

109TH CONGRESS
1ST SESSION

H. R. 3081

To amend the Clean Air Act to increase the production and use of renewable fuel in the United States and to increase the energy independence of the United States, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 28, 2005

Mr. GUTKNECHT (for himself, Ms. HERSETH, Mr. GOODLATTE, Mr. PETERSON of Minnesota, Mr. SCOTT of Georgia, Mr. LAHOOD, Mr. BOSWELL, Mr. OSBORNE, Mr. FORTENBERRY, Mr. SALAZAR, Mr. BUTTERFIELD, Ms. FOXX, Mr. MORAN of Kansas, Mr. KENNEDY of Minnesota, Mr. KING of Iowa, Mr. JOHNSON of Illinois, Mr. BURTON of Indiana, and Mr. LATHAM) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committees on Agriculture and Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Clean Air Act to increase the production and use of renewable fuel in the United States and to increase the energy independence of the United States, 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 “Renewable Fuels Act of 2005”.

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 motor vehicle fuel.

Sec. 102. Federal agency ethanol-blended gasoline, and biodiesel, purchasing requirement.

Sec. 103. Monthly survey of renewable fuels demand in motor vehicle fuels market.

Sec. 104. Commodity credit corporation bioenergy program.

TITLE II—FEDERAL REFORMULATED FUELS

Sec. 201. Elimination of oxygen content requirement for reformulated gasoline.

Sec. 202. Public health and environmental impacts of fuels and fuel additives.

Sec. 203. Analyses of motor vehicle fuel changes.

Sec. 204. Additional opt-in areas under reformulated gasoline program.

Sec. 205. Federal enforcement of State fuels requirements.

Sec. 206. Fuel system requirements harmonization study.

Sec. 207. Review of Federal procurement initiatives relating to use of recycled products and fleet and transportation efficiency.

Sec. 208. Report on renewable motor fuel.

6 **TITLE I—GENERAL PROVISIONS**

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

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 (q); and

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

14 “(o) RENEWABLE FUEL PROGRAM.—

15 “(1) DEFINITIONS.—In this subsection:

16 “(A) ETHANOL.—

1 “(i) CELLULOSIC BIOMASS ETH-
2 ANOL.—The term ‘cellulosic biomass eth-
3 anol’ means ethanol derived from any
4 lignocellulosic or hemicellulosic matter that
5 is available on a renewable or recurring
6 basis. The term includes the material spec-
7 ified in clauses (i) through (vi) of section
8 9001(3)(B) of the Farm Security and
9 Rural Investment Act of 2002 (7 U.S.C.
10 (8101(3)(B))).

11 “(ii) WASTE DERIVED ETHANOL.—
12 The term ‘waste derived ethanol’ means
13 ethanol derived from—

14 “(I) material specified in clauses
15 (vii) and (viii) of section 9001(3)(B)
16 of the Farm Security and Rural In-
17 vestment Act of 2002 (7 U.S.C.
18 (8101(3)(B))); or

19 “(II) municipal solid waste.

20 “(B) RENEWABLE FUEL.—

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

23 “(I)(aa) is produced from grain,
24 starch, oilseeds, wood fiber, or other
25 biomass; or

1 “(bb) is natural gas produced
2 from a biogas source, including a
3 landfill, sewage waste treatment plant,
4 feedlot, paper mill, or other place
5 where decaying organic material is
6 found; and

7 “(II) is used to replace or reduce
8 the quantity of fossil fuel present in a
9 fuel mixture used to operate a motor
10 vehicle.

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

13 “(I) cellulosic biomass ethanol;

14 “(II) waste derived ethanol;

15 “(III) biodiesel (as defined in
16 section 312(f) of the Energy Policy
17 Act of 1992 (42 U.S.C. 13220(f));
18 and

19 “(IV) any blending components
20 derived from renewable fuel, except
21 that only the renewable fuel portion of
22 any such blending component shall be
23 considered part of the applicable vol-
24 ume under the renewable fuel pro-
25 gram established by this subsection.

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

8 “(2) RENEWABLE FUEL PROGRAM.—

9 “(A) IN GENERAL.—

10 “(i) REGULATIONS.—Not later than 1
11 year after the date of enactment of this
12 subsection, the Administrator shall promul-
13 gate regulations ensuring that motor vehi-
14 cle fuel sold or dispensed to consumers in
15 the contiguous United States, on an an-
16 nual average basis, contains the applicable
17 volume of renewable fuel specified in sub-
18 paragraph (B).

19 “(ii) COMPLIANCE.—Regardless of the
20 date of promulgation, the regulations shall
21 contain compliance provisions for refiners,
22 blenders, and importers, as appropriate, to
23 ensure that the requirements of this sub-
24 section are met, but shall not restrict
25 where renewable fuel can be used, or im-

pose any per-gallon obligation for the use of renewable fuel.

“(iii) NO REGULATIONS.—If the Administrator does not promulgate the regulations, the applicable percentage referred to in paragraph (3), on a volume percentage of gasoline basis, shall be 3.2 in 2006.

“(B) APPLICABLE VOLUME.—

“(i) For the purpose of subparagraph (A), the applicable volume for any of calendar years 2006 through 2012 shall be determined in accordance with the following table:

“Calendar year:	Applicable volume of renewable fuel (in billions of gallons):
2006	4.0
2007	4.7
2008	5.4
2009	6.1
2010	6.8
2011	7.4
2012	8.0.

“(ii) CALENDAR YEARS 2013 AND THEREAFTER.—For the purpose of subparagraph (A), the applicable volume for calendar year 2013 and each calendar year thereafter shall be determined by the Administrator, in coordination with the Secretary of Energy and the Secretary of Ag-

1 riculture. In determining the applicable
2 volume for a calendar year, the Adminis-
3 trator shall take into consideration the fol-
4 lowing reviews:

5 “(I) The Administrator shall re-
6 view the implementation of the pro-
7 gram since calendar year 2006 and
8 the impact of the use of renewable
9 fuels on the environment, air quality,
10 energy security, and job creation.

11 “(II) The Secretary of Agri-
12 culture shall review the rate of pro-
13 duction of cellulosic ethanol and waste
14 derived ethanol (other than municipal
15 solid waste) since calendar year 2006,
16 the anticipated future production of
17 such cellulosic ethanol and waste de-
18 rived ethanol, and the impact of the
19 use of renewable fuels on rural eco-
20 nomic development.

21 “(iii) LIMITATION.—An increase in
22 the applicable volume for a calendar year
23 under clause (ii) shall be not less than the
24 product obtained by multiplying—

1 “(I) the number of gallons of
2 gasoline that the Administrator esti-
3 mates will be sold or introduced into
4 commerce during the calendar year;
5 and

6 “(II) the quotient obtained by di-
7 viding—

8 “(aa) 8,000,000,000; by

9 “(bb) the number of gallons
10 of gasoline sold or introduced
11 into commerce during calendar
12 year 2012.

13 “(3) APPLICABLE PERCENTAGES.—

14 “(A) PROVISION OF ESTIMATE OF VOL-
15 UMES OF GASOLINE SALES.—Not later than Oc-
16 tober 31 of each of calendar years 2006
17 through 2011, the Administrator of the Energy
18 Information Administration shall provide to the
19 Administrator of the Environmental Protection
20 Agency an estimate of the volumes of gasoline
21 that will be sold or introduced into commerce in
22 the United States during the following calendar
23 year.

24 “(B) DETERMINATION OF APPLICABLE
25 PERCENTAGES.—

1 “(i) IN GENERAL.—Not later than
2 November 30 of each of calendar years
3 2006 through 2011, based on the estimate
4 provided under subparagraph (A), the Ad-
5 ministrator shall determine and publish in
6 the Federal Register, with respect to the
7 following calendar year, the renewable fuel
8 obligation that ensures that the require-
9 ments under paragraph (2) are met.

10 “(ii) REQUIRED ELEMENTS.—The re-
11 newable fuel obligation determined for a
12 calendar year under clause (i) shall—

13 “(I) be applicable to refiners,
14 blenders, and importers, as appro-
15 priate;

16 “(II) be expressed in terms of a
17 volume percentage of gasoline sold or
18 introduced into commerce; and

19 “(III) subject to subparagraph
20 (C)(i), consist of a single applicable
21 percentage that applies to all cat-
22 egories of persons specified in sub-
23 clause (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 re-
5 dundant obligations to any person specified
6 in 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 (11).

11 “(4) EQUIVALENCY.—For the purpose of para-
12 graph (2), 1 gallon of either cellulosic biomass eth-
13 anol or waste derived ethanol shall be considered to
14 be the equivalent of 2.5 gallons of renewable fuel.

15 “(5) CREDIT PROGRAM.—

16 “(A) REGULATIONS.—The regulations pro-
17 mulgated to carry out this subsection shall pro-
18 vide for—

19 “(i) the generation of an appropriate
20 amount of credits by any person that re-
21 fines, 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) the generation of an appropriate
2 amount of credits for biodiesel fuel; and

3 “(iii) if a small refinery notifies the
4 Administrator that the small refinery
5 waives the exemption provided by this sub-
6 section, the generation of credits by the
7 small refinery beginning in the year fol-
8 lowing the notification.

9 “(B) USE OF CREDITS.—A person that
10 generates credits under subparagraph (A) may
11 use the credits, or transfer all or a portion of
12 the credits to another person, for the purpose
13 of complying with paragraph (2).

14 “(C) LIFE OF CREDITS.—A credit gen-
15 erated under this paragraph shall be valid to
16 demonstrate compliance for the calendar year in
17 which the credit was generated.

18 “(D) INABILITY TO PURCHASE SUFFICIENT
19 CREDITS.—The regulations promulgated to
20 carry out this subsection shall include provi-
21 sions permitting any person that is unable to
22 generate or purchase sufficient credits to meet
23 the requirement under paragraph (2) to carry
24 forward a renewables deficit if, for the calendar

1 year following the year in which the renewables
2 deficit is created—

3 “(i) the person achieves compliance
4 with the renewables requirement under
5 paragraph (2); and

6 “(ii) generates or purchases additional
7 renewables credits to offset the renewables
8 deficit of the preceding year.

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

11 “(A) STUDY.—For each of calendar years
12 2006 through 2012, the Administrator of the
13 Energy Information Administration, in con-
14 sultation with the Secretary of Agriculture,
15 shall conduct a study of renewable fuels blend-
16 ing to determine whether there are excessive
17 seasonal variations in the use of renewable
18 fuels.

19 “(B) REGULATION OF EXCESSIVE SEA-
20 SONAL VARIATION.—If, for any calendar year,
21 the Administrator of the Energy Information
22 Administration, based on the study under sub-
23 paragraph (A), makes the determinations speci-
24 fied in subparagraph (C), the Administrator
25 shall promulgate regulations to ensure that 35

1 percent or more of the quantity of renewable
2 fuels necessary to meet the requirements under
3 paragraph (2) is used during each of the peri-
4 ods specified in subparagraph (D) of each sub-
5 sequent calendar year.

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

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

14 “(ii) a pattern of excessive seasonal
15 variation described in clause (i) will con-
16 tinue in subsequent calendar years; and

17 “(iii) promulgating regulations or
18 other requirements to impose a 35 percent
19 or more seasonal use of renewable fuels
20 will not prevent or interfere with the at-
21 tainment of national ambient air quality
22 standards or significantly increase the
23 price of motor fuels to the consumer.

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

1 “(i) April through September; and

2 “(ii) January through March and Oc-
3 tober through December.

4 “(E) EXCLUSIONS.—Renewable fuels
5 blended or consumed in 2006 in a State that
6 has received a waiver under section 209(b) shall
7 not be included in the study under subpara-
8 graph (A).

9 “(7) WAIVERS.—

10 “(A) IN GENERAL.—The Administrator, in
11 consultation with the Secretary of Agriculture
12 and the Secretary of Energy, may waive the re-
13 quirements under paragraph (2), in whole or in
14 part, on a petition by 1 or more States by re-
15 ducing the national quantity of renewable fuel
16 required under this subsection—

17 “(i) based on a determination by the
18 Administrator, after public notice and op-
19 portunity for comment, that implementa-
20 tion of the requirement would severely
21 harm the economy or environment of a
22 State, a region, or the United States; or

23 “(ii) based on a determination by the
24 Administrator and the Secretary of Agri-
25 culture, after public notice and opportunity

1 for comment, that there is an inadequate
2 domestic supply to meet the requirement.

3 “(B) PETITIONS FOR WAIVERS.—Not later
4 than 90 days after the date on which a petition
5 is received by the Administrator under subpara-
6 graph (A), the Administrator, in consultation
7 with the Secretary of Agriculture and the Sec-
8 retary of Energy, shall approve or disapprove
9 the petition.

10 “(C) TERMINATION OF WAIVERS.—A waiv-
11 er granted under subparagraph (A) shall termi-
12 nate on the date that is 1 year after the date
13 on which the waiver was granted, but may be
14 renewed by the Administrator, after consulta-
15 tion with the Secretary of Agriculture and the
16 Secretary of Energy.

17 “(8) SMALL REFINERIES.—

18 “(A) IN GENERAL.—Paragraph (2) shall
19 not apply to small refineries until the first cal-
20 endar year beginning more than 5 years after
21 the first year set forth in the table in paragraph
22 (2)(B)(i).

23 “(B) STUDY.—Not later than December
24 31, 2008, the Secretary of Energy shall com-
25 plete for the Administrator a study to deter-

1 mine whether the requirements under para-
2 graph (2) would impose a disproportionate eco-
3 nomic hardship on small refineries.

4 “(C) SMALL REFINERIES AND ECONOMIC
5 HARDSHIP.—For any small refinery that the
6 Secretary of Energy determines would experi-
7 ence a disproportionate economic hardship, the
8 Administrator shall extend the small refinery
9 exemption for the small refinery for not less
10 than 2 additional years.

11 “(D) ECONOMIC HARDSHIP.—

12 “(i) EXTENSION OF EXEMPTION.—A
13 small refinery may at any time petition the
14 Administrator for an extension of the ex-
15 emption from the requirements under
16 paragraph (2) for the reason of dispropor-
17 tionate economic hardship.

18 “(ii) EVALUATION.—In evaluating a
19 hardship petition, the Administrator, in
20 consultation with the Secretary of Energy,
21 shall consider the findings of the study in
22 addition to other economic factors.

23 “(iii) DEADLINE FOR ACTION ON PE-
24 TITIONS.—The Administrator shall act on
25 any petition submitted by a small refinery

1 for a hardship exemption not later than 90
2 days after the receipt of the petition.

3 “(E) CREDIT PROGRAM.—Paragraph
4 (6)(A)(iii) shall apply to each small refinery
5 that waives an exemption under this paragraph.

6 “(F) OPT-IN FOR SMALL REFINERS.—A
7 small refinery shall be subject to paragraph (2)
8 if the small refinery notifies the Administrator
9 that the small refinery waives the exemption
10 under subparagraph (C).

11 “(p) RENEWABLE FUEL SAFE HARBOR.—

12 “(1) SAFE HARBOR.—Notwithstanding any
13 other provision of Federal or State law, a renewable
14 fuel (as defined in subsection (o)(1)) that is used or
15 intended to be used as a motor vehicle fuel and any
16 motor vehicle fuel containing renewable fuel (as so
17 defined) shall not be considered or determined to be
18 defective in design or manufacture by reason of the
19 fact that the fuel is, or contains, renewable fuel, if—

20 “(A) the fuel does not violate a control or
21 prohibition imposed by the Administrator under
22 this section; and

23 “(B) the manufacturer of the fuel is in
24 compliance with all requests for information
25 under subsection (b).

1 “(2) WHEN SAFE HARBOR NOT APPLICABLE.—

2 In any case in which paragraph (1) does not apply
3 to a quantity of fuel, the existence of a design defect
4 or manufacturing defect with respect to the fuel
5 shall be determined under otherwise applicable law.

6 “(3) EXCEPTION TO SAFE HARBOR.—Para-
7 graph (1) does not apply to ethers.

8 “(4) EFFECTIVE DATE.—Paragraph (1) applies
9 with respect to any claim filed on or after the date
10 of the enactment of the Renewable Fuels Act of
11 2005.”.

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

15 (1) in paragraph (1)—

16 (A) in the first sentence, by striking “or
17 (n)” and inserting “(n), or (o)” each place it
18 appears; and

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

21 (2) in the first sentence of paragraph (2), by
22 striking “and (n)” and inserting “(n), and (o)” each
23 place it appears.

1 **SEC. 102. FEDERAL AGENCY ETHANOL-BLENDED GASO-**
2 **LINE, AND BIODIESEL, PURCHASING RE-**
3 **QUIREMENT.**

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

7 **“SEC. 306. FEDERAL AGENCY ETHANOL-BLENDED GASO-**
8 **LINE AND BIODIESEL PURCHASING REQUIRE-**
9 **MENT.**

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

17 “(b) BIODIESEL.—

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

21 “(2) REQUIREMENT.—The head of each Fed-
22 eral agency shall ensure that the Federal agency
23 purchases, for use in fueling fleet vehicles that use
24 diesel fuel used by the Federal agency at the loca-
25 tion at which fleet vehicles of the Federal agency are
26 centrally fueled, in areas in which the biodiesel-

1 blended diesel fuel described in subparagraphs (A)
2 and (B) is available at a generally competitive
3 price—

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

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

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

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

21 **SEC. 103. MONTHLY SURVEY OF RENEWABLE FUELS DE-**
22 **MAND IN MOTOR VEHICLE FUELS MARKET.**

23 (a) SURVEY REQUIRED.—The Secretary of Agri-
24 culture, with the assistance of the Administrator of the
25 Energy Information Administration, shall conduct and

1 publish the results of a monthly survey of renewable fuels
2 demand in the motor vehicle fuels market in the United
3 States monthly, and in a manner designed to protect the
4 confidentiality of individual responses.

5 (b) CONTENT OF SURVEY.—In conducting the
6 monthly survey required by subsection (a), the Secretary
7 of Agriculture shall collect information, both on a national
8 and regional basis, regarding—

- 9 (1) the quantity of renewable fuels produced;
10 (2) the quantity of renewable fuels blended;
11 (3) the quantity of renewable fuels imported;
12 (4) the quantity of renewable fuels demanded;
13 and
14 (5) the market price of renewable fuels.

15 (c) ROLE OF OFFICE OF ENERGY POLICY AND NEW
16 USES.—The Office of Energy Policy and New Uses of the
17 Department of Agriculture shall assist the Secretary of
18 Agriculture in evaluating the effectiveness of the renew-
19 able fuels mandate of the United States.

20 (d) RENEWABLE FUELS DEFINED.—In this section,
21 the term “renewable fuel” has the meaning given that
22 term in section 211(o)(1) of the Clean Air Act (42 U.S.C.
23 7545(o)(1)).

1 **SEC. 104. COMMODITY CREDIT CORPORATION BIOENERGY**
 2 **PROGRAM.**

3 In order to assist with the implementation of the na-
 4 tional renewable fuels standard, funds made available
 5 under section 9010(c) of the Farm Security and Rural In-
 6 vestment Act of 2002 (7 U.S.C. 8108) for the bioenergy
 7 program of the Department of Agriculture for a fiscal year
 8 and unobligated by the end of that fiscal year shall remain
 9 available for obligation until expended.

10 **TITLE II—FEDERAL**
 11 **REFORMULATED FUELS**

12 **SEC. 201. ELIMINATION OF OXYGEN CONTENT REQUIRE-**
 13 **MENT FOR REFORMULATED GASOLINE.**

14 (a) ELIMINATION.—

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

17 (A) in paragraph (2)—

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

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

23 (iii) by redesignating subparagraphs
 24 (C) and (D) as subparagraphs (B) and
 25 (C), respectively;

1 (B) in paragraph (3)(A), by striking clause
2 (v); and

3 (C) in paragraph (7)—

4 (i) in subparagraph (A)—

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

6 (II) by redesignating clauses (ii)

7 and (iii) as clauses (i) and (ii), respec-
8 tively; and

9 (ii) in subparagraph (C)—

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

11 (II) by redesignating clause (iii)

12 as clause (ii).

13 (2) EFFECTIVE DATE.—The amendments made
14 by paragraph (1) take effect on the date that is 1
15 year after the date of enactment of this Act, except
16 that the amendments shall take effect upon that
17 date of enactment in any State that has received a
18 waiver under section 209(b) of the Clean Air Act
19 (42 U.S.C. 7543(b)).

20 (b) MAINTENANCE OF TOXIC AIR POLLUTANT EMIS-
21 SION REDUCTIONS.—Section 211(k)(1) of the Clean Air
22 Act (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,”
25 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 REGARDING EMIS-
12 SIONS OF TOXIC AIR POLLUTANTS.—Not
13 later than 270 days after the date of en-
14 actment of this subparagraph, the Admin-
15 istrator shall establish, for each refinery or
16 importer, standards for toxic air pollutants
17 from use of the reformulated gasoline pro-
18 duced or distributed by the refinery or im-
19 porter that maintain the reduction of the
20 average annual aggregate emissions of
21 toxic air pollutants for reformulated gaso-
22 line produced or distributed by the refinery
23 or importer during calendar years 2001
24 and 2002, determined on the basis of data

1 collected by the Administrator with respect
2 to the refinery or importer.

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

5 “(I) APPLICABILITY OF STAND-
6 ARDS.—For any calendar year, the
7 standards applicable to a refinery or
8 importer under clause (ii) shall apply
9 to the quantity of gasoline produced
10 or distributed by the refinery or im-
11 porter in the calendar year only to the
12 extent that the quantity is less than
13 or equal to the average annual quan-
14 tity of reformulated gasoline produced
15 or distributed by the refinery or im-
16 porter during calendar years 2001
17 and 2002.

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

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

“(iv) CREDIT PROGRAM.—The Administrator shall provide for the granting and use of credits for emissions of toxic air pollutants in the same manner as provided in paragraph (7).

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

“(I) IN GENERAL.—Not later than 60 days after the date of enactment of this subparagraph, and not later than April 1 of each calendar year that begins after that date of enactment, the Administrator shall publish in the Federal Register a report that specifies, with respect to the previous calendar year—

“(aa) the quantity of reformulated gasoline produced that is in excess of the average annual quantity of reformulated gasoline produced in 2001 and 2002; and

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

sions of toxic air pollutants in each PADD, based on retail survey data or data from other appropriate sources.

“(II) EFFECT OF FAILURE TO MAINTAIN AGGREGATE TOXICS REDUCTIONS.—If, in any calendar year, the reduction of the average annual aggregate emissions of toxic air pollutants in a PADD fails to meet or exceed the reduction of the average annual aggregate emissions of toxic air pollutants in the PADD in calendar years 2001 and 2002, the Administrator, not later than 90 days after the date of publication of the report for the calendar year under subclause (I), shall—

“(aa) identify, to the maximum extent practicable, the reasons for the failure, including the sources, volumes, and characteristics of reformulated gasoline that contributed to the failure; and

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

16 “(vi) REGULATIONS TO CONTROL
17 HAZARDOUS AIR POLLUTANTS FROM
18 MOTOR VEHICLES AND MOTOR VEHICLE
19 FUELS.—Not later than July 1, 2006, the
20 Administrator shall promulgate final regu-
21 lations to control hazardous air pollutants
22 from motor vehicles and motor vehicle
23 fuels, as provided for in section 80.1045 of
24 title 40, Code of Federal Regulations (as

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

3 (c) CONSOLIDATION IN REFORMULATED GASOLINE
4 REGULATIONS.—Not later than 180 days after the date
5 of enactment of this Act, the Administrator of the Envi-
6 ronmental Protection Agency shall revise the reformulated
7 gasoline regulations under subpart D of part 80 of title
8 40, Code of Federal Regulations (or any successor regula-
9 tions), to consolidate the regulations applicable to VOC-
10 Control Regions 1 and 2 under section 80.41 of that title
11 by eliminating the less stringent requirements applicable
12 to gasoline designated for VOC-Control Region 2 and in-
13 stead applying the more stringent requirements applicable
14 to gasoline designated for VOC-Control Region 1.

15 (d) AUTHORITY OF ADMINISTRATOR.—Nothing in
16 this section affects or prejudices any legal claim or action
17 with respect to regulations promulgated by the Adminis-
18 trator of the Environmental Protection Agency before the
19 date of enactment of this Act regarding—

20 (1) emissions of toxic air pollutants from motor
21 vehicles; or

22 (2) the adjustment of standards applicable to a
23 specific refinery or importer made under the prior
24 regulations.

1 (e) DETERMINATION REGARDING A STATE PETI-
 2 TION.—Section 211(k) of the Clean Air Act (42 U.S.C.
 3 7545(k)) is amended by inserting after paragraph (10) the
 4 following:

5 “(11) Determination regarding a state peti-
 6 tion—

7 “(A) In general- Notwithstanding any
 8 other provision of this section, not later than 30
 9 days after the date of enactment of this para-
 10 graph, the Administrator shall determine the
 11 adequacy of any petition received from a Gov-
 12 ernor of a State to exempt gasoline sold in that
 13 State from the requirements under paragraph
 14 (2)(B).

15 “(B) APPROVAL.—If a determination
 16 under subparagraph (A) is not made by the
 17 date that is 30 days after the date of enactment
 18 of this paragraph, the petition shall be consid-
 19 ered to be approved.”.

20 **SEC. 202. PUBLIC HEALTH AND ENVIRONMENTAL IMPACTS**
 21 **OF FUELS AND FUEL ADDITIVES.**

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

24 (1) in paragraph (2)—

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

3 (B) by striking subparagraph (A) and in-
4 serting the following:

5 “(A) to conduct tests to determine poten-
6 tial public health and environmental effects of
7 the fuel or additive (including carcinogenic,
8 teratogenic, or mutagenic effects); and”; and

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

10 “(4) STUDY ON CERTAIN FUEL ADDITIVES AND
11 BLENDSTOCKS.—

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

15 “(i) conduct a study on the effects on
16 public health, air quality, and water re-
17 sources of increased use of, and the feasi-
18 bility of using as substitutes for methyl
19 tertiary butyl ether in gasoline—

20 “(I) ethyl tertiary butyl ether;

21 “(II) tertiary amyl methyl ether;

22 “(III) di-isopropyl ether;

23 “(IV) tertiary butyl alcohol;

1 “(V) other ethers and heavy alco-
2 hols, as determined by the Adminis-
3 trator;

4 “(VI) ethanol;

5 “(VII) iso-octane; and

6 “(VIII) alkylates;

7 “(ii) conduct a study on the effects on
8 public health, air quality, and water re-
9 sources of the adjustment for ethanol-
10 blended reformulated gasoline to the VOC
11 performance requirements otherwise appli-
12 cable under sections 211(k)(1) and
13 211(k)(3); and

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

20 “(B) CONTRACTS FOR STUDY.—In car-
21 rying out this paragraph, the Administrator
22 may enter into one or more contracts with non-
23 governmental entities including but not limited
24 to National Energy Laboratories and institu-
25 tions of higher education (as defined in section

1 101 of the Higher Education Act of 1965 (20
2 U.S.C. 1001)).”.

3 **SEC. 203. ANALYSES OF MOTOR VEHICLE FUEL CHANGES.**

4 Section 211 of the Clean Air Act (42 U.S.C. 7545)
5 is amended by inserting after subsection (o) (as added by
6 section 101(a)(2)) the following:

7 “(p) ANALYSES OF MOTOR VEHICLE FUEL CHANGES
8 AND EMISSIONS MODEL.—

9 “(1) ANTI-BACKSLIDING ANALYSIS.—

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

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

24 “(2) EMISSIONS MODEL.—For the purposes of
25 this subsection, as soon as the necessary data are

1 available, the Administrator shall develop and final-
 2 ize an emissions model that reasonably reflects the
 3 effects of gasoline characteristics or components on
 4 emissions from vehicles in the motor vehicle fleet
 5 during calendar year 2005.”.

6 **SEC. 204. ADDITIONAL OPT-IN AREAS UNDER REFORMU-**
 7 **LATED GASOLINE PROGRAM.**

8 Section 211(k)(6) of the Clean Air Act (42 U.S.C.
 9 7545(k)(6)) is amended to read as follows:

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

12 “(6) OPT-IN AREAS.—

13 “(A) CLASSIFIED AREAS.—

14 “(i) IN GENERAL.—Upon”;

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

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

20 (3) in subparagraph (A)(ii) (as redesignated by
 21 paragraph (2))—

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

1 (B) in the second sentence, by striking
2 “this paragraph” and inserting “this subpara-
3 graph”; and
4 (4) by adding at the end the following:

5 “(B) OZONE TRANSPORT REGION.—

6 “(i) APPLICATION OF PROHIBITION.—

7 “(I) IN GENERAL.—In addition
8 to the provisions of subparagraph (A),
9 upon the application of the Governor
10 of a State in the ozone transport re-
11 gion established by section 184(a), the
12 Administrator, not later than 180
13 days after the date of receipt of the
14 application, shall apply the prohibition
15 specified in paragraph (5) to any area
16 in the State (other than an area clas-
17 sified as a marginal, moderate, seri-
18 ous, or severe ozone nonattainment
19 area under subpart 2 of part D of
20 title I) unless the Administrator deter-
21 mines under clause (iii) that there is
22 insufficient capacity to supply refor-
23 mulated gasoline.

24 “(II) PUBLICATION OF APPLICA-
25 TION.—As soon as practicable after

1 the date of receipt of an application
2 under subclause (I), the Adminis-
3 trator shall publish the application in
4 the Federal Register.

5 “(ii) PERIOD OF APPLICABILITY.—

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

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

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

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

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

1 there is insufficient capacity to supply
 2 reformulated gasoline, the Adminis-
 3 trator, by regulation—

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

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

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

18 **SEC. 205. FEDERAL ENFORCEMENT OF STATE FUELS RE-**
 19 **QUIREMENTS.**

20 Section 211(c)(4)(C) of the Clean Air Act (42 U.S.C.
 21 7545(c)(4)(C)) is amended—

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

1 “(C) AUTHORITY OF STATE TO CONTROL
2 FUELS AND FUEL ADDITIVES FOR REASONS OF
3 NECESSITY.—

4 “(i) IN GENERAL.—A State”; and
5 (2) by adding at the end the following:

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

12 **SEC. 206. FUEL SYSTEM REQUIREMENTS HARMONIZATION**
13 **STUDY.**

14 (a) STUDY.—

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

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

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

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

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

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

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

11 (ii) related environmental and public
12 health protection standards and goals;

13 (C) the effect of Federal, State, and local
14 motor vehicle fuel regulations, including mul-
15 tiple motor vehicle fuel requirements, on—

16 (i) domestic refineries;

17 (ii) the fuel distribution system; and

18 (iii) industry investment in new capac-
19 ity;

20 (D) the effect of the requirements de-
21 scribed in paragraph (1) on emissions from ve-
22 hicles, refineries, and fuel handling facilities;

23 (E) the feasibility of developing national or
24 regional motor vehicle fuel slates for the 48
25 contiguous States that, while protecting and im-

1 proving air quality at the national, regional,
2 and local levels, could—

3 (i) enhance flexibility in the fuel dis-
4 tribution infrastructure and improve fuel
5 fungibility;

6 (ii) reduce price volatility and costs to
7 consumers and producers;

8 (iii) provide increased liquidity to the
9 gasoline market; and

10 (iv) enhance fuel quality, consistency,
11 and supply; and

12 (F) the feasibility of providing incentives,
13 and the need for the development of national
14 standards necessary, to promote cleaner burn-
15 ing motor vehicle fuel.

16 (b) REPORT.—

17 (1) IN GENERAL.—Not later than June 1,
18 2006, the Administrator of the Environmental Pro-
19 tection Agency and the Secretary of Energy shall
20 submit to Congress a report on the results of the
21 study conducted under subsection (a).

22 (2) RECOMMENDATIONS.—

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

- 1 (i) to improve air quality;
- 2 (ii) to reduce costs to consumers and
- 3 producers; and
- 4 (iii) to increase supply liquidity.

5 (B) REQUIRED CONSIDERATIONS.—The
6 recommendations under subparagraph (A) shall
7 take into account the need to provide advance
8 notice of required modifications to refinery and
9 fuel distribution systems in order to ensure an
10 adequate supply of motor vehicle fuel in all
11 States.

12 (3) CONSULTATION.—In developing the report,
13 the Administrator of the Environmental Protection
14 Agency and the Secretary of Energy shall consult
15 with—

- 16 (A) the Governors of the States;
- 17 (B) automobile manufacturers;
- 18 (C) motor vehicle fuel producers and dis-
- 19 tributors; and
- 20 (D) the public.

1 **SEC. 207. REVIEW OF FEDERAL PROCUREMENT INITIA-**
2 **TIVES RELATING TO USE OF RECYCLED**
3 **PRODUCTS AND FLEET AND TRANSPOR-**
4 **TATION EFFICIENCY.**

5 Not later than 180 days after the date of enactment
6 of this Act, the Administrator of General Services shall
7 submit to Congress a report that details efforts by each
8 Federal agency to implement the procurement policies
9 specified in Executive Order No. 13101 (63 Fed. Reg.
10 49643; relating to governmental use of recycled products)
11 and Executive Order No. 13149 (65 Fed. Reg. 24607; re-
12 lating to Federal fleet and transportation efficiency).

13 **SEC. 208. REPORT ON RENEWABLE MOTOR FUEL.**

14 Not later than January 1, 2007, the Secretary of En-
15 ergy and the Secretary of Agriculture shall jointly prepare
16 and submit to Congress a report containing recommenda-
17 tions for achieving, by January 1, 2025, at least 25 per-
18 cent renewable fuel content (calculated on an average an-
19 nual basis) for all gasoline sold or introduced into com-
20 merce in the United States.

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