

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

# H. R. 1608

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.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 13, 2005

Ms. HERSETH (for herself, Mr. OSBORNE, Mr. PETERSON of Minnesota, Mr. KING of Iowa, Mr. BERRY, Mr. POMEROY, Mr. GRAVES, Mr. BOSWELL, Ms. MCCOLLUM of Minnesota, Mr. SKELTON, Mr. KENNEDY of Minnesota, Ms. KAPTUR, Mr. MCHUGH, Mr. FORTENBERRY, Mr. MORAN of Kansas, Mr. LEACH, Mr. RYUN of Kansas, Mr. STRICKLAND, Mr. LATHAM, Mr. LAHOOD, Ms. CARSON, Mr. PENCE, Mr. NUSSLE, Mr. TERRY, and Mr. CHANDLER) introduced the following bill; which was referred to the Committee on Energy and Commerce

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## 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”.

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

## 3 **TITLE I—GENERAL PROVISIONS**

### 4 **SEC. 101. RENEWABLE CONTENT OF MOTOR VEHICLE FUEL.**

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

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

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

11 “(o) RENEWABLE FUEL PROGRAM.—

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

13 “(A) ETHANOL.—

14 “(i) CELLULOSIC BIOMASS ETH-  
 15 ANOL.—The term ‘cellulosic biomass eth-  
 16 anol’ means ethanol derived from any  
 17 lignocellulosic or hemicellulosic matter that

1 is available on a renewable or recurring  
2 basis, including—

3 “(I) dedicated energy crops and  
4 trees;

5 “(II) wood and wood residues;

6 “(III) plants;

7 “(IV) grasses;

8 “(V) agricultural residues; and

9 “(VI) fibers.

10 “(ii) WASTE DERIVED ETHANOL.—

11 The term ‘waste derived ethanol’ means  
12 ethanol derived from—

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

16 “(II) municipal solid waste.

17 “(B) RENEWABLE FUEL.—

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

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

22 “(bb) is natural gas produced  
23 from a biogas source, including a  
24 landfill, sewage waste treatment plant,

1 feedlot, or other place where decaying  
2 organic material is found; and

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

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

9 “(I) cellulosic biomass ethanol;

10 “(II) waste derived ethanol;

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

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

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

1 aggregate throughput for the calendar year by the  
2 number of days in the calendar year) does not  
3 exceed 75,000 barrels.

4 “(2) RENEWABLE FUEL PROGRAM.—

5 “(A) IN GENERAL.—

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

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

24 “(iii) NO REGULATIONS.—If the Ad-  
25 ministrator does not promulgate the regu-

1 lations, the applicable percentage referred  
 2 to in paragraph (3), on a volume percentage  
 3 of gasoline basis, shall be 3.2 in 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:

**“Applicable volume of renewable fuel**

| <b>Calendar year:</b> | <b>(In billions of gallons)</b> |
|-----------------------|---------------------------------|
| 2006 .....            | 4.0                             |
| 2007 .....            | 4.7                             |
| 2008 .....            | 5.4                             |
| 2009 .....            | 6.1                             |
| 2010 .....            | 6.8                             |
| 2011 .....            | 7.4                             |
| 2012 .....            | 8.0                             |

11 “(ii) CALENDAR YEARS 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 determined by the Ad-  
 16 ministrator, in coordination with the Sec-  
 17 retary of Energy and the Secretary of Ag-  
 18 riculture, based on a review of the imple-  
 19 mentation of the program during calendar

1 years 2006 through 2012, including a re-  
2 view of—

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

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

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

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

19 “(II) the quotient obtained by di-  
20 viding—

21 “(aa) 8,000,000,000; by

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

1 “(3) APPLICABLE PERCENTAGES.—

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

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

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

23 “(ii) REQUIRED ELEMENTS.—The re-  
24 newable fuel obligation determined for a  
25 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 date  
2 of promulgation, to provide that,  
3 notwithstanding clause (iii)(II),  
4 all reformulated gasoline pro-  
5 duced or distributed at each refin-  
6 ery or importer shall meet the  
7 standards applicable under clause  
8 (ii) not later than April 1 of the  
9 year following the report under  
10 this subclause and for subsequent  
11 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 sserting 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 the  
2 control or prohibition as if the control or  
3 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.

○