20 standaꝛds foꝛ toxiꝛ aiꝛ pollutaꝛts foꝛ use  
21 of the reformulateꝛ gasoline produceꝛ oꝛ  
22 distributeꝛ by the refineꝛ oꝛ impoꝛteꝛ that  
23 maintain the reduceꝛ of the average an-  
24 nuaꝛ aggregate emissions of toxiꝛ aiꝛ pol-  
25 lutaꝛts foꝛ reformulateꝛ gasoline produceꝛ

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

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

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

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

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

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

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

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

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

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

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

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

1 that contributed to the failure;  
2 and

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

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

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

5 (e) COMMINGLING.—

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

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

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

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

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

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

11 (e) SAVINGS CLAUSE.—

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

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

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

22 (2) ADJUSTMENT OF STANDARDS.—

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

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

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

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

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

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

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

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

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

14                   (1) in paragraph (2)—

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

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

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

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

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

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

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

9           “(I) ethyl tertiary butyl ether;

10           “(II) tertiary amyl methyl ether;

11           “(III) di-isopropyl ether;

12           “(IV) tertiary butyl alcohol;

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

16           “(VI) ethanol;

17           “(VII) iso-octane; and

18           “(VIII) alkylates; and

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

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

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

11           “(i) the national energy laboratories; and

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

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

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

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

21           “(1) ANTI-BACKSLIDING ANALYSIS.—

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

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

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

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

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

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

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

24 “(6) OPT-IN AREAS.—

25 “(A) CLASSIFIED AREAS.—

1                   “(i) IN GENERAL.—Upon”;

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

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

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

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

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

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

15                   “(B) OZONE TRANSPORT REGION.—

16                   “(i) APPLICATION OF PROHIBITION.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12 “(i) IN GENERAL.—A State”; and

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

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

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

24 (a) STUDY.—

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

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

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

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

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

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

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

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

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

4                   (i) domestic refiners;

5                   (ii) the fuel distribution system; and

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

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

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

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

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

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

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

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

5       (b) REPORT.—

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

11       (2) RECOMMENDATIONS.—

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

15                   (i) to improve air quality;

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

18                   (iii) to increase supply liquidity.

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

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

5                   (A) the Governors of the States;

6                   (B) automobile manufacturers;

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

9                   (D) the public.

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

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

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

*Sec. 1. Short title; table of contents.*

**TITLE I—GENERAL PROVISIONS**

*Sec. 101. Renewable content of gasoline.*

*Sec. 102. Renewable fuel.*

*Sec. 103. Survey of renewable fuels consumption.*

**TITLE II—FEDERAL REFORMULATED FUELS**

*Sec. 201. Short title.*

*Sec. 202. Leaking underground storage tanks.*

*Sec. 203. Restrictions on the use of MTBE.*

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

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

*Sec. 206. Analyses of motor vehicle fuel changes.*

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

*Sec. 208. Federal enforcement of State fuels requirements.*

*Sec. 209. Fuel system requirements harmonization study.*

1 **TITLE I—GENERAL PROVISIONS**

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

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

5 (1) by redesignating subsection (o) as subsection  
6 (r); and

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

9 “(o) *RENEWABLE FUEL PROGRAM.*—

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

11 “(A) *CELLULOSIC BIOMASS ETHANOL.*—The  
12 term ‘cellulosic biomass ethanol’ means ethanol  
13 derived from any lignocellulosic or hemicellulosic  
14 matter that is available on a renewable or recur-  
15 ring basis, including—

16 “(i) dedicated energy crops and trees;

17 “(ii) wood and wood residues;

18 “(iii) plants;

19 “(iv) grasses;

20 “(v) agricultural residues;

21 “(vi) fibers;

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

24 “(viii) municipal solid waste.

25 “(B) *RENEWABLE FUEL.*—

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

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

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

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

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

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

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

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

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

3           “(2) *RENEWABLE FUEL PROGRAM.—*

4                 “(A) *REGULATIONS.—*

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

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

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

23                                 “(II) *shall not—*

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

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

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

12                                  “(B) *APPLICABLE VOLUME.—*

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

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

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

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

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

9                    *“(II) the ratio that—*

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

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

15            *“(3) APPLICABLE PERCENTAGES.—*

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

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

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

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

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

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

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

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

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

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

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

15           “(5) *CREDIT PROGRAM.*—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3           “(7) *WAIVERS.*—

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

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

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

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

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

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

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

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

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

21                   “(i) *supplies and prices;*

22                   “(ii) *blendstock supplies; and*

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

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

8           “(D) *WAIVER.—*

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

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

24          “(9) *SMALL REFINERIES.—*

25          “(A) *TEMPORARY EXEMPTION.—*

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

4           “(ii) *EXTENSION OF EXEMPTION.*—

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

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

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

1                   “(i) *EXTENSION OF EXEMPTION.*—A  
2                   *small refinery may at any time petition the*  
3                   *Administrator for an extension of the ex-*  
4                   *emption under subparagraph (A) for the*  
5                   *reason of disproportionate economic hard-*  
6                   *ship.*

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

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

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

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

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

8           “(A) *ANALYSIS.*—

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

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

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

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

5           “(p) *RENEWABLE FUEL SAFE HARBOR.*—

6           “(1) *IN GENERAL.*—

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

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

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

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

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

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

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

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

10           (1) *in paragraph (1)—*

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

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

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

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

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

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

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

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

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

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

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

23              “(C) *EFFECTIVE DATE.*—

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

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

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

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

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

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

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

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

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

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

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

18 **“SEC. 212. RENEWABLE FUEL.**

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

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

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

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

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

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

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

14           “(i) conventional gasoline containing  
15           ethanol;

16           “(ii) reformulated gasoline containing  
17           ethanol;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6           “(8) *FULL FAITH AND CREDIT.*—

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

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

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

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

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

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

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

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

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

20           “(2) *ELIGIBILITY.*—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

                  “212. *Renewable fuels.*”.

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

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

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

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

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

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

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

9 “(B) *the cost of production;*

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

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

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

15 “(F) *market price data.*”.

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

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

19 *This subtitle may be cited as the “Federal Reformu-*  
 20 *lated Fuels Act of 2003”.*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4           “(1) to carry out section 9003(h)(12),  
5           \$200,000,000 for fiscal year 2003, to remain available  
6           until expended; and

7           “(2) to carry out section 9010—

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

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

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

          “Sec. 9010. Release prevention and compliance.

          “Sec. 9011. Authorization of appropriations.”.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10                   (A) MTBE production capacity; and

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

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

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

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

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

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

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

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

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

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

8 *(11) Congress has—*

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

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

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

17 *(A) environmental protection;*

18 *(B) adequate energy supply; and*

19 *(C) reasonable fuel prices; and*

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

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

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

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

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

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

10          (c) *AUTHORITY FOR WATER QUALITY PROTECTION*

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

13                   (1) in paragraph (1)(A)—

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

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

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

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

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

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

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

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

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

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

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

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

25          “(A) *IN GENERAL.*—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12                   (a) ELIMINATION.—

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

15                   (A) in paragraph (2)—

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

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

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

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

1                   (C) in paragraph (7)—

2                   (i) in subparagraph (A)—

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

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

7                   (ii) in subparagraph (C)—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3            (c) *COMMINGLING.*—

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

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

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

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

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

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

8 *(e) SAVINGS CLAUSE.—*

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

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

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

19 *(2) ADJUSTMENT OF STANDARDS.—*

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

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

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

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

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

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

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

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

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

10                    *(1) in paragraph (2)—*

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

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

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

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

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

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

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

9                   “(I) ethyl tertiary butyl ether;

10                   “(II) tertiary amyl methyl ether;

11                   “(III) di-isopropyl ether;

12                   “(IV) tertiary butyl alcohol;

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

16                   “(VI) ethanol;

17                   “(VII) iso-octane; and

18                   “(VIII) alkylates; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3           “*(6) OPT-IN AREAS.—*

4           “*(A) CLASSIFIED AREAS.—*

5           “*(i) IN GENERAL.—Upon*”;

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

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

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

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

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

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

19          “*(B) OZONE TRANSPORT REGION.—*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

2 **STUDY.**

3 (a) *STUDY.*—

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

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

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

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

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

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

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

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

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

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

6                    *(i) domestic refiners;*

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

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

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

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

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

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

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

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

7           (b) *REPORT.*—

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

13                   (2) *RECOMMENDATIONS.*—

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

17                                   (i) to improve air quality;

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

20                                   (iii) to increase supply liquidity.

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

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

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

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

8                     (B) *automobile manufacturers;*

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

11                    (D) *public health experts;*

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

14                    (F) *the public.*

**Calendar No. 119**

108TH CONGRESS  
1ST SESSION

**S. 791**

**[Report No. 108-57]**

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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.

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JUNE 3, 2003

Reported with an amendment