

109TH CONGRESS
1ST SESSION

S. 650

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

IN THE SENATE OF THE UNITED STATES

MARCH 17, 2005

Mr. LUGAR (for himself, Mr. HARKIN, Mr. HAGEL, Mr. NELSON of Nebraska, Mr. GRASSLEY, Mr. CONRAD, Mr. FRIST, Mr. JOHNSON, Mr. TALENT, Mr. DORGAN, Mr. COLEMAN, Mr. DURBIN, Mr. THUNE, Mr. BAYH, Mr. DEWINE, Ms. STABENOW, Mr. BUNNING, Mr. DAYTON, Mr. OBAMA, Mr. SALAZAR, and Mr. BOND) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

A BILL

To amend the Clean Air Act to increase production and use of renewable fuel 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,*

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

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Fuels Security Act of 2005”.

6 (b) **TABLE OF CONTENTS.**—The table of contents of
7 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. Data collection.

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.

1 **TITLE I—GENERAL PROVISIONS**

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

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

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

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

9 “(o) RENEWABLE FUEL PROGRAM.—

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

11 “(A) ETHANOL.—

12 “(i) CELLULOSIC BIOMASS ETH-
13 ANOL.—The term ‘cellulosic biomass eth-
14 anol’ means ethanol derived from any
15 lignocellulosic or hemicellulosic matter that
16 is available on a renewable or recurring
17 basis, including—

1 “(I) dedicated energy crops and
2 trees;

3 “(II) wood and wood residues;

4 “(III) plants;

5 “(IV) grasses;

6 “(V) agricultural residues; and

7 “(VI) fibers.

8 “(ii) WASTE DERIVED ETHANOL.—

9 The term ‘waste derived ethanol’ means
10 ethanol derived from—

11 “(I) animal wastes, including
12 poultry fats and poultry wastes, and
13 other waste materials; or

14 “(II) municipal solid waste.

15 “(B) RENEWABLE FUEL.—

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

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

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

1 “(II) is used to replace or reduce
2 the quantity of fossil fuel present in a
3 fuel mixture used to operate a motor
4 vehicle.

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

7 “(I) cellulosic biomass ethanol;

8 “(II) waste derived ethanol;

9 “(III) biodiesel (as defined in
10 section 312(f) of the Energy Policy
11 Act of 1992 (42 U.S.C. 13220(f));
12 and

13 “(IV) any blending components
14 derived from renewable fuel, except
15 that only the renewable fuel portion of
16 any such blending component shall be
17 considered part of the applicable vol-
18 ume under the renewable fuel pro-
19 gram established by this subsection.

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

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

3 “(2) RENEWABLE FUEL PROGRAM.—

4 “(A) IN GENERAL.—

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

14 “(ii) COMPLIANCE.—Regardless of the
15 date of promulgation, the regulations shall
16 contain compliance provisions for refiners,
17 blenders, and importers, as appropriate, to
18 ensure that the requirements of this sub-
19 section are met, but shall not restrict
20 where renewable fuel can be used, or im-
21 pose any per-gallon obligation for the use
22 of renewable fuel.

23 “(iii) NO REGULATIONS.—If the Ad-
24 ministrator does not promulgate the regu-
25 lations, the applicable percentage referred

1 to in paragraph (3), on a volume percent-
 2 age of gasoline basis, shall be 3.2 in 2006.

3 “(B) APPLICABLE VOLUME.—

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

“Applicable volume of renewable fuel

| Calendar year: | (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 |

10 “(ii) CALENDAR YEARS 2013 AND
 11 THEREAFTER.—For the purpose of sub-
 12 paragraph (A), the applicable volume for
 13 calendar year 2013 and each calendar year
 14 thereafter shall be determined by the Ad-
 15 ministrator, in coordination with the Sec-
 16 retary of Energy and the Secretary of Ag-
 17 riculture, based on a review of the imple-
 18 mentation of the program during calendar
 19 years 2006 through 2012, including a re-
 20 view of—

1 “(I) the impact of the use of re-
2 newable fuels on the environment, air
3 quality, energy security, job creation,
4 and rural economic development; and

5 “(II) the expected annual rate of
6 future production of renewable fuels,
7 including cellulosic ethanol.

8 “(iii) LIMITATION.—An increase in
9 the applicable volume for a calendar year
10 under clause (ii) shall be not less than the
11 product obtained by multiplying—

12 “(I) the number of gallons of
13 gasoline that the Administrator esti-
14 mates will be sold or introduced into
15 commerce during the calendar year;
16 and

17 “(II) the quotient obtained by di-
18 viding—

19 “(aa) 8,000,000,000; by

20 “(bb) the number of gallons
21 of gasoline sold or introduced
22 into commerce during calendar
23 year 2012.

24 “(3) APPLICABLE PERCENTAGES.—

1 “(A) PROVISION OF ESTIMATE OF VOL-
2 UMES OF GASOLINE SALES.—Not later than Oc-
3 tober 31 of each of calendar years 2006
4 through 2011, the Administrator of the Energy
5 Information Administration shall provide to the
6 Administrator of the Environmental Protection
7 Agency an estimate of the volumes of gasoline
8 that will be sold or introduced into commerce in
9 the United States during the following calendar
10 year.

11 “(B) DETERMINATION OF APPLICABLE
12 PERCENTAGES.—

13 “(i) IN GENERAL.—Not later than
14 November 30 of each of calendar years
15 2006 through 2011, based on the estimate
16 provided under subparagraph (A), the Ad-
17 ministrator shall determine and publish in
18 the Federal Register, with respect to the
19 following calendar year, the renewable fuel
20 obligation that ensures that the require-
21 ments under paragraph (2) are met.

22 “(ii) REQUIRED ELEMENTS.—The re-
23 newable fuel obligation determined for a
24 calendar year under clause (i) shall—

1 “(I) be applicable to refiners,
2 blenders, and importers, as appro-
3 priate;

4 “(II) be expressed in terms of a
5 volume percentage of gasoline sold or
6 introduced into commerce; and

7 “(III) subject to subparagraph
8 (C)(i), consist of a single applicable
9 percentage that applies to all cat-
10 egories of persons specified in sub-
11 clause (I).

12 “(C) ADJUSTMENTS.—In determining the
13 applicable percentage for a calendar year, the
14 Administrator shall make adjustments—

15 “(i) to prevent the imposition of re-
16 dundant obligations to any person specified
17 in subparagraph (B)(ii)(I); and

18 “(ii) to account for the use of renew-
19 able fuel during the previous calendar year
20 by small refineries that are exempt under
21 paragraph (11).

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

1 “(5) CREDIT PROGRAM.—

2 “(A) REGULATIONS.—The regulations pro-
3 mulgated to carry out this subsection shall pro-
4 vide for—

5 “(i) the generation of an appropriate
6 amount of credits by any person that re-
7 fines, blends, or imports gasoline that con-
8 tains a quantity of renewable fuel that is
9 greater than the quantity required under
10 paragraph (2);

11 “(ii) the generation of an appropriate
12 amount of credits for biodiesel fuel; and

13 “(iii) if a small refinery notifies the
14 Administrator that the small refinery
15 waives the exemption provided by this sub-
16 section, the generation of credits by the
17 small refinery beginning in the year fol-
18 lowing the notification.

19 “(B) USE OF CREDITS.—A person that
20 generates credits under subparagraph (A) may
21 use the credits, or transfer all or a portion of
22 the credits to another person, for the purpose
23 of complying with paragraph (2).

24 “(C) LIFE OF CREDITS.—A credit gen-
25 erated under this paragraph shall be valid to

1 demonstrate compliance for the calendar year in
2 which the credit was generated.

3 “(D) INABILITY TO PURCHASE SUFFICIENT
4 CREDITS.—The regulations promulgated to
5 carry out this subsection shall include provi-
6 sions permitting any person that is unable to
7 generate or purchase sufficient credits to meet
8 the requirement under paragraph (2) to carry
9 forward a renewables deficit if, for the calendar
10 year following the year in which the renewables
11 deficit is created—

12 “(i) the person achieves compliance
13 with the renewables requirement under
14 paragraph (2); and

15 “(ii) generates or purchases additional
16 renewables credits to offset the renewables
17 deficit of the preceding year.

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

20 “(A) STUDY.—For each of calendar years
21 2006 through 2012, the Administrator of the
22 Energy Information Administration shall con-
23 duct a study of renewable fuels blending to de-
24 termine whether there are excessive seasonal
25 variations in the use of renewable fuels.

1 “(B) REGULATION OF EXCESSIVE SEA-
2 SONAL VARIATIONS.—If, for any calendar year,
3 the Administrator of the Energy Information
4 Administration, based on the study under sub-
5 paragraph (A), makes the determinations speci-
6 fied in subparagraph (C), the Administrator
7 shall promulgate regulations to ensure that 35
8 percent or more of the quantity of renewable
9 fuels necessary to meet the requirements under
10 paragraph (2) is used during each of the peri-
11 ods specified in subparagraph (D) of each sub-
12 sequent calendar year.

13 “(C) DETERMINATIONS.—The determina-
14 tions referred to in subparagraph (B) are
15 that—

16 “(i) less than 35 percent of the quan-
17 tity of renewable fuels necessary to meet
18 the requirements under paragraph (2) has
19 been used during 1 of the periods specified
20 in subparagraph (D) of the calendar year;

21 “(ii) a pattern of excessive seasonal
22 variation described in clause (i) will con-
23 tinue in subsequent calendar years; and

24 “(iii) promulgating regulations or
25 other requirements to impose a 35 percent

1 or more seasonal use of renewable fuels
2 will not prevent or interfere with the at-
3 tainment of national ambient air quality
4 standards or significantly increase the
5 price of motor fuels to the consumer.

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

8 “(i) April through September; and

9 “(ii) January through March and Oc-
10 tober through December.

11 “(E) EXCLUSIONS.—Renewable fuels
12 blended or consumed in 2006 in a State that
13 has received a waiver under section 209(b) shall
14 not be included in the study under subpara-
15 graph (A).

16 “(7) WAIVERS.—

17 “(A) IN GENERAL.—The Administrator, in
18 consultation with the Secretary of Agriculture
19 and the Secretary of Energy, may waive the re-
20 quirements under paragraph (2), in whole or in
21 part, on a petition by 1 or more States by re-
22 ducing the national quantity of renewable fuel
23 required under this subsection—

24 “(i) based on a determination by the
25 Administrator, after public notice and op-

1 portunity for comment, that implementa-
2 tion of the requirement would severely
3 harm the economy or environment of a
4 State, a region, or the United States; or

5 “(ii) based on a determination by the
6 Administrator, after public notice and op-
7 portunity for comment, that there is an in-
8 adequate domestic supply to meet the re-
9 quirement.

10 “(B) PETITIONS FOR WAIVERS.—Not later
11 than 90 days after the date on which a petition
12 is received by the Administrator under subpara-
13 graph (A), the Administrator, in consultation
14 with the Secretary of Agriculture and the Sec-
15 retary of Energy, shall approve or disapprove
16 the petition.

17 “(C) TERMINATION OF WAIVERS.—A waiv-
18 er granted under subparagraph (A) shall termi-
19 nate on the date that is 1 year after the date
20 on which the waiver was granted, but may be
21 renewed by the Administrator, after consulta-
22 tion with the Secretary of Agriculture and the
23 Secretary of Energy.

24 “(8) SMALL REFINERIES.—

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

6 “(B) STUDY.—Not later than December
7 31, 2008, the Secretary of Energy shall com-
8 plete for the Administrator a study to deter-
9 mine whether the requirements under para-
10 graph (2) would impose a disproportionate eco-
11 nomic hardship on small refineries.

12 “(C) SMALL REFINERIES AND ECONOMIC
13 HARDSHIP.—For any small refinery that the
14 Secretary of Energy determines would experi-
15 ence a disproportionate economic hardship, the
16 Administrator shall extend the small refinery
17 exemption for the small refinery for not less
18 than 2 additional years.

19 “(D) ECONOMIC HARDSHIP.—

20 “(i) EXTENSION OF EXEMPTION.—A
21 small refinery may at any time petition the
22 Administrator for an extension of the ex-
23 emption from the requirements under
24 paragraph (2) for the reason of dispropor-
25 tionate economic hardship.

1 “(ii) EVALUATION.—In evaluating a
2 hardship petition, the Administrator, in
3 consultation with the Secretary of Energy,
4 shall consider the findings of the study in
5 addition to other economic factors.

6 “(iii) DEADLINE FOR ACTION ON PE-
7 TITIONS.—The Administrator shall act on
8 any petition submitted by a small refinery
9 for a hardship exemption not later than 90
10 days after the receipt of the petition.

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

14 “(F) OPT-IN FOR SMALL REFINERS.—A
15 small refinery shall be subject to paragraph (2)
16 if the small refinery notifies the Administrator
17 that the small refinery waives the exemption
18 under subparagraph (C).”.

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

22 (1) in paragraph (1)—

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

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

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

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

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

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

22 “(b) BIODIESEL.—

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

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

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

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

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

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

4 **SEC. 103. DATA COLLECTION.**

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

8 “(m)(1) In order to improve the ability to evaluate
9 the effectiveness of the renewable fuels mandate of the
10 United States, the Administrator shall conduct and pub-
11 lish the results of a survey of renewable fuels demand in
12 the motor vehicle fuels market in the United States
13 monthly, and in a manner designed to protect the con-
14 fidentiality of individual responses.

15 “(2) In conducting the survey, the Administrator
16 shall collect information both on a national and regional
17 basis, including—

18 “(A) information on—

19 “(i) the quantity of renewable fuels pro-
20 duced;

21 “(ii) the quantity of renewable fuels blend-
22 ed;

23 “(iii) the quantity of renewable fuels im-
24 ported; and

1 “(iv) the quantity of renewable fuels de-
2 manded; and

3 “(B) market price data.”.

4 **TITLE II—FEDERAL**
5 **REFORMULATED FUELS**

6 **SEC. 201. ELIMINATION OF OXYGEN CONTENT REQUIRE-**
7 **MENT FOR REFORMULATED GASOLINE.**

8 (a) ELIMINATION.—

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

11 (A) in paragraph (2)—

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

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

17 (iii) by redesignating subparagraphs
18 (C) and (D) as subparagraphs (B) and
19 (C), respectively;

20 (B) in paragraph (3)(A), by striking clause
21 (v); and

22 (C) in paragraph (7)—

23 (i) in subparagraph (A)—

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

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

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

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

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

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

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

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

4 “(i) DEFINITION OF PADD.—In this
5 subparagraph, the term ‘PADD’ means a
6 Petroleum Administration for Defense Dis-
7 trict.

8 “(ii) REGULATIONS REGARDING EMIS-
9 SIONS OF TOXIC AIR POLLUTANTS.—Not
10 later than 270 days after the date of en-
11 actment of this subparagraph, the Admin-
12 istrator shall establish, for each refinery or
13 importer, standards for toxic air pollutants
14 from use of the reformulated gasoline pro-
15 duced or distributed by the refinery or im-
16 porter that maintain the reduction of the
17 average annual aggregate emissions of
18 toxic air pollutants for reformulated gaso-
19 line produced or distributed by the refinery
20 or importer during calendar years 2001
21 and 2002, determined on the basis of data
22 collected by the Administrator with respect
23 to the refinery or importer.

24 “(iii) STANDARDS APPLICABLE TO
25 SPECIFIC REFINERIES OR IMPORTERS.—

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

14 “(II) APPLICABILITY OF OTHER
15 STANDARDS.—For any calendar year,
16 the quantity of gasoline produced or
17 distributed by a refinery or importer
18 that is in excess of the quantity sub-
19 ject to subclause (I) shall be subject
20 to standards for toxic air pollutants
21 promulgated under subparagraph (A)
22 and paragraph (3)(B).

23 “(iv) CREDIT PROGRAM.—The Admin-
24 istrator shall provide for the granting and
25 use of credits for emissions of toxic air pol-

1 lutants in the same manner as provided in
2 paragraph (7).

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

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

14 “(aa) the quantity of refor-
15 mulated gasoline produced that is
16 in excess of the average annual
17 quantity of reformulated gasoline
18 produced in 2001 and 2002; and

19 “(bb) the reduction of the
20 average annual aggregate emis-
21 sions of toxic air pollutants in
22 each PADD, based on retail sur-
23 vey data or data from other ap-
24 propriate sources.

1 “(II) EFFECT OF FAILURE TO
2 MAINTAIN AGGREGATE TOXICS RE-
3 DUCTIONS.—If, in any calendar year,
4 the reduction of the average annual
5 aggregate emissions of toxic air pol-
6 lutants in a PADD fails to meet or
7 exceed the reduction of the average
8 annual aggregate emissions of toxic
9 air pollutants in the PADD in cal-
10 endar years 2001 and 2002, the Ad-
11 ministrators, not later than 90 days
12 after the date of publication of the re-
13 port for the calendar year under sub-
14 clause (I), shall—

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

22 “(bb) promulgate revisions
23 to the regulations promulgated
24 under clause (ii), to take effect
25 not earlier than 180 days but not

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

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

23 (c) CONSOLIDATION IN REFORMULATED GASOLINE
24 REGULATIONS.—Not later than 180 days after the date
25 of enactment of this Act, the Administrator of the Envi-

1 Environmental Protection Agency shall revise the reformulated
2 gasoline regulations under subpart D of part 80 of title
3 40, Code of Federal Regulations (or any successor regula-
4 tions), to consolidate the regulations applicable to VOC-
5 Control Regions 1 and 2 under section 80.41 of that title
6 by eliminating the less stringent requirements applicable
7 to gasoline designated for VOC-Control Region 2 and in-
8 stead applying the more stringent requirements applicable
9 to gasoline designated for VOC-Control Region 1.

10 (d) AUTHORITY OF ADMINISTRATOR.—Nothing in
11 this section affects or prejudices any legal claim or action
12 with respect to regulations promulgated by the Adminis-
13 trator of the Environmental Protection Agency before the
14 date of enactment of this Act regarding—

15 (1) emissions of toxic air pollutants from motor
16 vehicles; or

17 (2) the adjustment of standards applicable to a
18 specific refinery or importer made under the prior
19 regulations.

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

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

1 “(A) IN GENERAL.—Notwithstanding any
 2 other provision of this section, not later than 30
 3 days after the date of enactment of this para-
 4 graph, the Administrator shall determine the
 5 adequacy of any petition received from a Gov-
 6 ernor of a State to exempt gasoline sold in that
 7 State from the requirements under paragraph
 8 (2)(B).

9 “(B) APPROVAL.—If a determination
 10 under subparagraph (A) is not made by the
 11 date that is 30 days after the date of enactment
 12 of this paragraph, the petition shall be consid-
 13 ered to be approved.”.

14 **SEC. 202. 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, air quality, and water re-
11 sources of increased use of, and the feasi-
12 bility of using as substitutes for methyl
13 tertiary butyl ether in gasoline—

14 “(I) ethyl tertiary butyl ether;

15 “(II) tertiary amyl methyl ether;

16 “(III) di-isopropyl ether;

17 “(IV) tertiary butyl alcohol;

18 “(V) other ethers and heavy alco-
19 hols, as determined by the Adminis-
20 trator;

21 “(VI) ethanol;

22 “(VII) iso-octane; and

23 “(VIII) alkylates;

24 “(ii) conduct a study on the effects on
25 public health, air quality, and water re-

1 sources of the adjustment for ethanol-
2 blended reformulated gasoline to the VOC
3 performance requirements otherwise appli-
4 cable under sections 211(k)(1) and
5 211(k)(3); and

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

12 “(B) CONTRACTS FOR STUDY.—In car-
13 rying out this paragraph, the Administrator
14 may enter into one or more contracts with non-
15 governmental entities including but not limited
16 to National Energy Laboratories and institu-
17 tions of higher education (as defined in section
18 101 of the Higher Education Act of 1965 (20
19 U.S.C. 1001)).”.

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

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

24 “(p) ANALYSES OF MOTOR VEHICLE FUEL CHANGES
25 AND EMISSIONS MODEL.—

1 “(1) ANTI-BACKSLIDING ANALYSIS.—

2 “(A) DRAFT ANALYSIS.—Not later than 4
3 years after the date of enactment of this sub-
4 section, the Administrator shall publish for pub-
5 lic comment a draft analysis of the changes in
6 emissions of air pollutants and air quality due
7 to the use of motor vehicle fuel and fuel addi-
8 tives resulting from implementation of the
9 amendments made by the Fuels Security Act of
10 2005.

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

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

1 **SEC. 204. ADDITIONAL OPT-IN AREAS UNDER REFORMU-**
2 **LATED GASOLINE PROGRAM.**

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

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

7 “(6) OPT-IN AREAS.—

8 “(A) CLASSIFIED AREAS.—

9 “(i) IN GENERAL.—Upon”;

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

12 “(ii) EFFECT OF INSUFFICIENT DO-
13 MESTIC CAPACITY TO PRODUCE REFORMU-
14 LATED GASOLINE.—If”;

15 (3) in subparagraph (A)(ii) (as redesignated by
16 paragraph (2))—

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

19 (B) in the second sentence, by striking
20 “this paragraph” and inserting “this subpara-
21 graph”; and

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

23 “(B) OZONE TRANSPORT REGION.—

24 “(i) APPLICATION OF PROHIBITION.—

25 “(I) IN GENERAL.—In addition
26 to the provisions of subparagraph (A),

1 upon the application of the Governor
2 of a State in the ozone transport re-
3 gion established by section 184(a), the
4 Administrator, not later than 180
5 days after the date of receipt of the
6 application, shall apply the prohibition
7 specified in paragraph (5) to any area
8 in the State (other than an area clas-
9 sified as a marginal, moderate, seri-
10 ous, or severe ozone nonattainment
11 area under subpart 2 of part D of
12 title I) unless the Administrator deter-
13 mines under clause (iii) that there is
14 insufficient capacity to supply reformu-
15 lated gasoline.

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

22 “(ii) PERIOD OF APPLICABILITY.—
23 Under clause (i), the prohibition specified
24 in paragraph (5) shall apply in a State—

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

6 “(II) ending not earlier than 4
 7 years after the commencement date
 8 determined under subclause (I).

9 “(iii) EXTENSION OF COMMENCEMENT
 10 DATE BASED ON INSUFFICIENT CAPAC-
 11 ITY.—

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

22 “(aa) shall extend the com-
 23 mencement date with respect to
 24 the State under clause (ii)(I) for
 25 not more than 1 year; and

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

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

11 **SEC. 205. FEDERAL ENFORCEMENT OF STATE FUELS RE-**
12 **QUIREMENTS.**

13 Section 211(c)(4)(C) of the Clean Air Act (42 U.S.C.
14 7545(c)(4)(C)) is amended—

15 (1) by striking “(C) A State” and inserting the
16 following:

17 “(C) AUTHORITY OF STATE TO CONTROL
18 FUELS AND FUEL ADDITIVES FOR REASONS OF
19 NECESSITY.—

20 “(i) IN GENERAL.—A State”; and

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

22 “(ii) ENFORCEMENT BY THE ADMIN-
23 ISTRATOR.—In any case in which a State
24 prescribes and enforces a control or prohi-
25 bition under clause (i), the Administrator,

1 at the request of the State, shall enforce
2 the control or prohibition as if the control
3 or prohibition had been adopted under the
4 other provisions of this section.”.

5 **SEC. 206. FUEL SYSTEM REQUIREMENTS HARMONIZATION**
6 **STUDY.**

7 (a) STUDY.—

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

13 (A) requirements relating to reformulated
14 gasoline, volatility (measured in Reid vapor
15 pressure), oxygenated fuel, and diesel fuel; and

16 (B) other requirements that vary from
17 State to State, region to region, or locality to
18 locality.

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

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

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

3 (i) national, regional, and local air
4 quality standards and goals; and

5 (ii) related environmental and public
6 health protection standards and goals;

7 (C) the effect of Federal, State, and local
8 motor vehicle fuel regulations, including mul-
9 tiple motor vehicle fuel requirements, on—

10 (i) domestic refineries;

11 (ii) the fuel distribution system; and

12 (iii) industry investment in new capac-
13 ity;

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

17 (E) the feasibility of developing national or
18 regional motor vehicle fuel slates for the 48
19 contiguous States that, while protecting and im-
20 proving air quality at the national, regional,
21 and local levels, could—

22 (i) enhance flexibility in the fuel dis-
23 tribution infrastructure and improve fuel
24 fungibility;

- 1 (ii) reduce price volatility and costs to
2 consumers and producers;
- 3 (iii) provide increased liquidity to the
4 gasoline market; and
- 5 (iv) enhance fuel quality, consistency,
6 and supply; and
- 7 (F) the feasibility of providing incentives,
8 and the need for the development of national
9 standards necessary, to promote cleaner burn-
10 ing motor vehicle fuel.

11 (b) REPORT.—

12 (1) IN GENERAL.—Not later than June 1,
13 2006, the Administrator of the Environmental Pro-
14 tection Agency and the Secretary of Energy shall
15 submit to Congress a report on the results of the
16 study conducted under subsection (a).

17 (2) RECOMMENDATIONS.—

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

- 21 (i) to improve air quality;
- 22 (ii) to reduce costs to consumers and
23 producers; and
- 24 (iii) to increase supply liquidity.

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

8 (3) CONSULTATION.—In developing the report,
9 the Administrator of the Environmental Protection
10 Agency and the Secretary of Energy shall consult
11 with—

12 (A) the Governors of the States;

13 (B) automobile manufacturers;

14 (C) motor vehicle fuel producers and dis-
15 tributors; and

16 (D) the public.

17 **SEC. 207. REVIEW OF FEDERAL PROCUREMENT INITIA-**
18 **TIVES RELATING TO USE OF RECYCLED**
19 **PRODUCTS AND FLEET AND TRANSPOR-**
20 **TATION EFFICIENCY.**

21 Not later than 180 days after the date of enactment
22 of this Act, the Administrator of General Services shall
23 submit to Congress a report that details efforts by each
24 Federal agency to implement the procurement policies
25 specified in Executive Order No. 13101 (63 Fed. Reg.

1 49643; relating to governmental use of recycled products)
2 and Executive Order No. 13149 (65 Fed. Reg. 24607; re-
3 lating to Federal fleet and transportation efficiency).

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

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

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