

**Calendar No. 116**109<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION**S. 606****[Report No. 109-74]**

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

MARCH 11, 2005

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

MAY 26, 2005

Reported by Mr. INHOFE, with amendments

[Omit the part struck through and insert the part printed in *italic*]**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. 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.

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) cellulosic 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 (except in Alaska and Ha-  
25 waii), on an annual average basis, contains

1 the applicable volume of renewable fuel de-  
 2 termined in accordance with subparagraph  
 3 (B).

4 “(ii) PROVISIONS OF REGULATIONS.—  
 5 Regardless of the date of promulgation,  
 6 the regulations promulgated under clause  
 7 (i)—

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

14 “(II) shall not—

15 “(aa) restrict ~~eases in which~~  
 16 *geographic areas in which* renew-  
 17 able fuel may be used; or

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

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

1 sold or dispensed to consumers in the  
2 United States, on a volume basis, shall be  
3 1.8 percent for calendar year 2006.

4 “(B) APPLICABLE VOLUME.—

5 “(i) CALENDAR YEARS 2006 THROUGH  
6 2012.—For the purpose of subparagraph  
7 (A), the applicable volume for any of cal-  
8 endar years 2006 through 2012 shall be  
9 determined in accordance with the fol-  
10 lowing table:

<b>“Calendar year:</b>	<b>Applicable volume of renewable fuel (in billions of gallons):</b>
2006 .....	3.8
2007 .....	4.1
2008 .....	4.5
2009 .....	4.9
2010 .....	5.3
2011 .....	5.7
2012 .....	6.0.

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

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

1 “(II) the ratio that—

2 “(aa) 5,000,000,000  
3 6,000,000,000 gallons of renew-  
4 able fuel; bears to

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

9 “(3) APPLICABLE PERCENTAGES.—

10 “(A) PROVISION OF ESTIMATE OF VOL-  
11 UMES OF GASOLINE SALES.—Not later than  
12 October 31 of each of calendar years 2005  
13 through 2011, the Administrator of the Energy  
14 Information Administration shall provide to the  
15 Administrator of the Environmental Protection  
16 Agency an estimate of the volumes of gasoline  
17 sold or introduced into commerce in the United  
18 States during the following calendar year. *Agen-*  
19 *cy an estimate, with respect to the following cal-*  
20 *endar year, of the volumes of gasoline projected*  
21 *to be sold or introduced into commerce in the*  
22 *United States.*

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

1           “(i) IN GENERAL.—Not later than  
2           November 30 of each of calendar years  
3           2005 through ~~2011~~ 2012, based on the es-  
4           timate provided under subparagraph (A),  
5           the Administrator of the Environmental  
6           Protection Agency shall determine and  
7           publish in the Federal Register, with re-  
8           spect to the following calendar year, the  
9           renewable fuel obligation that ensures that  
10          the requirements of paragraph (2) are met.

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

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

17                 “(II) be expressed in terms of a  
18                 volume percentage of ~~gasoline~~ *gasoline*  
19                 *sold or introduced into commerce in*  
20                 *the United States*; and

21                 “(III) subject to subparagraph  
22                 (C)(i), consist of a single applicable  
23                 percentage that applies to all cat-  
24                 egories of persons specified in sub-  
25                 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 on any person speci-  
6                   fied 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 (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  
21                           that refines, blends, or imports gasoline  
22                           that contains a quantity of renewable fuel  
23                           that is greater than the quantity required  
24                           under 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  
7           generates credits under subparagraph (A) may  
8           use the credits, or transfer all or a portion of  
9           the credits to another person, for the purpose  
10          of complying with paragraph (2).

11          “(C) DURATION OF CREDITS.—A credit  
12          generated 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  
2 to meet the requirements of paragraph (2) to  
3 carry forward a renewable fuel deficit on condi-  
4 tion that the person, in the calendar year fol-  
5 lowing the year in which the renewable fuel def-  
6 icit is 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 renew-  
12 able fuel deficit of the previous year.

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

15 “(A) STUDY.—For each of calendar years  
16 2006 through 2012, the Administrator of the  
17 Energy Information Administration shall con-  
18 duct a study of renewable fuel blending to de-  
19 termine whether there are excessive seasonal  
20 variations in the use of renewable fuel.

21 “(B) REGULATION OF EXCESSIVE SEA-  
22 SONAL VARIATIONS.—If, for any calendar year,  
23 the Administrator of the Energy Information  
24 Administration, based on the study under sub-  
25 paragraph (A), makes the determinations speci-

1           fied in subparagraph (C), the Administrator of  
2           the Environmental Protection Agency shall pro-  
3           mulgate regulations to ensure that 35 percent  
4           or more of the quantity of renewable fuel nec-  
5           essary to meet the requirements of paragraph  
6           (2) is used during each of the 2 periods speci-  
7           fied in subparagraph (D) of each subsequent  
8           calendar year.

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

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

18                 “(ii) a pattern of excessive seasonal  
19                 variation described in clause (i) will con-  
20                 tinue in subsequent calendar years.

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

23                 “(i) April through September; and

24                 “(ii) January through March and Oc-  
25                 tober through December.

1           “(E) EXCLUSION.—Renewable fuel blended  
2 or consumed in calendar year 2006 in a State  
3 that has received a waiver under section 209(b)  
4 shall not be included in the study under sub-  
5 paragraph (A).

6           “(7) WAIVERS.—

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

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

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

1           “(B) PETITIONS FOR WAIVERS.—The Ad-  
2           ministrator, in consultation with the Secretary  
3           of Agriculture and the Secretary of Energy,  
4           shall approve or disapprove a State petition for  
5           a waiver of the requirements of paragraph (2)  
6           within 90 days after the date on which the peti-  
7           tion is received by the Administrator.

8           “(C) TERMINATION OF WAIVERS.—A waiv-  
9           er granted under subparagraph (A) shall termi-  
10          nate after 1 year, but may be renewed by the  
11          Administrator after consultation with the Sec-  
12          retary of Agriculture and the Secretary of En-  
13          ergy.

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

16               “(A) IN GENERAL.—Not later than 180  
17               days after the date of enactment of this para-  
18               graph, the Secretary of Energy shall conduct  
19               for the Administrator a study assessing whether  
20               the renewable fuel requirement under para-  
21               graph (2) will likely result in significant adverse  
22               impacts on consumers in 2006, on a national,  
23               regional, or State basis.

24               “(B) REQUIRED EVALUATIONS.—The  
25               study shall evaluate renewable fuel—

- 1 “(i) supplies and prices;  
2 “(ii) blendstock supplies; and  
3 “(iii) supply and distribution system  
4 capabilities.

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

12 “(D) WAIVER.—

13 “(i) IN GENERAL.—Not later than  
14 270 days after the date of enactment of  
15 this paragraph, the Administrator shall, if  
16 and to the extent recommended by the Sec-  
17 retary of Energy under subparagraph (C),  
18 waive, in whole or in part, the renewable  
19 fuel requirement under paragraph (2) by  
20 reducing the national quantity of renew-  
21 able fuel required under paragraph (2) in  
22 calendar year 2006.

23 “(ii) NO EFFECT ON WAIVER AUTHOR-  
24 ITY.—Clause (i) does not limit the author-  
25 ity of the Administrator to waive the re-

1 requirements of paragraph (2) in whole, or  
2 in part, under paragraph (7).

3 “(9) SMALL REFINERIES.—

4 “(A) TEMPORARY EXEMPTION.—

5 “(i) IN GENERAL.—The requirements  
6 of paragraph (2) shall not apply to small  
7 refineries until calendar year 2011.

8 “(ii) EXTENSION OF EXEMPTION.—

9 “(I) STUDY BY SECRETARY OF  
10 ENERGY.—Not later than December  
11 31, 2008, the Secretary of Energy  
12 shall conduct for the Administrator a  
13 study to determine whether compli-  
14 ance with the requirements of para-  
15 graph (2) would impose a dispropor-  
16 tionate economic hardship on small  
17 refineries.

18 “(II) EXTENSION OF EXEMP-  
19 TION.—In the case of a small refinery  
20 that the Secretary of Energy deter-  
21 mines under subclause (I) would be  
22 subject to a disproportionate economic  
23 hardship if required to comply with  
24 paragraph (2), the Administrator  
25 shall extend the exemption under



1 clause (i) for the small refinery for a  
2 period of not less than 2 additional  
3 years.

4 “(B) PETITIONS BASED ON DISPROPOR-  
5 TIONATE ECONOMIC HARDSHIP.—

6 “(i) EXTENSION OF EXEMPTION.—A  
7 small refinery may at any time petition the  
8 Administrator for an extension of the ex-  
9 emption under subparagraph (A) for the  
10 reason of disproportionate economic hard-  
11 ship.

12 “(ii) EVALUATION OF PETITIONS.—In  
13 evaluating a petition under clause (i), the  
14 Administrator, in consultation with the  
15 Secretary of Energy, shall consider the  
16 findings of the study under subparagraph  
17 (A)(ii) and other economic factors.

18 “(iii) DEADLINE FOR ACTION ON PE-  
19 TITIONS.—The Administrator shall act on  
20 any petition submitted by a small refinery  
21 for a hardship exemption not later than 90  
22 days after the date of receipt of the peti-  
23 tion.

24 “(C) CREDIT PROGRAM.—If a small refin-  
25 ery notifies the Administrator that the small re-

1 refinery waives the exemption under subpara-  
2 graph (A), the regulations promulgated under  
3 paragraph (2)(A) shall provide for the genera-  
4 tion of credits by the small refinery under para-  
5 graph (5) beginning in the calendar year fol-  
6 lowing the date of notification.

7 “(D) OPT-IN FOR SMALL REFINERIES.—A  
8 small refinery shall be subject to the require-  
9 ments of paragraph (2) if the small refinery no-  
10 tifies the Administrator that the small refinery  
11 waives the exemption under subparagraph (A).

12 “(10) ETHANOL MARKET CONCENTRATION  
13 ANALYSIS.—

14 “(A) ANALYSIS.—

15 “(i) IN GENERAL.—Not later than  
16 180 days after the date of enactment of  
17 this paragraph, and annually thereafter,  
18 the Federal Trade Commission shall per-  
19 form a market concentration analysis of  
20 the ethanol production industry using the  
21 Herfindahl-Hirschman Index to determine  
22 whether there is sufficient competition  
23 among industry participants to avoid price-  
24 setting and other anticompetitive behavior.

1           “(ii) SCORING.—For the purpose of  
2           scoring under clause (i) using the  
3           Herfindahl-Hirschman Index, all mar-  
4           keting arrangements among industry par-  
5           ticipants shall be considered.

6           “(B) REPORT.—Not later than December  
7           1, 2005, and annually thereafter, the Federal  
8           Trade Commission shall submit to Congress  
9           and the Administrator a report on the results  
10          of the market concentration analysis performed  
11          under subparagraph (A)(i).

12         “(p) RENEWABLE FUEL SAFE HARBOR.—

13                 “(1) IN GENERAL.—

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

22                                 “(i) the fuel does not violate a control  
23                                 or prohibition imposed by the Adminis-  
24                                 trator under this section; and

1                   “(ii) the manufacturer of the fuel is in  
2                   compliance with all requests for informa-  
3                   tion under subsection (b).

4                   “(B) SAFE HARBOR NOT APPLICABLE.—In  
5                   any case in which subparagraph (A) does not  
6                   apply to a quantity of fuel, the existence of a  
7                   design defect or manufacturing defect with re-  
8                   spect to the fuel shall be determined under oth-  
9                   erwise applicable law.

10                  “(2) EXCEPTION.—This subsection does not  
11                  apply to ethers.

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

15                  (b) PENALTIES AND ENFORCEMENT.—Section  
16                  211(d) of the Clean Air Act (42 U.S.C. 7545(d)) is  
17                  amended—

18                   (1) in paragraph (1)—

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

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

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

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

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

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

11          “(5) EXCLUSION FROM ETHANOL WAIVER.—

12                 “(A) PROMULGATION OF REGULATIONS.—

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

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

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

8           “(C) EFFECTIVE DATE.—

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

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

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

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

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

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

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

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

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

1 **SEC. 102. RENEWABLE FUEL.**

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

4 **“SEC. 212. RENEWABLE FUEL.**

5 “(a) DEFINITIONS.—In this section:

6 “(1) MUNICIPAL SOLID WASTE.—The term  
7 ‘municipal solid waste’ has the meaning given the  
8 term ‘solid waste’ in section 1004 of the Solid Waste  
9 Disposal Act (42 U.S.C. 6903).

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

13 “(3) SECRETARY.—The term ‘Secretary’ means  
14 the Secretary of Energy.

15 “(b) SURVEY OF RENEWABLE FUEL MARKET.—

16 “(1) SURVEY AND REPORT.—Not later than  
17 December 1, 2006, and annually thereafter, the Ad-  
18 ministrator shall—

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

23 “(i) conventional gasoline containing  
24 ethanol;

25 “(ii) reformulated gasoline containing  
26 ethanol;



1                   “(iii) conventional gasoline containing  
2                   renewable fuel; and

3                   “(iv) reformulated gasoline containing  
4                   renewable fuel; and

5                   “(B) submit to Congress, and make pub-  
6                   licly available, a report on the results of the  
7                   survey under subparagraph (A).

8                   “(2) RECORDKEEPING AND REPORTING RE-  
9                   QUIREMENTS.—

10                   “(A) IN GENERAL.—The Administrator  
11                   may require any refiner, blender, or importer to  
12                   keep such records and make such reports as are  
13                   necessary to ensure that the survey conducted  
14                   under paragraph (1) is accurate.

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

22                   “(3) CONFIDENTIALITY.—Activities carried out  
23                   under this subsection shall be conducted in a man-  
24                   ner designed to protect confidentiality of individual  
25                   responses.

1       “(c) ~~COMMERCIAL BYPRODUCTS FROM CELLULOSIC~~  
 2 ~~BIOMASS ETHANOL AND MUNICIPAL SOLID WASTE LOAN~~  
 3 ~~GUARANTEE PROGRAM.—~~

4           “(1) ~~IN GENERAL.—~~In addition to amounts ap-  
 5 propriated or otherwise made available by this Act  
 6 or any other Act, \$———— shall be provided  
 7 until expended (1) ~~IN GENERAL.—~~*Funds may be pro-*  
 8 *vided* for the cost (as defined in the Federal Credit  
 9 Reform Act of 1990 (2 U.S.C. 661 et seq.)) of loan  
 10 guarantees issued under section 19 of the Federal  
 11 Nonnuclear Energy Research and Development Act  
 12 of 1974 (42 U.S.C. 5919) to carry out cellulosic bio-  
 13 mass commercial demonstration projects.

14           “(2) ~~DEMONSTRATION PROJECTS.—~~

15           “(A) ~~IN GENERAL.—~~The Secretary shall  
 16 issue loan guarantees under this section to  
 17 carry out not more than ~~3~~ 4 projects to com-  
 18 mercially demonstrate the feasibility and viabil-  
 19 ity of ~~converting~~ cellulosic biomass derived from  
 20 agricultural residue such as ~~corn stover or~~  
 21 ~~straw (including at least 1 project that uses ce-~~  
 22 ~~real straw as a feedstock or municipal solid~~  
 23 ~~waste) into ethanol.~~ *producing cellulosic biomass*  
 24 *ethanol, including at least 1 project that uses ce-*

1           *real straw as a feedstock and 1 project that uses*  
2           *municipal solid waste as a feedstock.*

3           “(B) DESIGN CAPACITY.—Each project  
4           shall have a design capacity to produce at least  
5           30,000,000 gallons of ~~cellulose~~ *cellulosic bio-*  
6           *mass* ethanol each year.

7           “(3) APPLICANT ASSURANCES.—An applicant  
8           for a loan guarantee under this section shall provide  
9           assurances, satisfactory to the Secretary, that—

10           “(A) the project design has been validated  
11           through the operation of a continuous process  
12           facility with a cumulative output of at least  
13           50,000 gallons of ethanol;

14           “(B) the project has been subject to a full  
15           technical review;

16           “(C) the project is covered by adequate  
17           project performance guarantees;

18           “(D) the project, with the loan guarantee,  
19           is economically viable; and

20           “(E) there is a reasonable assurance of re-  
21           payment of the guaranteed loan.

22           “(4) LIMITATIONS.—

23           “(A) MAXIMUM GUARANTEE.—Except as  
24           provided in subparagraph (B), notwithstanding  
25           section 19(e)(2)(A) of the Federal Nonnuclear

1 Energy Research and Development Act of 1974  
2 (42 U.S.C. 5919(c)(2)(A)), a loan guarantee  
3 under this section may be issued for up to 80  
4 percent of the estimated cost of a project, but  
5 may not exceed \$250,000,000 for a project.

6 “(B) ADDITIONAL GUARANTEES.—

7 “(i) IN GENERAL.—The Secretary  
8 may issue additional loan guarantees for a  
9 project to cover up to 80 percent of the ex-  
10 cess of actual project cost over estimated  
11 project cost but not to exceed 15 percent  
12 of the amount of the original guarantee.

13 “(ii) PRINCIPAL AND INTEREST.—  
14 Subject to subparagraph (A), the Secretary  
15 shall guarantee 100 percent of the prin-  
16 cipal and interest of a loan made under  
17 subparagraph (A).

18 “(5) EQUITY CONTRIBUTIONS.—To be eligible  
19 for a loan guarantee under this section, an applicant  
20 for the loan guarantee shall have binding commit-  
21 ments from equity investors to provide an initial eq-  
22 uity contribution of at least 20 percent of the total  
23 project cost.

1           “(6) EFFECT OF OTHER LAWS.—The following  
2 provisions are inapplicable to a loan guarantee made  
3 under this section:

4           “(A) Subsections (m) and (p) of section 19  
5 of the Federal Nonnuclear Energy Research  
6 and Development Act of 1974 (42 U.S.C.  
7 5919).

8           “(B) The first, third, and fourth sentences  
9 of section 19(g)(4) of that Act.

10          “(7) INSUFFICIENT AMOUNTS.—If the amount  
11 made available to carry out this section is insuffi-  
12 cient to allow the Secretary to make loan guarantees  
13 for 3 projects described in subsection (b), the Sec-  
14 retary shall issue loan guarantees for 1 or more  
15 qualifying projects under this section in the order in  
16 which the applications for the projects are received  
17 by the Secretary.

18          “(8) APPROVAL.—An application for a loan  
19 guarantee under this section shall be approved or  
20 disapproved by the Secretary not later than 90 days  
21 after the application is received by the Secretary.

22          “(d) AUTHORIZATION OF APPROPRIATIONS FOR RE-  
23 SOURCE CENTER.—There is authorized to be appro-  
24 priated, for a resource center to further develop bioconver-  
25 sion technology using low-cost biomass for the production

1 of ethanol at the Center for Biomass-Based Energy at the  
2 University of Mississippi and the University of Oklahoma,  
3 \$4,000,000 for each of fiscal years ~~2004 through 2006~~  
4 *2005 through 2007*.

5 “(e) RENEWABLE FUEL PRODUCTION RESEARCH  
6 AND DEVELOPMENT GRANTS.—

7 “(1) IN GENERAL.—The Administrator shall  
8 provide grants for the research into, and develop-  
9 ment and implementation of, renewable fuel produc-  
10 tion technologies in RFG States with low rates of  
11 ethanol production, including low rates of production  
12 of cellulosic biomass ethanol.

13 “(2) ELIGIBILITY.—

14 “(A) IN GENERAL.—The entities eligible to  
15 receive a grant under this subsection are aca-  
16 demic institutions in RFG States, and consortia  
17 made up of combinations of academic institu-  
18 tions, industry, State government agencies, or  
19 local government agencies in RFG States, that  
20 have proven experience and capabilities with  
21 relevant technologies.

22 “(B) APPLICATION.—To be eligible to re-  
23 ceive a grant under this subsection, an eligible  
24 entity shall submit to the Administrator an ap-  
25 plication in such manner and form, and accom-

1           panied by such information, as the Adminis-  
2           trator may specify.

3           “(3) AUTHORIZATION OF APPROPRIATIONS.—

4           There is authorized to be appropriated to carry out  
5           this subsection \$25,000,000 for each of fiscal years  
6           2006 through 2010.

7           “(f) CELLULOSIC BIOMASS ETHANOL CONVERSION  
8           ASSISTANCE.—

9           “(1) IN GENERAL.—The Secretary may provide  
10          grants to merchant producers of cellulosic biomass  
11          ethanol in the United States to assist the producers  
12          in building eligible production facilities described in  
13          paragraph (2) for the production of cellulosic bio-  
14          mass ethanol.

15          “(2) ELIGIBLE PRODUCTION FACILITIES.—A  
16          production facility shall be eligible to receive a grant  
17          under this subsection if the production facility—

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

19                 “(B) uses cellulosic biomass feedstocks de-  
20          rived from agricultural residues or municipal  
21          solid waste.

22          “(3) AUTHORIZATION OF APPROPRIATIONS.—

23          There is authorized to be appropriated to carry out  
24          this subsection—

1                   “(A) \$250,000,000 for fiscal year 2005;

2                   and

3                   “(B) \$400,000,000 for fiscal year 2006.”.

4           (b) CONFORMING AMENDMENT.—The table of con-  
5 tents for the Clean Air Act (42 U.S.C. 7401 prec.) is  
6 amended by inserting after the item relating to section  
7 211 the following:

“Sec. 212. Renewable fuels”.

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

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

12           “(m) SURVEY OF RENEWABLE FUELS CONSUMP-  
13 TION.—

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

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



1           “(A) the quantity of renewable fuels pro-  
2           duced;

3           “(B) the cost of production;

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

5           “(D) the quantity of renewable fuels blend-  
6           ed;

7           “(E) the quantity of renewable fuels im-  
8           ported; and

9           “(F) market price data.”.

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

12   **SEC. 201. SHORT TITLE.**

13           This subtitle may be cited as the “Federal Reformu-  
14   lated Fuels Act of 2005”.

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

16           (a) USE OF LUST FUNDS FOR REMEDIATION OF  
17   CONTAMINATION FROM ETHER FUEL ADDITIVES.—Sec-  
18   tion 9003(h) of the Solid Waste Disposal Act (42 U.S.C.  
19   6991b(h)) is amended—

20           (1) in paragraph (7)(A)—

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

24                   (B) by inserting “and section 9010” before  
25                   “if”; and

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

2 “(12) REMEDIATION OF CONTAMINATION FROM  
3 ETHER FUEL ADDITIVES.—

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

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

13 “(i) in accordance with paragraph (2),  
14 except that a release with respect to which  
15 a corrective action is carried out under  
16 subparagraph (A) shall not be required to  
17 be from an underground storage tank; and

18 “(ii) in the case of a State, in accord-  
19 ance with a cooperative agreement entered  
20 into by the Administrator and the State  
21 under paragraph (7).”.

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

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

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

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

8 “(A) a program approved under section  
9 9004; or

10 “(B) State requirements regulating under-  
11 ground storage tanks that are similar or iden-  
12 tical to this subtitle, as determined by the Ad-  
13 ministrator; and

14 “(2) by the Administrator, acting under this  
15 subtitle or a State program approved under section  
16 9004.

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

18 “In addition to amounts made available under section  
19 2007(f), there are authorized to be appropriated from the  
20 Leaking Underground Storage Tank Trust Fund, notwith-  
21 standing section 9508(c)(1) of the Internal Revenue Code  
22 of 1986—

23 “(1) to carry out section 9003(h)(12),  
24 \$200,000,000 for fiscal year 2005, to remain avail-  
25 able until expended; and

1           ~~“(2) to carry out section 9010, \$30,000,000 for~~  
2           ~~each of fiscal years 2005 through 2009.”.~~

3           “(2) to carry out section 9010—

4                   “(A) \$50,000,000 for fiscal year 2005; and

5                   “(B) \$30,000,000 for fiscal years 2006  
6                   through 2010.”.

7           (c) TECHNICAL AMENDMENTS.—

8           (1) Section 1001 of the Solid Waste Disposal  
9           Act (42 U.S.C. prec. 6901) is amended by striking  
10          the item relating to section 9010 and inserting the  
11          following:

“Sec. 9010. Release prevention and compliance.

“Sec. 9011. Authorization of appropriations.”.

12          (2) Section 9001(3)(A) of the Solid Waste Dis-  
13          posal Act (42 U.S.C. 6991(3)(A)) is amended by  
14          striking “sustances” and inserting “substances”.

15          (3) Section 9003(f)(1) of the Solid Waste Dis-  
16          posal Act (42 U.S.C. 6991b(f)(1)) is amended by  
17          striking “subsection (c) and (d) of this section” and  
18          inserting “subsections (c) and (d)”.

19          (4) Section 9004(a) of the Solid Waste Disposal  
20          Act (42 U.S.C. 6991c(a)) is amended in the second  
21          sentence by striking “referred to” and all that fol-  
22          lows and inserting “referred to in subparagraph (A)  
23          or (B), or both, of section 9001(2).”.

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

3           (A) in subsection (a), by striking “study  
4 taking” and inserting “study, taking”;

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

7           (C) in subsection (b)(4), by striking  
8 “Evironmental” and inserting “Environ-  
9 mental”.

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

11       (a) FINDINGS.—Congress finds that—

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

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

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

23           (A) significant use of MTBE could result  
24 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” 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(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



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, un-  
10                  less the Administrator, in consultation  
11                  with the Secretary of Energy, deter-  
12                  mines that transition assistance for  
13                  the production of iso-octane or  
14                  alkylates is inconsistent with the cri-  
15                  teria specified in subparagraph (B);  
16                  and

17                   “(II) any other fuel additive that  
18                  meets the criteria specified in sub-  
19                  paragraph (B).

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

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

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

1 ably be anticipated to endanger public  
2 health or 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 FACILI-  
12 TIES.—A production facility shall be eligible to  
13 receive a grant under this paragraph if the pro-  
14 duction 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 2005 through 2008.”.

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

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

13           (a) ELIMINATION.—

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

16                       (A) in paragraph (2)—

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

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

22                               (iii) by redesignating subparagraphs  
23                               (C) and (D) as subparagraphs (B) and  
24                               (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) APPLICABILITY.—The amendments made  
14 by paragraph (1) apply—

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

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

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

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

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

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

7                   “(B) MAINTENANCE OF TOXIC AIR POL-  
8                   LUTANT EMISSIONS REDUCTIONS FROM REFOR-  
9                   MULATED GASOLINE.—

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

14                   “(ii) REGULATIONS CONCERNING  
15                   EMISSIONS OF TOXIC AIR POLLUTANTS.—  
16                   Not later than 270 days after the date of  
17                   enactment of this subparagraph, the Ad-  
18                   ministrators shall establish by regulation,  
19                   for each refinery or importer (other than a  
20                   refiner or importer in a State that has re-  
21                   ceived a waiver under section 209(b) with  
22                   respect to gasoline produced for use in that  
23                   State), standards for toxic air pollutants  
24                   from use of the reformulated gasoline pro-  
25                   duced or distributed by the refiner or im-

1           porter that maintain the reduction of the  
2           average annual aggregate emissions of  
3           toxic air pollutants for reformulated gaso-  
4           line produced or distributed by the refiner  
5           or importer during calendar years 1999  
6           and 2000 (as determined on the basis of  
7           data collected by the Administrator with  
8           respect to the refiner or importer).

9           “(iii) STANDARDS APPLICABLE TO  
10          SPECIFIC REFINERIES OR IMPORTERS.—

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

24           “(II) APPLICABILITY OF OTHER  
25          STANDARDS.—For any calendar year,

1 the quantity of gasoline produced or  
2 distributed by a refiner or importer  
3 that is in excess of the quantity sub-  
4 ject to subclause (I) shall be subject  
5 to standards for emissions of toxic air  
6 pollutants promulgated under sub-  
7 paragraph (A) and paragraph (3)(B).

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

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

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

24 “(aa) the quantity of refor-  
25 mulated gasoline produced that is



1 in excess of the average annual  
2 quantity of reformulated gasoline  
3 produced in 1999 and 2000; and

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

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

24 “(aa) identify, to the max-  
25 imum extent practicable, the rea-

1           sons for the failure, including the  
2           sources, volumes, and character-  
3           istics of reformulated gasoline  
4           that contributed to the failure;  
5           and

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

22                   “(vi) REGULATIONS TO CONTROL  
23                   HAZARDOUS AIR POLLUTANTS FROM  
24                   MOTOR VEHICLES AND MOTOR VEHICLE  
25                   FUELS.—Not later than July 1, 2005, the

1 Administrator shall promulgate final regu-  
2 lations to control hazardous air pollutants  
3 from motor vehicles and motor vehicle  
4 fuels, as provided for in section 80.1045 of  
5 title 40, Code of Federal Regulations (as  
6 in effect on the date of enactment of this  
7 subparagraph).”.

8 (c) COMMINGLING.—

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

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

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

22 “(B) the retailer certifies that the reformu-  
23 lated gasoline resulting from the commingling  
24 will meet all applicable requirements for refor-

1           mulated gasoline, including content and emis-  
2           sion performance standards.”.

3           (d) 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, to consolidate the regula-  
9 tions applicable to VOC-Control Regions 1 and 2 under  
10 section 80.41 of that title by eliminating the less stringent  
11 requirements applicable to gasoline designated for VOC-  
12 Control Region 2 and instead applying the more stringent  
13 requirements applicable to gasoline designated for VOC-  
14 Control Region 1.

15           (e) SAVINGS CLAUSE.—

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

21                   (A) emissions of toxic air pollutants from  
22                   motor vehicles; or

23                   (B) the adjustment of standards applicable  
24                   to a specific refinery or importer made under  
25                   those regulations.

1 (2) ADJUSTMENT OF STANDARDS.—

2 (A) APPLICABILITY.—The Administrator  
3 may apply any adjustments to the standards  
4 applicable to a refinery or importer under sub-  
5 paragraph (B)(iii)(I) of section 211(k)(1) of the  
6 Clean Air Act (as added by subsection (b)(2)),  
7 except that—

8 (i) the Administrator shall revise the  
9 adjustments to be based only on calendar  
10 years 1999 and 2000;

11 (ii) any such adjustment shall not be  
12 made at a level below the average percent-  
13 age of reductions of emissions of toxic air  
14 pollutants for reformulated gasoline sup-  
15 plied to PADD I during calendar years  
16 1999 and 2000; and

17 (iii) in the case of an adjustment  
18 based on toxic air pollutant emissions from  
19 reformulated gasoline significantly below  
20 the national annual average emissions of  
21 toxic air pollutants from all reformulated  
22 gasoline—

23 (I) the Administrator may revise  
24 the adjustment to take account of the  
25 scope of the prohibition on methyl ter-

1            tiary butyl ether imposed by para-  
2            graph (5) of section 211(c) of the  
3            Clean Air Act (as added by section  
4            203(c)); and

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

14 **SEC. 205. PUBLIC HEALTH AND ENVIRONMENTAL IMPACTS**  
15 **OF FUELS AND FUEL ADDITIVES.**

16           Section 211(b) of the Clean Air Act (42 U.S.C.  
17 7545(b)) is amended—

18                   (1) in paragraph (2)—

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

21                           (B) by striking subparagraph (A) and in-  
22                           serting the following:

23                                   “(A) to conduct tests to determine poten-  
24                                   tial public health and environmental effects of

1 the fuel or additive (including carcinogenic,  
2 teratogenic, or mutagenic effects); and”;  
3 (2) by adding at the end the following:

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

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

9 “(i) conduct a study on the effects on  
10 public health (including the effects on chil-  
11 dren, pregnant women, minority or low-in-  
12 come communities, and other sensitive pop-  
13 ulations), air quality, and water resources  
14 of increased use of, and the feasibility of  
15 using as substitutes for methyl tertiary  
16 butyl ether in gasoline—

17 “(I) ethyl tertiary butyl ether;

18 “(II) tertiary amyl methyl ether;

19 “(III) di-isopropyl ether;

20 “(IV) tertiary butyl alcohol;

21 “(V) other ethers and heavy alco-  
22 hols, as determined by then Adminis-  
23 trator;

24 “(VI) ethanol;

25 “(VII) iso-octane; and

1 “(VIII) alkylates; and

2 “(ii) conduct a study on the effects on  
3 public health (including the effects on chil-  
4 dren, pregnant women, minority or low-in-  
5 come communities, and other sensitive pop-  
6 ulations), air quality, and water resources  
7 of the adjustment for ethanol-blended re-  
8 formulated gasoline to the volatile organic  
9 compounds performance requirements that  
10 are applicable under paragraphs (1) and  
11 (3) of section 211(k); and

12 “(iii) submit to the Committee on En-  
13 vironment and Public Works of the Senate  
14 and the Committee on Energy and Com-  
15 merce of the House of Representatives a  
16 report describing the results of the studies  
17 under clauses (i) and (ii).

18 “(B) CONTRACTS FOR STUDY.—In car-  
19 rying out this paragraph, the Administrator  
20 may enter into 1 or more contracts with non-  
21 governmental entities such as—

22 “(i) the national energy laboratories;  
23 and

24 “(ii) institutions of higher education  
25 (as defined in section 101 of the Higher



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

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

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

7 “(q) 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 para-  
12 graph, 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 Federal Reformulated  
18 Fuels Act 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 2007.”.

6 “(2) *EMISSIONS MODEL.*—For the purposes of  
7 this section, not later than 4 years after the date of  
8 enactment of this paragraph, the Administrator shall  
9 develop and finalize an emissions model that reflects,  
10 to the maximum extent practicable, the effects of gaso-  
11 line characteristics or components on emissions from  
12 vehicles in the motor vehicle fleet during calendar  
13 year 2007.

14 “(3) *PERMEATION EFFECTS STUDY.*—

15 “(A) *IN GENERAL.*—Not later than 1 year  
16 after the date of enactment of this paragraph, the  
17 Administrator shall conduct a study, and report  
18 to Congress the results of the study, on the effects  
19 of ethanol content in gasoline on permeation, the  
20 process by which fuel molecules migrate through  
21 the elastomeric materials (rubber and plastic  
22 parts) that make up the fuel and fuel vapor sys-  
23 tems of a motor vehicle.

24 “(B) *EVAPORATIVE EMISSIONS.*—The study  
25 shall include estimates of the increase in total

1           *evaporative emissions likely to result from the*  
 2           *use of gasoline with ethanol content in a motor*  
 3           *vehicle, and the fleet of motor vehicles, due to*  
 4           *permeation.”.*

5 **SEC. 207. ADDITIONAL OPT-IN AREAS UNDER REFORMU-**  
 6           **LATED GASOLINE PROGRAM.**

7           Section 211(k)(6) of the Clean Air Act (42 U.S.C.  
 8           7545(k)(6)) is amended—

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

11           “(6) OPT-IN AREAS.—

12           “(A) CLASSIFIED AREAS.—

13           “(i) IN GENERAL.—Upon”;

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

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

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

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

23           (B) in the second sentence, by striking  
 24           “this paragraph” and inserting “this subpara-  
 25           graph”; and

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

2 “(B) OZONE TRANSPORT REGION.—

3 “(i) APPLICATION OF PROHIBITION.—

4 “(I) IN GENERAL.—On applica-  
5 tion of the Governor of a State in the  
6 ozone transport region established by  
7 section 184(a), the Administrator, not  
8 later than 180 days after the date of  
9 receipt of the application, shall apply  
10 the prohibition specified in paragraph  
11 (5) to any area in the State (other  
12 than an area classified as a marginal,  
13 moderate, serious, or severe ozone  
14 nonattainment area under subpart 2  
15 of part D of title I) unless the Admin-  
16 istrator determines under clause (iii)  
17 that there is insufficient capacity to  
18 supply reformulated gasoline.

19 “(II) PUBLICATION OF APPLICA-  
20 TION.—As soon as practicable after  
21 the date of receipt of an application  
22 under subclause (I), the Adminis-  
23 trator shall publish the application in  
24 the Federal Register.

1           “(ii) PERIOD OF APPLICABILITY.—  
2           Under clause (i), the prohibition specified  
3           in paragraph (5) shall apply in a State—

4                   “(I) commencing as soon as prac-  
5                   ticable but not later than 2 years  
6                   after the date of approval by the Ad-  
7                   ministrator of the application of the  
8                   Governor of the State; and

9                   “(II) ending not earlier than 4  
10                  years after the commencement date  
11                  determined under subclause (I).

12           “(iii) EXTENSION OF COMMENCEMENT  
13           DATE BASED ON INSUFFICIENT CAPAC-  
14           ITY.—

15                   “(I) IN GENERAL.—If, after re-  
16                   ceipt of an application from a Gov-  
17                   ernor of a State under clause (i), the  
18                   Administrator determines, on the Ad-  
19                   ministrator’s own motion or on peti-  
20                   tion of any person, after consultation  
21                   with the Secretary of Energy, that  
22                   there is insufficient capacity to supply  
23                   reformulated gasoline, the Adminis-  
24                   trator, by regulation—

1                   “(aa) shall extend the com-  
 2                   mencement date with respect to  
 3                   the State under clause (ii)(I) for  
 4                   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  
 8                   shall 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. 208. FEDERAL ENFORCEMENT OF STATE FUELS RE-**  
 16 **QUIREMENTS.**

17                   Section 211(c)(4)(C) of the Clean Air Act (42 U.S.C.  
 18 7545(c)(4)(C)) is amended—

19                   (1) by striking “(C) A State” and inserting the  
 20                   following:

21                   “(C) AUTHORITY OF STATE TO CONTROL  
 22                   FUELS AND FUEL ADDITIVES FOR REASONS OF  
 23                   NECESSITY.—

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

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

1                   “(ii) ENFORCEMENT BY THE ADMIN-  
 2                   ISTRATOR.—In any case in which a State  
 3                   prescribes and enforces a control or prohi-  
 4                   bition under clause (i), the Administrator,  
 5                   at the request of the State, shall enforce  
 6                   the control or prohibition as if the control  
 7                   or prohibition had been adopted under the  
 8                   other provisions of this section.”.

9 **SEC. 209. FUEL SYSTEM REQUIREMENTS HARMONIZATION**  
 10                   **STUDY.**

11           (a) STUDY.—

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

17                           (A) requirements relating to reformulated  
 18                           gasoline, volatility (measured in Reid vapor  
 19                           pressure), oxygenated fuel, and diesel fuel; and

20                           (B) other requirements that vary from  
 21                           State to State, region to region, or locality to  
 22                           locality.

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

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

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

7 (i) national, regional, and local air  
8 quality standards and goals; and

9 (ii) related environmental and public  
10 health protection standards and goals (in-  
11 cluding the protection of children, preg-  
12 nant women, minority or low-income com-  
13 munities, and other sensitive populations);

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

17 (i) domestic refiners;

18 (ii) the fuel distribution system; and

19 (iii) industry investment in new capaci-  
20 ty;

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

24 (E) the feasibility of developing national or  
25 regional motor vehicle fuel slates for the 48



1 contiguous States that, while protecting and im-  
2 proving air quality at the national, regional,  
3 and local levels, could—

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

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

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

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

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

17 (b) REPORT.—

18 (1) IN GENERAL.—Not later than June 1,  
19 2008, the Administrator of the Environmental Pro-  
20 tection Agency and the Secretary of Energy shall  
21 submit to Congress a report on the results of the  
22 study conducted under subsection (a).

23 (2) RECOMMENDATIONS.—

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

4 (i) to improve air quality;

5 (ii) to reduce costs to consumers and  
6 producers; and

7 (iii) to increase supply liquidity.

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

15 (3) CONSULTATION.—In developing the report,  
16 the Administrator of the Environmental Protection  
17 Agency and the Secretary of Energy shall consult  
18 with—

19 (A) the Governors of the States;

20 (B) automobile manufacturers;

21 (C) State and local air pollution control  
22 regulators;

23 (D) public health experts;

24 (E) motor vehicle fuel producers and dis-  
25 tributors; and

1

(F) the public.

Calendar No. 116

109<sup>TH</sup> CONGRESS  
1<sup>ST</sup> Session

**S. 606**

[Report No. 109-74]

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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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MAY 26, 2005

Reported with amendments