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1 **Subtitle A—General Provisions**

2 **SECTION 1501. RENEWABLE CONTENT OF GASOLINE.**

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

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

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

9 “(o) RENEWABLE FUEL PROGRAM.—

10 “(1) DEFINITIONS.—In this section:

11 “(A) CELLULOSIC BIOMASS ETHANOL.—

12 The term ‘cellulosic biomass ethanol’ means
13 ethanol derived from any lignocellulosic or
14 hemicellulosic matter that is available on a re-
15 newable or recurring basis, including—

16 “(i) dedicated energy crops and trees;

17 “(ii) wood and wood residues;

18 “(iii) plants;

19 “(iv) grasses;

20 “(v) agricultural residues;

21 “(vi) fibers;

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

24 “(viii) municipal solid waste.



1 The term also includes any ethanol produced in
2 facilities where animal wastes or other waste
3 materials are digested or otherwise used to dis-
4 place 90 percent or more of the fossil fuel nor-
5 mally used in the production of ethanol.

6 “(B) WASTE DERIVED ETHANOL.—The
7 term ‘waste derived ethanol’ means ethanol de-
8 rived from——

9 “(i) animal wastes, including poultry
10 fats and poultry wastes, and other waste
11 materials; or

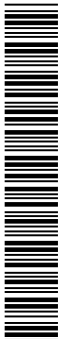
12 “(ii) municipal solid waste.

13 “(C) 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, vegetable, animal, or
18 fish materials including fats, greases,
19 and oils, sugarcane, sugar beets,
20 sugar components, tobacco, potatoes,
21 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 and ‘waste derived ethanol’; and

11 “(II) biodiesel (as defined in sec-
12 tion 312(f) of the Energy Policy Act
13 of 1992 (42 U.S.C. 13220(f))) and
14 any blending components derived from
15 renewable fuel (provided that only the
16 renewable fuel portion of any such
17 blending component shall be consid-
18 ered part of the applicable volume
19 under the renewable fuel program es-
20 tablished by this subsection).

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

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

15 “(ii) NONCONTIGUOUS STATE OPT-
16 IN.—

17 “(I) IN GENERAL.—On the peti-
18 tion of a noncontiguous State or terri-
19 tory, the Administrator may allow the
20 renewable fuel program established
21 under this subsection to apply in the
22 noncontiguous State or territory at
23 the same time or any time after the
24 Administrator promulgates regula-
25 tions under this subparagraph.



1 “(II) OTHER ACTIONS.—In car-
2 rying out this clause, the Adminis-
3 trator may—

4 “(aa) issue or revise regula-
5 tions under this paragraph;

6 “(bb) establish applicable
7 percentages under paragraph (3);

8 “(cc) provide for the genera-
9 tion of credits under paragraph
10 (5); and

11 “(dd) take such other ac-
12 tions as are necessary to allow
13 for the application of the renew-
14 able fuels program in a non-
15 contiguous State or territory.

16 “(iii) PROVISIONS OF REGULA-
17 TIONS.—Regardless of the date of promul-
18 gation, the regulations promulgated under
19 clause (i)—

20 “(I) shall contain compliance pro-
21 visions applicable to refineries, blend-
22 ers, distributors, and importers, as
23 appropriate, to ensure that the re-
24 quirements of this paragraph are met;
25 but



1 “(II) shall not—

2 “(aa) restrict geographic
3 areas in which renewable fuel
4 may be used; or

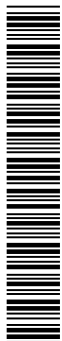
5 “(bb) impose any per-gallon
6 obligation for the use of renew-
7 able fuel.

8 “(iv) REQUIREMENT IN CASE OF
9 FAILURE TO PROMULGATE REGULA-
10 TIONS.—If the Administrator does not pro-
11 mulgate regulations under clause (i), the
12 percentage of renewable fuel in gasoline
13 sold or dispensed to consumers in the
14 United States, on a volume basis, shall be
15 2.78 percent for calendar year 2006.

16 “(B) APPLICABLE VOLUME.—

17 “(i) CALENDAR YEARS 2006 THROUGH
18 2012.—For the purpose of subparagraph
19 (A), the applicable volume for any of cal-
20 endar years 2006 through 2012 shall be
21 determined in accordance with the fol-
22 lowing table:

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



“Calendar year:	Applicable volume of renewable fuel (in billions of gallons):
2011	7.4
2012	7.5.

1 “(ii) CALENDAR YEAR 2013 AND
2 THEREAFTER.—Subject to clauses (iii) and
3 (iv), for the purposes of subparagraph (A),
4 the applicable volume for calendar year
5 2013 and each calendar year thereafter
6 shall be determined by the Administrator,
7 in coordination with the Secretary of Agri-
8 culture and the Secretary of Energy, based
9 on a review of the implementation of the
10 program during calendar years 2006
11 through 2012, including a review of—

12 “(I) the impact of the use of re-
13 newable fuels on the environment, air
14 quality, energy security, job creation,
15 and rural economic development; and

16 “(II) the expected annual rate of
17 future production of renewable fuels,
18 including cellulosic ethanol.

19 “(iii) MINIMUM QUANTITY DERIVED
20 FROM CELLULOSIC BIOMASS.—For cal-
21 endar year 2013 and each calendar year
22 thereafter—



1 “(I) the applicable volume re-
 2 ferred to in clause (ii) shall contain a
 3 minimum of 250,000,000 gallons that
 4 are derived from cellulosic biomass;
 5 and

6 “(II) the 2.5-to-1 ratio referred
 7 to in paragraph (4) shall not apply.

8 “(iv) MINIMUM APPLICABLE VOL-
 9 UME.—For the purpose of subparagraph
 10 (A), the applicable volume for calendar
 11 year 2013 and each calendar year there-
 12 after shall be equal to the product obtained
 13 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 in the calendar year; and

18 “(II) the ratio that—

19 “(aa) 7,500,000,000 gallons
 20 of renewable fuel; bears to

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

25 “(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 2005
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, with respect to the fol-
8 lowing calendar year, of the volumes of gasoline
9 projected to be sold or introduced into com-
10 merce in the United States.

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

13 “(i) IN GENERAL.—Not later than
14 November 30 of each of calendar years
15 2005 through 2012, based on the estimate
16 provided under subparagraph (A), the Ad-
17 ministrator of the Environmental Protec-
18 tion Agency 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 of 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 refineries,
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 in the
7 United States; and

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

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

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

19 “(ii) to account for the use of renew-
20 able fuel during the previous calendar year
21 by small refineries that are exempt under
22 paragraph (9).

23 “(4) CELLULOSIC BIOMASS ETHANOL OR WASTE
24 DERIVED ETHANOL.—For the purpose of paragraph
25 (2), 1 gallon of cellulosic biomass ethanol or waste



1 derived ethanol shall be considered to be the equiva-
2 lent of 2.5 gallons of renewable fuel.

3 “(5) CREDIT PROGRAM.—

4 “(A) IN GENERAL.—The regulations pro-
5 mulgated under paragraph (2)(A) shall
6 provide—

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

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

15 “(iii) for the generation of credits by
16 small refineries in accordance with para-
17 graph (9)(C).

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

23 “(C) DURATION OF CREDITS.—A credit
24 generated under this paragraph shall be valid to



1 show compliance for the [24] months as of the
2 date of generation.

3 “(D) INABILITY TO GENERATE OR PUR-
4 CHASE SUFFICIENT CREDITS.—The regulations
5 promulgated under paragraph (2)(A) shall in-
6 clude provisions allowing any person that is un-
7 able to generate or purchase sufficient credits
8 to meet the requirements of paragraph (2) to
9 carry forward a renewable fuel deficit on condi-
10 tion that the person, in the calendar year fol-
11 lowing the year in which the renewable fuel def-
12 icit is created—

13 “(i) achieves compliance with the re-
14 newable fuel requirement under paragraph
15 (2); and

16 “(ii) generates or purchases additional
17 renewable fuel credits to offset the renew-
18 able fuel deficit of the previous year.

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

21 “(A) STUDY.—For each of calendar years
22 2006 through 2012, the Administrator of the
23 Energy Information Administration shall con-
24 duct a study of renewable fuel blending to de-



1 termine whether there are excessive seasonal
2 variations in the use of renewable fuel.

3 “(B) REGULATION OF EXCESSIVE SEA-
4 SONAL VARIATIONS.—If, for any calendar year,
5 the Administrator of the Energy Information
6 Administration, based on the study under sub-
7 paragraph (A), makes the determinations speci-
8 fied in subparagraph (C), the Administrator of
9 the Environmental Protection Agency shall pro-
10 mulgate regulations to ensure that 25 percent
11 or more of the quantity of renewable fuel nec-
12 essary to meet the requirements of paragraph
13 (2) is used during each of the 2 periods speci-
14 fied in subparagraph (D) of each subsequent
15 calendar year.

16 “(C) DETERMINATIONS.—The determina-
17 tions referred to in subparagraph (B) are
18 that—

19 “(i) less than 25 percent of the quan-
20 tity of renewable fuel necessary to meet the
21 requirements of paragraph (2) has been
22 used during 1 of the 2 periods specified in
23 subparagraph (D) of the calendar year;



1 “(ii) a pattern of excessive seasonal
2 variation described in clause (i) will con-
3 tinue in subsequent calendar years; and

4 “(iii) promulgating regulations or
5 other requirements to impose a 25 percent
6 or more seasonal use of renewable fuels
7 will not prevent or interfere with the at-
8 tainment of national ambient air quality
9 standards or significantly increase the
10 price of motor fuels to the consumer.

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

13 “(i) April through September; and

14 “(ii) January through March and Oc-
15 tober through December.

16 “(E) EXCLUSION.—Renewable fuel blended
17 or consumed in calendar year 2006 in a State
18 that has received a waiver under section 209(b)
19 shall not be included in the study under sub-
20 paragraph (A).

21 “(F) STATE EXEMPTION FROM
22 SEASONALITY REQUIREMENTS.—Notwith-
23 standing any other provision of law, the
24 seasonality requirement relating to renewable
25 fuel use established by this paragraph shall not



1 apply to any State that has received a waiver
2 under section 209(b) or any State dependent on
3 refineries in such State for gasoline supplies.

4 “(7) WAIVERS.—

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

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

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

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



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

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

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

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

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

22 “(i) supplies and prices;

23 “(ii) blendstock supplies; and

24 “(iii) supply and distribution system
25 capabilities.



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

8 “(D) WAIVER.—

9 “(i) IN GENERAL.—Not later than
10 270 days after the date of enactment of
11 this paragraph, the Administrator shall, if
12 and to the extent recommended by the Sec-
13 retary of Energy under subparagraph (C),
14 waive, in whole or in part, the renewable
15 fuel requirement under paragraph (2) by
16 reducing the national quantity of renew-
17 able fuel required under paragraph (2) in
18 calendar year 2006.

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

24 “(9) SMALL REFINERIES.—

25 “(A) TEMPORARY EXEMPTION.—



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

4 “(ii) EXTENSION OF EXEMPTION.—

5 “(I) STUDY BY SECRETARY OF
6 ENERGY.—Not later than December
7 31, 2008, the Secretary of Energy
8 shall conduct for the Administrator a
9 study to determine whether compli-
10 ance with the requirements of para-
11 graph (2) would impose a dispropor-
12 tionate economic hardship on small
13 refineries.

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



1 “(B) PETITIONS BASED ON DISPROPOR-
2 TIONATE ECONOMIC HARDSHIP.—

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

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

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

21 “(C) CREDIT PROGRAM.—If a small refin-
22 ery notifies the Administrator that the small re-
23 finery waives the exemption under subpara-
24 graph (A), the regulations promulgated under
25 paragraph (2)(A) shall provide for the genera-



1 tion of credits by the small refinery under para-
2 graph (5) beginning in the calendar year fol-
3 lowing the date of notification.

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

9 “(10) ETHANOL MARKET CONCENTRATION
10 ANALYSIS.—

11 “(A) ANALYSIS.—

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

22 “(ii) SCORING.—For the purpose of
23 scoring under clause (i) using the
24 Herfindahl-Hirschman Index, all mar-



1 keting arrangements among industry par-
2 ticipants shall be considered.

3 “(B) REPORT.—Not later than December
4 1, 2005, and annually thereafter, the Federal
5 Trade Commission shall submit to Congress
6 and the Administrator a report on the results
7 of the market concentration analysis performed
8 under subparagraph (A)(i).”.

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

12 (1) in paragraph (1)—

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

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

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

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

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



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

3 “(5) EXCLUSION FROM ETHANOL WAIVER.—

4 “(A) PROMULGATION OF REGULATIONS.—

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

20 “(B) DEADLINE FOR PROMULGATION.—

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

25 “(C) EFFECTIVE DATE.—



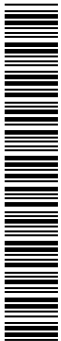
1 “(i) IN GENERAL.—With respect to an
2 area in a State for which the Governor
3 submits a notification under subparagraph
4 (A), the regulations under that subpara-
5 graph shall take effect on the later of—

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

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

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

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



1 State, the Administrator, by
2 regulation—

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

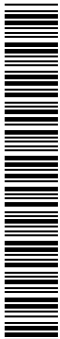
7 “(bb) may renew the extension
8 under item (aa) for 2 additional
9 periods, each of which
10 shall not exceed 1 year.

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

16
17 (d) SURVEY OF RENEWABLE FUEL MARKET.—

18 (1) SURVEY AND REPORT.—Not later than December 1, 2006, and annually thereafter, the Administrator of the Environmental Protection Agency (in consultation with the Secretary of Energy acting through the Administrator of the Energy Information Administration) shall—

19
20
21
22
23
24 (A) conduct, with respect to each conventional
25 gasoline use area and each reformulated



1 gasoline use area in each State, a survey to de-
2 termine the market shares of—

3 (i) conventional gasoline containing
4 ethanol;

5 (ii) reformulated gasoline containing
6 ethanol;

7 (iii) conventional gasoline containing
8 renewable fuel; and

9 (iv) reformulated gasoline containing
10 renewable fuel; and

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

14 (2) RECORDKEEPING AND REPORTING RE-
15 QUIREMENTS.—The Administrator of the Environ-
16 mental Protection Agency (hereinafter in this sub-
17 section referred to as the “Administrator”) may re-
18 quire any refiner, blender, or importer to keep such
19 records and make such reports as are necessary to
20 ensure that the survey conducted under paragraph
21 (1) is accurate. The Administrator, to avoid dupli-
22 cative requirements, shall rely, to the extent prac-
23 ticable, on existing reporting and recordkeeping re-
24 quirements and other information available to the



1 Administrator including gasoline distribution pat-
2 terns that include multistate use areas.

3 (3) APPLICABLE LAW.—Activities carried out
4 under this subsection shall be conducted in a man-
5 ner designed to protect confidentiality of individual
6 responses.

7 **SEC. 1502. [FINDINGS].**

8 **SEC. 1503. [AUTHORITY FOR WATER QUALITY PROTECTION**
9 **FROM FUELS].**

10 [Section 211(c) of the Clean Air Act (42 U.S.C.
11 7545(c)) is amended—

12 (1) in paragraph (1)(A)—

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

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

18 (2) in paragraph (4)(B), by inserting “or water
19 quality protection,” after “emission control.”.]

20 **SEC. 1504. CLAIMS FILED AFTER ENACTMENT.**

21 Claims and legal actions filed after the date of enact-
22 ment of this Act related to allegations involving actual or
23 threatened contamination of methyl tertiary butyl ether
24 (MTBE) may be removed to Federal district court.



1 **SEC. 1505. ELIMINATION OF OXYGEN CONTENT REQUIRE-**
2 **MENT FOR REFORMULATED GASOLINE.**

3 (a) **ELIMINATION.**—

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

6 (A) in paragraph (2)—

7 (i) in the second sentence of subpara-
8 graph (A), by striking “(including the oxy-
9 gen content requirement contained in sub-
10 paragraph (B))”;

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

12 (iii) by redesignating subparagraphs
13 (C) and (D) as subparagraphs (B) and
14 (C), respectively;

15 (B) in paragraph (3)(A), by striking clause
16 (v); and

17 (C) in paragraph (7)—

18 (i) in subparagraph (A)—

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

20 (II) by redesignating clauses (ii)
21 and (iii) as clauses (i) and (ii), respec-
22 tively; and

23 (ii) in subparagraph (C)—

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

25 (II) by redesignating clause (iii)
26 as clause (ii).



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

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

7 (B) in the case of any other State, begin-
8 ning 270 days after the date of enactment of
9 this Act.

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

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

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

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

19 “(B) MAINTENANCE OF TOXIC AIR POL-
20 LUTANT EMISSIONS REDUCTIONS FROM REFOR-
21 MULATED GASOLINE.—

22 “(i) DEFINITION OF PADD.—In this
23 subparagraph the term ‘PADD’ means a
24 Petroleum Administration for Defense Dis-
25 trict.



1 “(ii) REGULATIONS CONCERNING
2 EMISSIONS OF TOXIC AIR POLLUTANTS.—
3 Not later than 270 days after the date of
4 enactment of this subparagraph, the Ad-
5 ministrator shall establish by regulation,
6 for each refinery or importer (other than a
7 refiner or importer in a State that has re-
8 ceived a waiver under section 209(b) with
9 respect to gasoline produced for use in that
10 State), standards for toxic air pollutants
11 from use of the reformulated gasoline pro-
12 duced or distributed by the refiner or im-
13 porter that maintain the reduction of the
14 average annual aggregate emissions of
15 toxic air pollutants for reformulated gaso-
16 line produced or distributed by the refiner
17 or importer during calendar years 2001
18 and 2002 (as determined on the basis of
19 data collected by the Administrator with
20 respect to the refiner or importer).

21 “(iii) STANDARDS APPLICABLE TO
22 SPECIFIC REFINERIES OR IMPORTERS.—

23 “(I) APPLICABILITY OF STAND-
24 ARDS.—For any calendar year, the
25 standards applicable to a refiner or



1 importer under clause (ii) shall apply
2 to the quantity of gasoline produced
3 or distributed by the refiner or im-
4 porter in the calendar year only to the
5 extent that the quantity is less than
6 or equal to the average annual quan-
7 tity of reformulated gasoline produced
8 or distributed by the refiner or im-
9 porter during calendar years 2001
10 and 2002.

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

20 “(iv) CREDIT PROGRAM.—The Admin-
21 istrator shall provide for the granting and
22 use of credits for emissions of toxic air pol-
23 lutants in the same manner as provided in
24 paragraph (7).



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

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

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

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

23 “(II) EFFECT OF FAILURE TO
24 MAINTAIN AGGREGATE TOXICS RE-
25 Ductions.—If, in any calendar year,



1 the reduction of the average annual
2 aggregate emissions of toxic air pol-
3 lutants in a PADD fails to meet or
4 exceed the reduction of the average
5 annual aggregate emissions of toxic
6 air pollutants in the PADD in cal-
7 endar years 2001 and 2002, the Ad-
8 ministrator, not later than 90 days
9 after the date of publication of the re-
10 port for the calendar year under sub-
11 clause (I), shall—

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

19 “(bb) promulgate revisions
20 to the regulations promulgated
21 under clause (ii), to take effect
22 not earlier than 180 days but not
23 later than 270 days after the
24 date of promulgation, to provide
25 that, notwithstanding clause



1 (iii)(II), all reformulated gasoline
2 produced or distributed at each
3 refiner or importer shall meet the
4 standards applicable under clause
5 (iii)(I) beginning not later than
6 April 1 of the calendar year fol-
7 lowing publication of the report
8 under subclause (I) and in each
9 calendar year thereafter.

10 “(vi) Not later than July 1, 2007, the
11 Administrator shall promulgate final regu-
12 lations to control hazardous air pollutants
13 from motor vehicles and motor vehicle
14 fuels, as provided for in section 80.1045 of
15 title 40, Code of Federal Regulations (as
16 in effect on the date of enactment of this
17 subparagraph), and as authorized under
18 section 202(1) of the Clean Air Act. If the
19 Administrator promulgates by such date,
20 final regulations to control hazardous air
21 pollutants from motor vehicles and motor
22 vehicle fuels that achieve and maintain
23 greater overall reductions in emissions of
24 air toxics from reformulated gasoline than
25 the reductions that would be achieved



1 under section 211(k)(1)(B) of the Clean
2 Air Act as amended by this clause, then
3 sections 211(k)(1)(B)(i) through
4 211(k)(1)(B)(v) shall be null and void and
5 regulations promulgated thereunder shall
6 be rescinded and have no further effect.”.

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

19 (d) SAVINGS CLAUSE.—

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



1 (A) emissions of toxic air pollutants from
2 motor vehicles; or

3 (B) the adjustment of standards applicable
4 to a specific refinery or importer made under
5 those regulations.

6 (2) ADJUSTMENT OF STANDARDS.—

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

13 (i) the Administrator shall revise the
14 adjustments to be based only on calendar
15 years 1999 and 2000;

16 (ii) any such adjustment shall not be
17 made at a level below the average percent-
18 age of reductions of emissions of toxic air
19 pollutants for reformulated gasoline sup-
20 plied to PADD I during calendar years
21 1999 and 2000; and

22 (iii) in the case of an adjustment
23 based on toxic air pollutant emissions from
24 reformulated gasoline significantly below
25 the national annual average emissions of



1 toxic air pollutants from all reformulated
2 gasoline—

3 (I) the Administrator may revise
4 the adjustment to take account of the
5 scope of the prohibition on methyl ter-
6 tiary butyl ether imposed by para-
7 graph (5) of section 211(c) of the
8 Clean Air Act (as added by section
9 211(c)); and

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

19 **SEC. 1506. PUBLIC HEALTH AND ENVIRONMENTAL IM-**
20 **PACTS OF FUELS AND FUEL ADDITIVES.**

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

23 (1) in paragraph (2)—

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



1 (B) by striking subparagraph (A) and in-
2 serting the following:

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

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

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

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

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

21 “(I) ethyl tertiary butyl ether;

22 “(II) tertiary amyl methyl ether;

23 “(III) di-isopropyl ether;

24 “(IV) tertiary butyl alcohol;



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

4 “(VI) ethanol;

5 “(VII) iso-octane; and

6 “(VIII) alkylates; and

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

17 “(iii) submit to the Committee on En-
18 vironment and Public Works of the Senate
19 and the Committee on Energy and Com-
20 merce of the House of Representatives a
21 report describing the results of the studies
22 under clauses (i) and (ii).

23 “(B) CONTRACTS FOR STUDY.—In car-
24 rying out this paragraph, the Administrator



1 may enter into 1 or more contracts with non-
2 governmental entities such as—

3 “(i) the national energy laboratories;

4 and

5 “(ii) institutions of higher education

6 (as defined in section 101 of the Higher

7 Education Act of 1965 (20 U.S.C.

8 1001)).”.

9 **SEC. 1507. ANALYSES OF MOTOR VEHICLE FUEL CHANGES.**

10 Section 211 of the Clean Air Act (42 U.S.C. 7545)

11 (as amended by section 205(a)) is amended by inserting

12 after subsection (p) the following:

13 “(q) ANALYSES OF MOTOR VEHICLE FUEL CHANGES

14 AND EMISSIONS MODEL.—

15 “(1) ANTI-BACKSLIDING ANALYSIS.—

16 “(A) DRAFT ANALYSIS.—Not later than 4

17 years after the date of enactment of this para-

18 graph, the Administrator shall publish for pub-

19 lic comment a draft analysis of the changes in

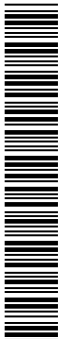
20 emissions of air pollutants and air quality due

21 to the use of motor vehicle fuel and fuel addi-

22 tives resulting from implementation of the

23 amendments made by the Federal Reformulated

24 Fuels Act of 2005.



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

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
11 gasoline characteristics or components on emissions
12 from vehicles in the motor vehicle fleet during cal-
13 endar 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,
17 the Administrator shall conduct a study, and
18 report to Congress the results of the study, on
19 the effects of ethanol content in gasoline on
20 permeation, the process by which fuel molecules
21 migrate through the elastomeric materials (rub-
22 ber and plastic parts) that make up the fuel
23 and fuel vapor systems of a motor vehicle.

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



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

5 **SEC. 1508. 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.—

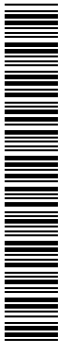
2 Under clause (i), the prohibition specified
3 in paragraph (5) shall apply in a State—

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. 1509. DATA COLLECTION.**

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

19 “(m) RENEWABLE FUELS SURVEY.—(1) In order to
20 improve the ability to evaluate the effectiveness of the Na-
21 tion’s renewable fuels mandate, the Administrator shall
22 conduct and publish the results of a survey of renewable
23 fuels demand in the motor vehicle fuels market in the
24 United States monthly, and in a manner designed to pro-
25 tect the confidentiality of individual responses. In con-



1 ducting the survey, the Administrator shall collect infor-
2 mation both on a national and regional basis, including
3 each of the following:

4 “(A) The quantity of renewable fuels produced.

5 “(B) The quantity of renewable fuels blended.

6 “(C) The quantity of renewable fuels imported.

7 “(D) The quantity of renewable fuels de-
8 manded.

9 “(E) Market price data.

10 “(F) Such other analyses or evaluations as the
11 Administrator finds is necessary to achieve the pur-
12 poses of this section.

13 “(2) The Administrator shall also collect or estimate
14 information both on a national and regional basis, pursu-
15 ant to subparagraphs (A) through (F) of paragraph (1),
16 for the 5 years prior to implementation of this subsection.

17 “(3) This subsection does not affect the authority of
18 the Administrator to collect data under section 52 of the
19 Federal Energy Administration Act of 1974 (15 U.S.C.
20 790a).”.

21 **SEC. 1510. FUEL SYSTEM REQUIREMENTS HARMONIZATION**

22 **STUDY.**

23 (a) STUDY.—

24 (1) IN GENERAL.—The Administrator of the
25 Environmental Protection Agency and the Secretary



1 of Energy shall jointly conduct a study of Federal,
2 State, and local requirements concerning motor vehi-
3 cle fuels, including—

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

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

10 (2) REQUIRED ELEMENTS.—The study shall
11 assess—

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

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

18 (i) national, regional, and local air
19 quality standards and goals; and

20 (ii) related environmental and public
21 health protection standards and goals (in-
22 cluding the protection of children, preg-
23 nant women, minority or low-income com-
24 munities, and other sensitive populations);



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

4 (i) domestic refiners;

5 (ii) the fuel distribution system; and

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

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

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

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

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

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

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



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

5 (G) the extent to which improvements in
6 air quality and any increases or decreases in
7 the price of motor fuel can be projected to re-
8 sult from the Environmental Protection Agen-
9 cy's Tier II requirements for conventional gaso-
10 line and vehicle emission systems, on-road and
11 off-road diesel rules, the reformulated gasoline
12 program, the renewable content requirements
13 established by this subtitle, State programs re-
14 garding gasoline volatility, and any other re-
15 quirements imposed by the Federal Govern-
16 ment, States or localities affecting the composi-
17 tion of motor fuel.

18 (b) REPORT.—

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

24 (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.

2 **SEC. 1511. [COMMERCIAL BYPRODUCTS FROM MUNICIPAL**
3 **SOLID WASTE AND CELLULOSIC BIOMASS**
4 **LOAN GUARANTEE PROGRAM].**

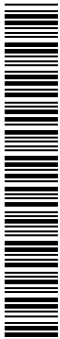
5 (a) DEFINITION OF MUNICIPAL SOLID WASTE.—In
6 this section, the term “municipal solid waste” has the
7 meaning given the term “solid waste” in section 1004 of
8 the Solid Waste Disposal Act (42 U.S.C. 6903).

9 (b) ESTABLISHMENT OF PROGRAM.—The Secretary
10 of Energy (hereinafter in this section referred to as the
11 “Secretary”) shall establish a program to provide guaran-
12 tees of loans by private institutions for the construction
13 of facilities for the processing and conversion of municipal
14 solid waste and cellulosic biomass into fuel ethanol and
15 other commercial byproducts.

16 (c) REQUIREMENTS.—The Secretary may provide a
17 loan guarantee under subsection (b) to an applicant if—

18 (1) without a loan guarantee, credit is not
19 available to the applicant under reasonable terms or
20 conditions sufficient to finance the construction of a
21 facility described in subsection (b);

22 (2) the prospective earning power of the appli-
23 cant and the character and value of the security
24 pledged provide a reasonable assurance of repayment



1 of the loan to be guaranteed in accordance with the
2 terms of the loan; and

3 (3) the loan bears interest at a rate determined
4 by the Secretary to be reasonable, taking into ac-
5 count the current average yield on outstanding obli-
6 gations of the United States with remaining periods
7 of maturity comparable to the maturity of the loan.

8 (d) CRITERIA.—In selecting recipients of loan guar-
9 antees from among applicants, the Secretary shall give
10 preference to proposals that—

11 (1) meet all applicable Federal and State per-
12 mitting requirements;

13 (2) are most likely to be successful; and

14 (3) are located in local markets that have the
15 greatest need for the facility because of—

16 (A) the limited availability of land for
17 waste disposal;

18 (B) the availability of sufficient quantities
19 of cellulosic biomass; or

20 (C) a high level of demand for fuel ethanol
21 or other commercial byproducts of the facility.

22 (e) MATURITY.—A loan guaranteed under subsection
23 (b) shall have a maturity of not more than 20 years.

24 (f) TERMS AND CONDITIONS.—The loan agreement
25 for a loan guaranteed under subsection (b) shall provide



1 that no provision of the loan agreement may be amended
2 or waived without the consent of the Secretary.

3 (g) ASSURANCE OF REPAYMENT.—The Secretary
4 shall require that an applicant for a loan guarantee under
5 subsection (b) provide an assurance of repayment in the
6 form of a performance bond, insurance, collateral, or other
7 means acceptable to the Secretary in an amount equal to
8 not less than 20 percent of the amount of the loan.

9 (h) GUARANTEE FEE.—The recipient of a loan guar-
10 antee under subsection (b) shall pay the Secretary an
11 amount determined by the Secretary to be sufficient to
12 cover the administrative costs of the Secretary relating to
13 the loan guarantee.

14 (i) FULL FAITH AND CREDIT.—The full faith and
15 credit of the United States is pledged to the payment of
16 all guarantees made under this section. Any such guar-
17 antee made by the Secretary shall be conclusive evidence
18 of the eligibility of the loan for the guarantee with respect
19 to principal and interest. The validity of the guarantee
20 shall be incontestable in the hands of a holder of the guar-
21 anteed loan.

22 (j) REPORTS.—Until each guaranteed loan under this
23 section has been repaid in full, the Secretary shall annu-
24 ally submit to Congress a report on the activities of the
25 Secretary under this section.



1 (k) AUTHORIZATION OF APPROPRIATIONS.—There
2 are authorized to be appropriated such sums as are nec-
3 essary to carry out this section.

4 (l) TERMINATION OF AUTHORITY.—The authority of
5 the Secretary to issue a loan guarantee under subsection
6 (b) terminates on the date that is 10 years after the date
7 of enactment of this Act.

8 **SEC. 1512. RENEWABLE FUEL.**

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

11 **“SEC. 212. RENEWABLE FUEL.**

12 **“(a) DEFINITIONS.—**In this section:

13 **“(1) MUNICIPAL SOLID WASTE.—**The term
14 ‘municipal solid waste’ has the meaning given the
15 term ‘solid waste’ in section 1004 of the Solid Waste
16 Disposal Act (42 U.S.C. 6903).

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

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

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

23 **“(1) SURVEY AND REPORT.—**Not later than
24 December 1, 2006, and annually thereafter, the Ad-
25 ministrator shall—



1 “(A) conduct, with respect to each conven-
2 tional gasoline use area and each reformulated
3 gasoline use area in each State, a survey to de-
4 termine the market shares of—

5 “(i) conventional gasoline containing
6 ethanol;

7 “(ii) reformulated gasoline containing
8 ethanol;

9 “(iii) conventional gasoline containing
10 renewable fuel; and

11 “(iv) reformulated gasoline containing
12 renewable fuel; and

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

16 “(2) RECORDKEEPING AND REPORTING RE-
17 QUIREMENTS.—

18 “(A) IN GENERAL.—The Administrator
19 may require any refiner, blender, or importer to
20 keep such records and make such reports as are
21 necessary to ensure that the survey conducted
22 under paragraph (1) is accurate.

23 “(B) RELIANCE ON EXISTING REQUIRE-
24 MENTS.—To avoid duplicative requirements, in
25 carrying out subparagraph (A), the Adminis-



1 trator shall rely, to the maximum extent prac-
2 ticable, on reporting and recordkeeping require-
3 ments in effect on the date of enactment of this
4 section.

5 “(3) CONFIDENTIALITY.—Activities carried out
6 under this subsection shall be conducted in a man-
7 ner designed to protect confidentiality of individual
8 responses.

9 “(c) CELLULOSIC BIOMASS ETHANOL AND MUNIC-
10 IPAL SOLID WASTE LOAN GUARANTEE PROGRAM.—

11 “(1) IN GENERAL.—Funds may be provided for
12 the cost (as defined in the Federal Credit Reform
13 Act of 1990 (2 U.S.C. 661 et seq.)) of loan guaran-
14 tees issued under title XIV of the Energy Policy Act
15 of 2005 to carry out commercial demonstration
16 projects for cellulosic biomass and sucrose-derived
17 ethanol.

18 “(2) DEMONSTRATION PROJECTS.—

19 “(A) IN GENERAL.—The Secretary shall
20 issue loan guarantees under this section to
21 carry out not more than 4 projects to commer-
22 cially demonstrate the feasibility and viability of
23 producing cellulosic biomass ethanol or sucrose-
24 derived ethanol, including at least 1 project that



1 uses cereal straw as a feedstock and 1 project
2 that uses 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 cellulosic biomass ethanol
6 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), a loan guarantee
25 under this section may be issued for up to 80



1 percent of the estimated cost of a project, but
2 may not exceed \$250,000,000 for a project.

3 “(B) ADDITIONAL GUARANTEES.—

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

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

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

21 “(6) INSUFFICIENT AMOUNTS.—If the amount
22 made available to carry out this section is insuffi-
23 cient to allow the Secretary to make loan guarantees
24 for 3 projects described in subsection (b), the Sec-
25 retary shall issue loan guarantees for 1 or more



1 qualifying projects under this section in the order in
2 which the applications for the projects are received
3 by the Secretary.

4 “(7) APPROVAL.—An application for a loan
5 guarantee under this section shall be approved or
6 disapproved by the Secretary not later than 90 days
7 after the application is received by the Secretary.

8 “(d) AUTHORIZATION OF APPROPRIATIONS FOR RE-
9 SOURCE CENTER.—There is authorized to be appro-
10 priated, for a resource center to further develop bioconver-
11 sion technology using low-cost biomass for the production
12 of ethanol at the Center for Biomass-Based Energy at the
13 Mississippi State University and the Oklahoma State Uni-
14 versity, \$4,000,000 for each of fiscal years 2005 through
15 2007.

16 “(e) RENEWABLE FUEL PRODUCTION RESEARCH
17 AND DEVELOPMENT GRANTS.—

18 “(1) IN GENERAL.—The Administrator shall
19 provide grants for the research into, and develop-
20 ment and implementation of, renewable fuel produc-
21 tion technologies in RFG States with low rates of
22 ethanol production, including low rates of production
23 of cellulosic biomass ethanol.

24 “(2) ELIGIBILITY.—



1 “(A) IN GENERAL.—The entities eligible to
2 receive a grant under this subsection are aca-
3 demic institutions in RFG States, and consortia
4 made up of combinations of academic institu-
5 tions, industry, State government agencies, or
6 local government agencies in RFG States, that
7 have proven experience and capabilities with
8 relevant technologies.

9 “(B) APPLICATION.—To be eligible to re-
10 ceive a grant under this subsection, an eligible
11 entity shall submit to the Administrator an ap-
12 plication in such manner and form, and accom-
13 panied by such information, as the Adminis-
14 trator may specify.

15 “(3) AUTHORIZATION OF APPROPRIATIONS.—
16 There is authorized to be appropriated to carry out
17 this subsection \$25,000,000 for each of fiscal years
18 2006 through 2010.

19 “(f) CELLULOSIC BIOMASS ETHANOL CONVERSION
20 ASSISTANCE.—

21 “(1) IN GENERAL.—The Secretary may provide
22 grants to merchant producers of cellulosic biomass
23 ethanol in the United States to assist the producers
24 in building eligible production facilities described in



1 paragraph (2) for the production of cellulosic bio-
2 mass ethanol.

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

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

7 “(B) uses cellulosic biomass feedstocks de-
8 rived from agricultural residues or municipal
9 solid waste.

10 “(3) AUTHORIZATION OF APPROPRIATIONS.—

11 There is authorized to be appropriated to carry out
12 this subsection—

13 “(A) \$250,000,000 for fiscal year 2006;

14 and

15 “(B) \$400,000,000 for fiscal year 2007.”.

16 (b) CONFORMING AMENDMENT.—The table of con-
17 tents for the Clean Air Act (42 U.S.C. 7401 prec.) is
18 amended by inserting after the item relating to section
19 211 the following:

“212. Renewable fuels.”.

20 **SEC. 1513. [CONVERSION ASSISTANCE FOR CELLULOSIC**
21 **BIOMASS, WASTE-DERIVED ETHANOL, AP-**
22 **PROVED RENEWABLE FUELS].**

23 Section 211 of the Clean Air Act (42 U.S.C. 7545)
24 is amended by adding at the end the following:



1 “(r) CONVERSION ASSISTANCE FOR CELLULOSIC
2 BIOMASS, WASTE-DERIVED ETHANOL, APPROVED RE-
3 NEWABLE FUELS.—

4 “(1) IN GENERAL.—The Secretary of Energy
5 may provide grants to merchant producers of cel-
6 lulosic biomass ethanol, waste-derived ethanol, and
7 approved renewable fuels in the United States to as-
8 sist the producers in building eligible production fa-
9 cilities described in paragraph (2) for the production
10 of ethanol or approved renewable fuels.

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

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

15 “(B) uses cellulosic or renewable biomass
16 or waste-derived feedstocks derived from agri-
17 cultural residues, wood residues, municipal solid
18 waste, or agricultural byproducts.

19 “(3) AUTHORIZATION OF APPROPRIATIONS.—
20 There are authorized to be appropriated the fol-
21 lowing amounts to carry out this subsection:

22 “(A) \$100,000,000 for fiscal year 2006.

23 “(B) \$250,000,000 for fiscal year 2007.

24 “(C) \$400,000,000 for fiscal year 2008.



1 “(4) DEFINITIONS.—For the purposes of this
2 subsection:

3 “(A) The term ‘approved renewable fuels’
4 are fuels and components of fuels that have
5 been approved by the Department of Energy, as
6 defined in section 301 of the Energy Policy Act
7 of 1992 (42 U.S.C. 13211)), which have been
8 made from renewable biomass.

9 “(B) The term ‘renewable biomass’ is, as
10 defined in Presidential Executive Order 13134,
11 published in the Federal Register on August
12 16, 1999, any organic matter that is available
13 on a renewable or recurring basis (excluding
14 old-growth timber), including dedicated energy
15 crops and trees, agricultural food and feed crop
16 residues, aquatic plants, animal wastes, wood
17 and wood residues, paper and paper residues,
18 and other vegetative waste materials. Old-
19 growth timber means timber of a forest from
20 the late successional stage of forest develop-
21 ment.”.

22 **SEC. 1514. BLENDING OF COMPLIANT REFORMULATED GAS-**
23 **OLINES.**

24 Section 211 of the Clean Air Act (42 U.S.C. 7545)
25 is amended by adding at the end the following:



1 “(s) BLENDING OF COMPLIANT REFORMULATED
2 GASOLINES.—

3 “(1) IN GENERAL.—Notwithstanding sub-
4 sections (h) and (k) and subject to the limitations in
5 paragraph (2) of this subsection, it shall not be a
6 violation of this subtitle for a gasoline retailer, dur-
7 ing any month of the year, to blend at a retail loca-
8 tion batches of ethanol-blended and non-ethanol-
9 blended reformulated gasoline, provided that—

10 “(A) each batch of gasoline to be blended
11 has been individually certified as in compliance
12 with subsections (h) and (k) prior to being
13 blended;

14 “(B) the retailer notifies the Administrator
15 prior to such blending, and identifies the exact
16 location of the retail station and the specific
17 tank in which such blending will take place;

18 “(C) the retailer retains and, as requested
19 by the Administrator or the Administrator’s
20 designee, makes available for inspection such
21 certifications accounting for all gasoline at the
22 retail outlet; and

23 “(D) the retailer does not, between June 1
24 and September 15 of each year, blend a batch
25 of VOC-controlled, or ‘summer’, gasoline with a



1 batch of non-VOC-controlled, or ‘winter’, gaso-
2 line (as these terms are defined under sub-
3 sections (h) and (k)).

4 “(2) LIMITATIONS.—

5 “(A) FREQUENCY LIMITATION.—A retailer shall
6 only be permitted to blend batches of compliant re-
7 formulated gasoline under this subsection a max-
8 imum of two blending periods between May 1 and
9 September 15 of each calendar year.

10 “(B) DURATION OF BLENDING PERIOD.—Each
11 blending period authorized under subparagraph (A)
12 shall extend for a period of no more than 10 con-
13 secutive calendar days.

14 “(3) SURVEYS.—A sample of gasoline taken
15 from a retail location that has blended gasoline with-
16 in the past 30 days and is in compliance with sub-
17 paragraphs (A), (B), (C), and (D) of paragraph (1)
18 shall not be used in a VOC survey mandated by 40
19 C.F.R. Part 80.

20 “(4) STATE IMPLEMENTATION PLANS.—A State
21 shall be held harmless and shall not be required to
22 revise its State implementation plan under section
23 110 to account for the emissions from blended gaso-
24 line authorized under paragraph (1).



1 “(5) PRESERVATION OF STATE LAW.—Nothing
2 in this subsection shall—

3 “(A) preempt existing State laws or regu-
4 lations regulating the blending of compliant
5 gasolines; or

6 “(B) prohibit a State from adopting such
7 restrictions in the future.

8 “(6) REGULATIONS.—The Administrator shall
9 promulgate, after notice and comment, regulations
10 implementing this subsection within one year after
11 the date of enactment of this subsection.

12 “(7) EFFECTIVE DATE.—This subsection shall
13 become effective 15 months after the date of its en-
14 actment and shall apply to blended batches of refor-
15 mulated gasoline on or after that date, regardless of
16 whether the implementing regulations required by
17 paragraph (6) have been promulgated by the Admin-
18 istrator by that date.

19 “(8) LIABILITY.—No person other than the
20 person responsible for blending under this subsection
21 shall be subject to an enforcement action or pen-
22 alties under subsection (d) solely arising from the
23 blending of compliant reformulated gasolines by the
24 retailers.



1 “(9) FORMULATION OF GASOLINE.—This sub-
2 section does not grant authority to the Adminis-
3 trator or any State (or any subdivision thereof) to
4 require reformulation of gasoline at the refinery to
5 adjust for potential or actual emissions increases due
6 to the blending authorized by this subsection.”.

7 **SEC. 1515. ADVANCED BIOFUEL TECHNOLOGIES PROGRAM.**

8 (a) IN GENERAL.—Subject to the availability of ap-
9 propriations under subsection (d), the Administrator of
10 the Environmental Protection Agency shall, in consulta-
11 tion with the Secretary of Agriculture and the Biomass
12 Research and Development Technical Advisory Committee
13 established under section 306 of the Biomass Research
14 and Development Act of 2000 (Public Law 106–224; 7
15 U.S.C. 8101 note), establish a program, to be known as
16 the “Advanced Biofuel Technologies Program”, to dem-
17 onstrate advanced technologies for the production of alter-
18 native transportation fuels.

19 (b) PRIORITY.—In carrying out the program under
20 subsection (a), the Administrator shall give priority to
21 projects that enhance the geographical diversity of alter-
22 native fuels production and utilize feedstocks that rep-
23 resent 10 percent or less of ethanol or biodiesel fuel pro-
24 duction in the United States during the previous fiscal
25 year.



1 (c) DEMONSTRATION PROJECTS.—

2 (1) IN GENERAL.—As part of the program
3 under subsection (a), the Administrator shall fund
4 demonstration projects—

5 (A) to develop not less than 4 different
6 conversion technologies for producing cellulosic
7 biomass ethanol; and

8 (B) to develop not less than 5 technologies
9 for coproducing value-added bioproducts (such
10 as fertilizers, herbicides, and pesticides) result-
11 ing from the production of biodiesel fuel.

12 (2) ADMINISTRATION.—Demonstration projects
13 under this subsection shall be—

14 (A) conducted based on a merit-reviewed,
15 competitive process; and

16 (B) subject to the cost-sharing require-
17 ments of section 1002.

18 (d) AUTHORIZATION OF APPROPRIATIONS.—There
19 are authorized to be appropriated to carry out this section
20 \$110,000,000 for each of fiscal years 2005 through 2009.

21 **SEC. 1516. WASTE-DERIVED ETHANOL AND BIODIESEL.**

22 Section 312(f)(1) of the Energy Policy Act of 1992
23 (42 U.S.C. 13220(f)(1)) is amended—

24 (1) by striking “‘biodiesel’ means” and insert-
25 ing the following: “‘biodiesel’—



1 “(A) means”; and

2 (2) in subparagraph (A) (as designated by
3 paragraph (1)) by striking “and” at the end and in-
4 serting the following:

5 “(B) includes biodiesel derived from—

6 “(i) animal wastes, including poultry
7 fats and poultry wastes, and other waste
8 materials; or

9 “(ii) municipal solid waste and
10 sludges and oils derived from wastewater
11 and the treatment of wastewater; and”.”

12 **Subtitle B—Underground Storage** 13 **Tank Compliance**

14 **SEC. 1521. SHORT TITLE.**

15 This subtitle may be cited as the “Underground Stor-
16 age Tank Compliance Act of 2005”.

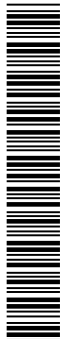
17 **SEC. 1522. LEAKING UNDERGROUND STORAGE TANKS.**

18 (a) IN GENERAL.—Section 9004 of the Solid Waste
19 Disposal Act (42 U.S.C. 6991e) is amended by adding at
20 the end the following:

21 “(f) TRUST FUND DISTRIBUTION.—

22 “(1) IN GENERAL.—

23 “(A) AMOUNT AND PERMITTED USES OF
24 DISTRIBUTION.—The Administrator shall dis-
25 tribute to States not less than 80 percent of the



1 funds from the Trust Fund that are made
2 available to the Administrator under section
3 9014(2)(A) for each fiscal year for use in pay-
4 ing the reasonable costs, incurred under a coop-
5 erative agreement with any State for—

6 “(i) corrective actions taken by the
7 State under section 9003(h)(7)(A);

8 “(ii) necessary administrative ex-
9 penses, as determined by the Adminis-
10 trator, that are directly related to State
11 fund or State assurance programs under
12 subsection (c)(1); or

13 “(iii) enforcement, by a State or a
14 local government, of State or local regula-
15 tions pertaining to underground storage
16 tanks regulated under this subtitle.

17 “(B) USE OF FUNDS FOR ENFORCE-
18 MENT.—In addition to the uses of funds au-
19 thorized under subparagraph (A), the Adminis-
20 trator may use funds from the Trust Fund that
21 are not distributed to States under subpara-
22 graph (A) for enforcement of any regulation
23 promulgated by the Administrator under this
24 subtitle.



1 “(C) PROHIBITED USES.—Funds provided
2 to a State by the Administrator under subpara-
3 graph (A) shall not be used by the State to pro-
4 vide financial assistance to an owner or oper-
5 ator to meet any requirement relating to under-
6 ground storage tanks under subparts B, C, D,
7 H, and G of part 280 of title 40, Code of Fed-
8 eral Regulations (as in effect on the date of en-
9 actment of this subsection).

10 “(2) ALLOCATION.—

11 “(A) PROCESS.—Subject to subparagraphs
12 (B) and (C), in the case of a State with which
13 the Administrator has entered into a coopera-
14 tive agreement under section 9003(h)(7)(A),
15 the Administrator shall distribute funds from
16 the Trust Fund to the State using an allocation
17 process developed by the Administrator.

18 “(B) DIVERSION OF STATE FUNDS.—The
19 Administrator shall not distribute funds under
20 subparagraph (A)(iii) of subsection (f)(1) to
21 any State that has diverted funds from a State
22 fund or State assurance program for purposes
23 other than those related to the regulation of un-
24 derground storage tanks covered by this sub-
25 title, with the exception of those transfers that



1 had been completed earlier than the date of en-
2 actment of this subsection.

3 “(C) REVISIONS TO PROCESS.—The Ad-
4 ministrator may revise the allocation process re-
5 ferred to in subparagraph (A) after—

6 “(i) consulting with State agencies re-
7 sponsible for overseeing corrective action
8 for releases from underground storage
9 tanks; and

10 “(ii) taking into consideration, at a
11 minimum, each of the following:

12 “(I) The number of confirmed re-
13 leases from federally regulated leaking
14 underground storage tanks in the
15 States.

16 “(II) The number of federally
17 regulated underground storage tanks
18 in the States.

19 “(III) The performance of the
20 States in implementing and enforcing
21 the program.

22 “(IV) The financial needs of the
23 States.



1 “(V) The ability of the States to
2 use the funds referred to in subpara-
3 graph (A) in any year.

4 “(3) DISTRIBUTIONS TO STATE AGENCIES.—
5 Distributions from the Trust Fund under this sub-
6 section shall be made directly to a State agency
7 that—

8 “(A) enters into a cooperative agreement
9 referred to in paragraph (2)(A); or

10 “(B) is enforcing a State program ap-
11 proved under this section.”.

12 (b) WITHDRAWAL OF APPROVAL OF STATE
13 FUNDS.—Section 9004(c) of the Solid Waste Disposal Act
14 (42 U.S.C. 6991c(c)) is amended by inserting the fol-
15 lowing new paragraph at the end thereof:

16 “(6) WITHDRAWAL OF APPROVAL.—After an
17 opportunity for good faith, collaborative efforts to
18 correct financial deficiencies with a State fund, the
19 Administrator may withdraw approval of any State
20 fund or State assurance program to be used as a fi-
21 nancial responsibility mechanism without with-
22 drawing approval of a State underground storage
23 tank program under section 9004(a).”.

24 (c) ABILITY TO PAY.—Section 9003(h)(6) of the
25 Solid Waste Disposal Act (42 U.S.C. 6591a(h)(6)) is



1 amended by adding the following new subparagraph at the
2 end thereof:

3 “(E) INABILITY OR LIMITED ABILITY TO
4 PAY.—

5 “(i) IN GENERAL.—In determining
6 the level of recovery effort, or amount that
7 should be recovered, the Administrator (or
8 the State pursuant to paragraph (7)) shall
9 consider the owner or operator’s ability to
10 pay. An inability or limited ability to pay
11 corrective action costs must be dem-
12 onstrated to the Administrator (or the
13 State pursuant to paragraph (7)) by the
14 owner or operator.

15 “(ii) CONSIDERATIONS.—In deter-
16 mining whether or not a demonstration is
17 made under clause (i), the Administrator
18 (or the State pursuant to paragraph (7))
19 shall take into consideration the ability of
20 the owner or operator to pay corrective ac-
21 tion costs and still maintain its basic busi-
22 ness operations, including consideration of
23 the overall financial condition of the owner
24 or operator and demonstrable constraints



1 on the ability of the owner or operator to
2 raise revenues.

3 “(iii) INFORMATION.—An owner or
4 operator requesting consideration under
5 this subparagraph shall promptly provide
6 the Administrator (or the State pursuant
7 to paragraph (7)) with all relevant infor-
8 mation needed to determine the ability of
9 the owner or operator to pay corrective ac-
10 tion costs.

11 “(iv) ALTERNATIVE PAYMENT METH-
12 ODS.—The Administrator (or the State
13 pursuant to paragraph (7)) shall consider
14 alternative payment methods as may be
15 necessary or appropriate if the Adminis-
16 trator (or the State pursuant to paragraph
17 (7)) determines that an owner or operator
18 cannot pay all or a portion of the costs in
19 a lump sum payment.

20 “(iii) MISREPRESENTATION.—If an
21 owner or operator provides false informa-
22 tion or otherwise misrepresents their finan-
23 cial situation under clause (ii), the Admin-
24 istrator (or the State pursuant to para-
25 graph (7)) shall seek full recovery of the



1 costs of all such actions pursuant to the
2 provisions of subparagraph (A) without
3 consideration of the factors in subpara-
4 graph (B).”.

5 **SEC. 1523. INSPECTION OF UNDERGROUND STORAGE**
6 **TANKS.**

7 (a) INSPECTION REQUIREMENTS.—Section 9005 of
8 the Solid Waste Disposal Act (42 U.S.C. 6991d) is amend-
9 ed by inserting the following new subsection at the end
10 thereof:

11 “(c) INSPECTION REQUIREMENTS.—

12 “(1) UNINSPECTED TANKS.—In the case of un-
13 derground storage tanks regulated under this sub-
14 title that have not undergone an inspection since De-
15 cember 22, 1998, not later than 2 years after the
16 date of enactment of this subsection, the Adminis-
17 trator or a State that receives funding under this
18 subtitle, as appropriate, shall conduct on-site inspec-
19 tions of all such tanks to determine compliance with
20 this subtitle and the regulations under this subtitle
21 (40 C.F.R. 280) or a requirement or standard of a
22 State program developed under section 9004.

23 “(2) PERIODIC INSPECTIONS.—After completion
24 of all inspections required under paragraph (1), the
25 Administrator or a State that receives funding under



1 this subtitle, as appropriate, shall conduct on-site in-
2 spections of each underground storage tank regu-
3 lated under this subtitle at least once every 3 years
4 to determine compliance with this subtitle and the
5 regulations under this subtitle (40 C.F.R. 280) or a
6 requirement or standard of a State program devel-
7 oped under section 9004. The Administrator may ex-
8 tend for up to one additional year the first 3-year
9 inspection interval under this paragraph if the State
10 demonstrates that it has insufficient resources to
11 complete all such inspections within the first 3-year
12 period.

13 “(3) INSPECTION AUTHORITY.—Nothing in this
14 section shall be construed to diminish the Adminis-
15 trator’s or a State’s authorities under section
16 9005(a).”.

17 (b) STUDY OF ALTERNATIVE INSPECTION PRO-
18 GRAMS.—The Administrator of the Environmental Protec-
19 tion Agency, in coordination with a State, shall gather in-
20 formation on compliance assurance programs that could
21 serve as an alternative to the inspection programs under
22 section 9005(c) of the Solid Waste Disposal Act (42
23 U.S.C. 6991d(c)) and shall, within 4 years after the date
24 of enactment of this Act, submit a report to the Congress
25 containing the results of such study.



1 **SEC. 1524. OPERATOR TRAINING.**

2 (a) IN GENERAL.—Section 9010 of the Solid Waste
3 Disposal Act (42 U.S.C. 6991i) is amended to read as fol-
4 lows:

5 **“SEC. 9010. OPERATOR TRAINING.**

6 “(a) GUIDELINES.—

7 “(1) IN GENERAL.—Not later than 2 years
8 after the date of enactment of the Underground
9 Storage Tank Compliance Act of 2005, in consulta-
10 tion and cooperation with States and after public no-
11 tice and opportunity for comment, the Administrator
12 shall publish guidelines that specify training require-
13 ments for—

14 “(A) persons having primary responsibility
15 for on-site operation and maintenance of under-
16 ground storage tank systems;

17 “(B) persons having daily on-site responsi-
18 bility for the operation and maintenance of un-
19 derground storage tanks systems; and

20 “(C) daily, on-site employees having pri-
21 mary responsibility for addressing emergencies
22 presented by a spill or release from an under-
23 ground storage tank system.

24 “(2) CONSIDERATIONS.—The guidelines de-
25 scribed in paragraph (1) shall take into account—



1 “(A) State training programs in existence
2 as of the date of publication of the guidelines;

3 “(B) training programs that are being em-
4 ployed by tank owners and tank operators as of
5 the date of enactment of the Underground Stor-
6 age Tank Compliance Act of 2005;

7 “(C) the high turnover rate of tank opera-
8 tors and other personnel;

9 “(D) the frequency of improvement in un-
10 derground storage tank equipment technology;

11 “(E) the nature of the businesses in which
12 the tank operators are engaged;

13 “(F) the substantial differences in the
14 scope and length of training needed for the dif-
15 ferent classes of persons described in subpara-
16 graphs (A), (B), and (C) of paragraph (1); and

17 “(G) such other factors as the Adminis-
18 trator determines to be necessary to carry out
19 this section.

20 “(b) STATE PROGRAMS.—

21 “(1) IN GENERAL.—Not later than 2 years
22 after the date on which the Administrator publishes
23 the guidelines under subsection (a)(1), each State
24 that receives funding under this subtitle shall de-
25 velop State-specific training requirements that are



1 consistent with the guidelines developed under sub-
2 section (a)(1).

3 “(2) REQUIREMENTS.—State requirements de-
4 scribed in paragraph (1) shall—

5 “(A) be consistent with subsection (a);

6 “(B) be developed in cooperation with tank
7 owners and tank operators;

8 “(C) take into consideration training pro-
9 grams implemented by tank owners and tank
10 operators as of the date of enactment of this
11 section; and

12 “(D) be appropriately communicated to
13 tank owners and operators.

14 “(3) FINANCIAL INCENTIVE.—The Adminis-
15 trator may award to a State that develops and im-
16 plements requirements described in paragraph (1),
17 in addition to any funds that the State is entitled to
18 receive under this subtitle, not more than \$200,000,
19 to be used to carry out the requirements.

20 “(c) TRAINING.—All persons that are subject to the
21 operator training requirements of subsection (a) shall—

22 “(1) meet the training requirements developed
23 under subsection (b); and

24 “(2) repeat the applicable requirements devel-
25 oped under subsection (b), if the tank for which they



1 have primary daily on-site management responsibil-
2 ities is determined to be out of compliance with—

3 “(A) a requirement or standard promul-
4 gated by the Administrator under section 9003;
5 or

6 “(B) a requirement or standard of a State
7 program approved under section 9004.”.

8 (b) STATE PROGRAM REQUIREMENT.—Section
9 9004(a) of the Solid Waste Disposal Act (42 U.S.C.
10 6991c(a)) is amended by striking “and” at the end of
11 paragraph (7), by striking the period at the end of para-
12 graph (8) and inserting “; and”, and by adding the fol-
13 lowing new paragraph at the end thereof:

14 “(9) State-specific training requirements as re-
15 quired by section 9010.”.

16 (c) ENFORCEMENT.—Section 9006(d)(2) of such Act
17 (42 U.S.C. 6991e) is amended as follows:

18 (1) By striking “or” at the end of subpara-
19 graph (B).

20 (2) By adding the following new subparagraph
21 after subparagraph (C):

22 “(D) the training requirements established by
23 States pursuant to section 9010 (relating to oper-
24 ator training); or”.



1 (d) TABLE OF CONTENTS.—The item relating to sec-
2 tion 9010 in table of contents for the Solid Waste Disposal
3 Act is amended to read as follows:

“Sec. 9010. Operator training.”.

4 **SEC. 1525. REMEDIATION FROM OXYGENATED FUEL ADDI-**
5 **TIVES.**

6 Section 9003(h) of the Solid Waste Disposal Act (42
7 U.S.C. 6991b(h)) is amended as follows:

8 (1) In paragraph (7)(A)—

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

12 (B) by striking “and including the authori-
13 ties of paragraphs (4), (6), and (8) of this sub-
14 section” and inserting “and the authority under
15 sections 9011 and 9012 and paragraphs (4),
16 (6), and (8),”.

17 (2) By adding at the end the following:

18 “(12) REMEDIATION OF OXYGENATED FUEL
19 CONTAMINATION.—

20 “(A) IN GENERAL.—The Administrator
21 and the States may use funds made available
22 under section 9014(2)(B) to carry out correc-
23 tive actions with respect to a release of a fuel
24 containing an oxygenated fuel additive that pre-



1 sents a threat to human health or welfare or
2 the environment.

3 “(B) APPLICABLE AUTHORITY.—The Ad-
4 ministrators or a State shall carry out subpara-
5 graph (A) in accordance with paragraph (2),
6 and in the case of a State, in accordance with
7 a cooperative agreement entered into by the Ad-
8 ministrators and the State under paragraph
9 (7).”.

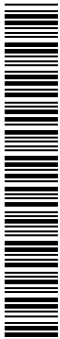
10 **SEC. 1526. RELEASE PREVENTION, COMPLIANCE, AND EN-**
11 **FORCEMENT.**

12 (a) RELEASE PREVENTION AND COMPLIANCE.—Sub-
13 title I of the Solid Waste Disposal Act (42 U.S.C. 6991
14 et seq.) is amended by adding at the end the following:

15 **“SEC. 9011. USE OF FUNDS FOR RELEASE PREVENTION AND**
16 **COMPLIANCE.**

17 “Funds made available under section 9014(2)(D)
18 from the Trust Fund may be used to conduct inspections,
19 issue orders, or bring actions under this subtitle—

20 “(1) by a State, in accordance with a grant or
21 cooperative agreement with the Administrator, of
22 State regulations pertaining to underground storage
23 tanks regulated under this subtitle; and



1 “(2) by the Administrator, for tanks regulated
2 under this subtitle (including under a State program
3 approved under section 9004).”.

4 (b) GOVERNMENT-OWNED TANKS.—Section 9003 of
5 the Solid Waste Disposal Act (42 U.S.C. 6991b) is amend-
6 ed by adding at the end the following:

7 “(i) GOVERNMENT-OWNED TANKS.—

8 “(1) STATE COMPLIANCE REPORT.—(A) Not
9 later than 2 years after the date of enactment of
10 this subsection, each State that receives funding
11 under this subtitle shall submit to the Administrator
12 a State compliance report that—

13 “(i) lists the location and owner of each
14 underground storage tank described in subpara-
15 graph (B) in the State that, as of the date of
16 submission of the report, is not in compliance
17 with section 9003; and

18 “(ii) specifies the date of the last inspec-
19 tion and describes the actions that have been
20 and will be taken to ensure compliance of the
21 underground storage tank listed under clause
22 (i) with this subtitle.

23 “(B) An underground storage tank described in
24 this subparagraph is an underground storage tank
25 that is—



1 “(i) regulated under this subtitle; and

2 “(ii) owned or operated by the Federal,
3 State, or local government.

4 “(C) The Administrator shall make each report,
5 received under subparagraph (A), available to the
6 public through an appropriate media.

7 “(2) FINANCIAL INCENTIVE.—The Adminis-
8 trator may award to a State that develops a report
9 described in paragraph (1), in addition to any other
10 funds that the State is entitled to receive under this
11 subtitle, not more than \$50,000, to be used to carry
12 out the report.

13 “(3) NOT A SAFE HARBOR.—This subsection
14 does not relieve any person from any obligation or
15 requirement under this subtitle.”.

16 (c) PUBLIC RECORD.—Section 9002 of the Solid
17 Waste Disposal Act (42 U.S.C. 6991a) is amended by add-
18 ing at the end the following:

19 “(d) PUBLIC RECORD.—

20 “(1) IN GENERAL.—The Administrator shall re-
21 quire each State that receives Federal funds to carry
22 out this subtitle to maintain, update at least annu-
23 ally, and make available to the public, in such man-
24 ner and form as the Administrator shall prescribe



1 (after consultation with States), a record of under-
2 ground storage tanks regulated under this subtitle.

3 “(2) CONSIDERATIONS.—To the maximum ex-
4 tent practicable, the public record of a State, respec-
5 tively, shall include, for each year—

6 “(A) the number, sources, and causes of
7 underground storage tank releases in the State;

8 “(B) the record of compliance by under-
9 ground storage tanks in the State with—

10 “(i) this subtitle; or

11 “(ii) an applicable State program ap-
12 proved under section 9004; and

13 “(C) data on the number of underground
14 storage tank equipment failures in the State.”.

15 (d) INCENTIVE FOR PERFORMANCE.—Section 9006
16 of the Solid Waste Disposal Act (42 U.S.C. 6991e) is
17 amended by adding at the end the following:

18 “(e) INCENTIVE FOR PERFORMANCE.—Both of the
19 following may be taken into account in determining the
20 terms of a civil penalty under subsection (d):

21 “(1) The compliance history of an owner or op-
22 erator in accordance with this subtitle or a program
23 approved under section 9004.

24 “(2) Any other factor the Administrator con-
25 siders appropriate.”.



1 (e) TABLE OF CONTENTS.—The table of contents for
2 such subtitle I is amended by adding the following new
3 item at the end thereof:

“Sec. 9011. Use of funds for release prevention and compliance.”.

4 **SEC. 1527. DELIVERY PROHIBITION.**

5 (a) IN GENERAL.—Subtitle I of the Solid Waste Dis-
6 posal Act (42 U.S.C. 6991 et seq.) is amended by adding
7 at the end the following:

8 **“SEC. 9012. DELIVERY PROHIBITION.**

9 “(a) REQUIREMENTS.—

10 “(1) PROHIBITION OF DELIVERY OR DE-
11 POSIT.—Beginning 2 years after the date of enact-
12 ment of this section, it shall be unlawful to deliver
13 to, deposit into, or accept a regulated substance into
14 an underground storage tank at a facility which has
15 been identified by the Administrator or a State im-
16 plementing agency to be ineligible for fuel delivery or
17 deposit.

18 “(2) GUIDANCE.—Within 1 year after the date
19 of enactment of this section, the Administrator and
20 States that receive funding under this subtitle shall,
21 in consultation with the underground storage tank
22 owner and product delivery industries, for territory
23 for which they are the primary implementing agen-
24 cies, publish guidelines detailing the specific proc-
25 esses and procedures they will use to implement the



1 provisions of this section. The processes and proce-
2 dures include, at a minimum—

3 “(A) the criteria for determining which un-
4 derground storage tank facilities are ineligible
5 for delivery or deposit;

6 “(B) the mechanisms for identifying which
7 facilities are ineligible for delivery or deposit to
8 the underground storage tank owning and fuel
9 delivery industries;

10 “(C) the process for reclassifying ineligible
11 facilities as eligible for delivery or deposit; and

12 “(D) a delineation of, or a process for de-
13 termining, the specified geographic areas sub-
14 ject to paragraph (4).

15 “(3) DELIVERY PROHIBITION NOTICE.—

16 “(A) ROSTER.—The Administrator and
17 each State implementing agency that receives
18 funding under this subtitle shall establish with-
19 in 24 months after the date of enactment of
20 this section a Delivery Prohibition Roster list-
21 ing underground storage tanks under the Ad-
22 ministrator’s or the State’s jurisdiction that are
23 determined to be ineligible for delivery or de-
24 posit pursuant to paragraph (2).



1 “(B) NOTIFICATION.—The Administrator
2 and each State, as appropriate, shall make
3 readily known, to underground storage tank
4 owners and operators and to product delivery
5 industries, the underground storage tanks listed
6 on a Delivery Prohibition Roster by:

7 “(i) posting such Rosters, including
8 the physical location and street address of
9 each listed underground storage tank, on
10 official web sites and, if the Administrator
11 or the State so chooses, other electronic
12 means;

13 “(ii) updating these Rosters periodically; and

14 “(iii) installing a tamper-proof tag,
15 seal, or other device blocking the fill pipes
16 of such underground storage tanks to prevent
17 the delivery of product into such underground
18 storage tanks.
19 storage tanks.

20 “(C) ROSTER UPDATES.—The Administrator
21 and the State shall update the Delivery
22 Prohibition Rosters as appropriate, but not less
23 than once a month on the first day of the
24 month.

25 “(D) TAMPERING WITH DEVICE.—



1 “(i) PROHIBITION.—It shall be unlaw-
2 ful for any person, other than an author-
3 ized representative of the Administrator or
4 a State, as appropriate, to remove, tamper
5 with, destroy, or damage a device installed
6 by the Administrator or a State, as appro-
7 priate, under subparagraph (B)(iii) of this
8 subsection.

9 “(ii) CIVIL PENALTIES.—Any person
10 violating clause (i) of this subparagraph
11 shall be subject to a civil penalty not to ex-
12 ceed \$10,000 for each violation.

13 “(4) LIMITATION.—

14 “(A) RURAL AND REMOTE AREAS.—Sub-
15 ject to subparagraph (B), the Administrator or
16 a State shall not include an underground stor-
17 age tank on a Delivery Prohibition Roster
18 under paragraph (3) if an urgent threat to pub-
19 lic health, as determined by the Administrator,
20 does not exist and if such a delivery prohibition
21 would jeopardize the availability of, or access
22 to, fuel in any rural and remote areas.

23 “(B) APPLICABILITY OF LIMITATION.—
24 The limitation under subparagraph (A) shall
25 apply only during the 180-day period following



1 the date of a determination by the Adminis-
2 trator or the appropriate State that exercising
3 the authority of paragraph (3) is limited by
4 subparagraph (A).

5 “(b) EFFECT ON STATE AUTHORITY.—Nothing in
6 this section shall affect the authority of a State to prohibit
7 the delivery of a regulated substance to an underground
8 storage tank.

9 “(c) DEFENSE TO VIOLATION.—A person shall not
10 be in violation of subsection (a)(1) if the underground
11 storage tank into which a regulated substance is delivered
12 is not listed on the Administrator’s or the appropriate
13 State’s Prohibited Delivery Roster 7 calendar days prior
14 to the delivery being made.”.

15 (b) ENFORCEMENT.—Section 9006(d)(2) of such Act
16 (42 U.S.C. 6991e(d)(2)) is amended as follows:

17 (1) By adding the following new subparagraph
18 after subparagraph (D):

19 “(E) the delivery prohibition requirement estab-
20 lished by section 9012,”.

21 (2) By adding the following new sentence at the
22 end thereof: “Any person making or accepting a de-
23 livery or deposit of a regulated substance to an un-
24 derground storage tank at an ineligible facility in



1 violation of section 9012 shall also be subject to the
2 same civil penalty for each day of such violation.”.

3 (c) TABLE OF CONTENTS.—The table of contents for
4 such subtitle I is amended by adding the following new
5 item at the end thereof:

“Sec. 9012. Delivery prohibition.”.

6 **SEC. 1528. FEDERAL FACILITIES.**

7 Section 9007 of the Solid Waste Disposal Act (42
8 U.S.C. 6991f) is amended to read as follows:

9 **“SEC. 9007. FEDERAL FACILITIES.**

10 “(a) IN GENERAL.—Each department, agency, and
11 instrumentality of the executive, legislative, and judicial
12 branches of the Federal Government (1) having jurisdic-
13 tion over any underground storage tank or underground
14 storage tank system, or (2) engaged in any activity result-
15 ing, or which may result, in the installation, operation,
16 management, or closure of any underground storage tank,
17 release response activities related thereto, or in the deliv-
18 ery, acceptance, or deposit of any regulated substance to
19 an underground storage tank or underground storage tank
20 system shall be subject to, and comply with, all Federal,
21 State, interstate, and local requirements, both substantive
22 and procedural (including any requirement for permits or
23 reporting or any provisions for injunctive relief and such
24 sanctions as may be imposed by a court to enforce such
25 relief), respecting underground storage tanks in the same



1 manner, and to the same extent, as any person is subject
2 to such requirements, including the payment of reasonable
3 service charges. The Federal, State, interstate, and local
4 substantive and procedural requirements referred to in
5 this subsection include, but are not limited to, all adminis-
6 trative orders and all civil and administrative penalties
7 and fines, regardless of whether such penalties or fines
8 are punitive or coercive in nature or are imposed for iso-
9 lated, intermittent, or continuing violations. The United
10 States hereby expressly waives any immunity otherwise
11 applicable to the United States with respect to any such
12 substantive or procedural requirement (including, but not
13 limited to, any injunctive relief, administrative order or
14 civil or administrative penalty or fine referred to in the
15 preceding sentence, or reasonable service charge). The rea-
16 sonable service charges referred to in this subsection in-
17 clude, but are not limited to, fees or charges assessed in
18 connection with the processing and issuance of permits,
19 renewal of permits, amendments to permits, review of
20 plans, studies, and other documents, and inspection and
21 monitoring of facilities, as well as any other nondiscrim-
22 inatory charges that are assessed in connection with a
23 Federal, State, interstate, or local underground storage
24 tank regulatory program. Neither the United States, nor
25 any agent, employee, or officer thereof, shall be immune



1 or exempt from any process or sanction of any State or
2 Federal Court with respect to the enforcement of any such
3 injunctive relief. No agent, employee, or officer of the
4 United States shall be personally liable for any civil pen-
5 alty under any Federal, State, interstate, or local law con-
6 cerning underground storage tanks with respect to any act
7 or omission within the scope of the official duties of the
8 agent, employee, or officer. An agent, employee, or officer
9 of the United States shall be subject to any criminal sanc-
10 tion (including, but not limited to, any fine or imprison-
11 ment) under any Federal or State law concerning under-
12 ground storage tanks, but no department, agency, or in-
13 strumentality of the executive, legislative, or judicial
14 branch of the Federal Government shall be subject to any
15 such sanction. The President may exempt any under-
16 ground storage tank of any department, agency, or instru-
17 mentality in the executive branch from compliance with
18 such a requirement if he determines it to be in the para-
19 mount interest of the United States to do so. No such
20 exemption shall be granted due to lack of appropriation
21 unless the President shall have specifically requested such
22 appropriation as a part of the budgetary process and the
23 Congress shall have failed to make available such re-
24 quested appropriation. Any exemption shall be for a period
25 not in excess of one year, but additional exemptions may



1 be granted for periods not to exceed one year upon the
2 President's making a new determination. The President
3 shall report each January to the Congress all exemptions
4 from the requirements of this section granted during the
5 preceding calendar year, together with his reason for
6 granting each such exemption.

7 “(b) REVIEW OF AND REPORT ON FEDERAL UNDER-
8 GROUND STORAGE TANKS.—

9 “(1) REVIEW.—Not later than 12 months after
10 the date of enactment of the Underground Storage
11 Tank Compliance Act of 2005, each Federal agency
12 that owns or operates 1 or more underground stor-
13 age tanks, or that manages land on which 1 or more
14 underground storage tanks are located, shall submit
15 to the Administrator, the Committee on Energy and
16 Commerce of the United States House of Represent-
17 atives, and the Committee on the Environment and
18 Public Works of the United States Senate a compli-
19 ance strategy report that—

20 “(A) lists the location and owner of each
21 underground storage tank described in this
22 paragraph;

23 “(B) lists all tanks that are not in compli-
24 ance with this subtitle that are owned or oper-
25 ated by the Federal agency;



1 “(C) specifies the date of the last inspec-
2 tion by a State or Federal inspector of each un-
3 derground storage tank owned or operated by
4 the agency;

5 “(D) lists each violation of this subtitle re-
6 specting any underground storage tank owned
7 or operated by the agency;

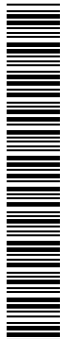
8 “(E) describes the operator training that
9 has been provided to the operator and other
10 persons having primary daily on-site manage-
11 ment responsibility for the operation and main-
12 tenance of underground storage tanks owned or
13 operated by the agency; and

14 “(F) describes the actions that have been
15 and will be taken to ensure compliance for each
16 underground storage tank identified under sub-
17 paragraph (B).

18 “(2) NOT A SAFE HARBOR.—This subsection
19 does not relieve any person from any obligation or
20 requirement under this subtitle.”.

21 **SEC. 1529. TANKS ON TRIBAL LANDS.**

22 (a) IN GENERAL.—Subtitle I of the Solid Waste Dis-
23 posal Act (42 U.S.C. 6991 et seq.) is amended by adding
24 the following at the end thereof:



1 **“SEC. 9013. TANKS ON TRIBAL LANDS.**

2 “(a) STRATEGY.—The Administrator, in coordination
3 with Indian tribes, shall, not later than 1 year after the
4 date of enactment of this section, develop and implement
5 a strategy—

6 “(1) giving priority to releases that present the
7 greatest threat to human health or the environment,
8 to take necessary corrective action in response to re-
9 leases from leaking underground storage tanks lo-
10 cated wholly within the boundaries of—

11 “(A) an Indian reservation; or

12 “(B) any other area under the jurisdiction
13 of an Indian tribe; and

14 “(2) to implement and enforce requirements
15 concerning underground storage tanks located wholly
16 within the boundaries of—

17 “(A) an Indian reservation; or

18 “(B) any other area under the jurisdiction
19 of an Indian tribe.

20 “(b) REPORT.—Not later than 2 years after the date
21 of enactment of this section, the Administrator shall sub-
22 mit to Congress a report that summarizes the status of
23 implementation and enforcement of this subtitle in areas
24 located wholly within—

25 “(1) the boundaries of Indian reservations; and



1 “(2) any other areas under the jurisdiction of
2 an Indian tribe.

3 The Administrator shall make the report under this sub-
4 section available to the public.

5 “(c) NOT A SAFE HARBOR.—This section does not
6 relieve any person from any obligation or requirement
7 under this subtitle.

8 “(d) STATE AUTHORITY.—Nothing in this section
9 applies to any underground storage tank that is located
10 in an area under the jurisdiction of a State, or that is
11 subject to regulation by a State, as of the date of enact-
12 ment of this section.”.

13 (b) TABLE OF CONTENTS.—The table of contents for
14 such subtitle I is amended by adding the following new
15 item at the end thereof:

“Sec. 9013. Tanks on Tribal lands.”.

16 **SEC. 1530. ADDITIONAL MEASURES TO PROTECT GROUND-**
17 **WATER.**

18 (a) IN GENERAL.—Section 9003 of the Solid Waste
19 Disposal Act (42 U.S.C. 6991b) is amended by adding the
20 following new subsection at the end:

21 “(i) ADDITIONAL MEASURES TO PROTECT GROUND-
22 WATER FROM CONTAMINATION.—The Administrator shall
23 require each State that receives funding under this sub-
24 title to require one of the following:



1 “(1) TANK AND PIPING SECONDARY CONTAIN-
2 MENT.—(A) Each new underground storage tank, or
3 piping connected to any such new tank, installed
4 after the effective date of this subsection, or any ex-
5 isting underground storage tank, or existing piping
6 connected to such existing tank, that is replaced
7 after the effective date of this subsection, shall be
8 secondarily contained and monitored for leaks if the
9 new or replaced underground storage tank or piping
10 is within 1,000 feet of any existing community water
11 system or any existing potable drinking water well.

12 “(B) In the case of a new underground storage
13 tank system consisting of one or more underground
14 storage tanks and connected by piping, subpara-
15 graph (A) shall apply to all underground storage
16 tanks and connected pipes comprising such system.

17 “(C) In the case of a replacement of an existing
18 underground storage tank or existing piping con-
19 nected to the underground storage tank, subpara-
20 graph (A) shall apply only to the specific under-
21 ground storage tank or piping being replaced, not to
22 other underground storage tanks and connected
23 pipes comprising such system.

24 “(D) Each installation of a new motor fuel dis-
25 penser system, after the effective date of this sub-



1 section, shall include under-dispenser spill contain-
2 ment if the new dispenser is within 1,000 feet of any
3 existing community water system or any existing po-
4 table drinking water well.

5 “(E) This paragraph shall not apply to repairs
6 to an underground storage tank, piping, or dispenser
7 that are meant to restore a tank, pipe, or dispenser
8 to operating condition

9 “(F) As used in this subsection:

10 “(i) The term ‘secondarily contained’
11 means a release detection and prevention sys-
12 tem that meets the requirements of 40 CFR
13 280.43(g), but shall not include under-dispenser
14 spill containment or control systems.

15 “(ii) The term ‘underground storage tank’
16 has the meaning given to it in section 9001, ex-
17 cept that such term does not include tank com-
18 binations or more than a single underground
19 pipe connected to a tank.

20 “(iii) The term ‘installation of a new motor
21 fuel dispenser system’ means the installation of
22 a new motor fuel dispenser and the equipment
23 necessary to connect the dispenser to the under-
24 ground storage tank system, but does not mean
25 the installation of a motor fuel dispenser in-



1 stalled separately from the equipment need to
2 connect the dispenser to the underground stor-
3 age tank system.

4 “(2) EVIDENCE OF FINANCIAL RESPONSIBILITY
5 AND CERTIFICATION.—

6 “(A) MANUFACTURER AND INSTALLER FI-
7 NANCIAL RESPONSIBILITY.—A person that
8 manufactures an underground storage tank or
9 piping for an underground storage tank system
10 or that installs an underground storage tank
11 system is required to maintain evidence of fi-
12 nancial responsibility under section 9003(d) in
13 order to provide for the costs of corrective ac-
14 tions directly related to releases caused by im-
15 proper manufacture or installation unless the
16 person can demonstrate themselves to be al-
17 ready covered as an owner or operator of an
18 underground storage tank under section 9003.

19 “(B) INSTALLER CERTIFICATION.—The
20 Administrator and each State that receives
21 funding under this subtitle, as appropriate,
22 shall require that a person that installs an un-
23 derground storage tank system is—

24 “(i) certified or licensed by the tank
25 and piping manufacturer;



1 “(ii) certified or licensed by the Ad-
2 ministrator or a State, as appropriate;

3 “(iii) has their underground storage
4 tank system installation certified by a reg-
5 istered professional engineer with edu-
6 cation and experience in underground stor-
7 age tank system installation;

8 “(iv) has had their installation of the
9 underground storage tank inspected and
10 approved by the Administrator or the
11 State, as appropriate;

12 “(v) compliant with a code of practice
13 developed by a nationally recognized asso-
14 ciation or independent testing laboratory
15 and in accordance with the manufacturers
16 instructions; or

17 “(vi) compliant with another method
18 that is determined by the Administrator or
19 a State, as appropriate, to be no less pro-
20 tective of human health and the environ-
21 ment.”.

22 (b) EFFECTIVE DATE.—This subsection shall take
23 effect 18 months after the date of enactment of this sub-
24 section.



1 (c) PROMULGATION OF REGULATIONS OR GUIDE-
2 LINES.—The Administrator shall issue regulations or
3 guidelines implementing the requirements of this sub-
4 section, including guidance to differentiate between the
5 terms “repair” and “replace” for the purposes of section
6 9003(i)(1) of the Solid Waste Disposal Act.

7 (d) PENALTIES.—Section 9006(d)(2) of such Act (42
8 U.S.C. 6991e(d)(2)) is amended as follows:

9 (1) By striking “or” at the end of subpara-
10 graph (B).

11 (2) By inserting “; or” at the end of subpara-
12 graph (C).

13 (3) By adding the following new subparagraph
14 after subparagraph (C):

15 “(D) the requirements established in sec-
16 tion 9003(i),”.

17 **SEC. 1531. AUTHORIZATION OF APPROPRIATIONS.**

18 (a) IN GENERAL.—Subtitle I of the Solid Waste Dis-
19 posal Act (42 U.S.C. 6991 et seq.) is amended by adding
20 at the end the following:

21 **“SEC. 9014. AUTHORIZATION OF APPROPRIATIONS.**

22 “There are authorized to be appropriated to the Ad-
23 ministrator the following amounts:



1 “(1) To carry out subtitle I (except sections
2 9003(h), 9005(c), 9011 and 9012) \$50,000,000 for
3 each of fiscal years 2005 through 2009.

4 “(2) From the Trust Fund, notwithstanding
5 section 9508(c)(1) of the Internal Revenue Code of
6 1986:

7 “(A) to carry out section 9003(h) (except
8 section 9003(h)(12)) \$200,000,000 for each of
9 fiscal years 2005 through 2009;

10 “(B) to carry out section 9003(h)(12),
11 \$200,000,000 for each of fiscal years 2005
12 through 2009;

13 “(C) to carry out sections 9003(i),
14 9004(f), and 9005(c) \$100,000,000 for each of
15 fiscal years 2005 through 2009; and

16 “(D) to carry out sections 9010, 9011,
17 9012, and 9013 \$55,000,000 for each of fiscal
18 years 2005 through 2009.”.

19 (b) TABLE OF CONTENTS.—The table of contents for
20 such subtitle I is amended by adding the following new
21 item at the end thereof:

 “Sec. 9014. Authorization of appropriations.”.

22 **SEC. 1532. CONFORMING AMENDMENTS.**

23 (a) IN GENERAL.—Section 9001 of the Solid Waste
24 Disposal Act (42 U.S.C. 6991) is amended as follows:



1 (1) By striking “For the purposes of this sub-
2 title—” and inserting “In this subtitle:”.

3 (2) By redesignating paragraphs (1), (2), (3),
4 (4), (5), (6), (7), and (8) as paragraphs (10), (7),
5 (4), (3), (8), (5), (2), and (6), respectively.

6 (3) By inserting before paragraph (2) (as reded-
7 igned by paragraph (2) of this subsection) the fol-
8 lowing:

9 “(1) INDIAN TRIBE.—

10 “(A) IN GENERAL.—The term ‘Indian
11 tribe’ means any Indian tribe, band, nation, or
12 other organized group or community that is rec-
13 ognized as being eligible for special programs
14 and services provided by the United States to
15 Indians because of their status as Indians.

16 “(B) INCLUSIONS.—The term ‘Indian
17 tribe’ includes an Alaska Native village, as de-
18 fined in or established under the Alaska Native
19 Claims Settlement Act (43 U.S.C. 1601 et
20 seq.); and”.

21 (4) By inserting after paragraph (8) (as reded-
22 igned by paragraph (2) of this subsection) the fol-
23 lowing:

24 “(9) TRUST FUND.—The term ‘Trust Fund’
25 means the Leaking Underground Storage Tank



1 Trust Fund established by section 9508 of the Inter-
2 nal Revenue Code of 1986.”.

3 (b) CONFORMING AMENDMENTS.—The Solid Waste
4 Disposal Act (42 U.S.C. 6901 and following) is amended
5 as follows:

6 (1) Section 9003(f) (42 U.S.C. 6991b(f)) is
7 amended—

8 (A) in paragraph (1), by striking
9 “9001(2)(B)” and inserting “9001(7)(B)”; and

10 (B) in paragraphs (2) and (3), by striking
11 “9001(2)(A)” each place it appears and insert-
12 ing “9001(7)(A)”.

13 (2) Section 9003(h) (42 U.S.C. 6991b(h)) is
14 amended in paragraphs (1), (2)(C), (7)(A), and (11)
15 by striking “Leaking Underground Storage Tank
16 Trust Fund” each place it appears and inserting
17 “Trust Fund”.

18 (3) Section 9009 (42 U.S.C. 6991h) is
19 amended—

20 (A) in subsection (a), by striking
21 “9001(2)(B)” and inserting “9001(7)(B)”; and

22 (B) in subsection (d), by striking “section
23 9001(1) (A) and (B)” and inserting “subpara-
24 graphs (A) and (B) of section 9001(10)”.



1 **SEC. 1533. TECHNICAL AMENDMENTS.**

2 The Solid Waste Disposal Act is amended as follows:

3 (1) Section 9001(4)(A) (42 U.S.C. 6991(4)(A))
4 is amended by striking “sustances” and inserting
5 “substances”.

6 (2) Section 9003(f)(1) (42 U.S.C. 6991b(f)(1))
7 is amended by striking “subsection (c) and (d) of
8 this section” and inserting “subsections (c) and
9 (d)”.

10 (3) Section 9004(a) (42 U.S.C. 6991c(a)) is
11 amended by striking “in 9001(2) (A) or (B) or
12 both” and inserting “in subparagraph (A) or (B) of
13 section 9001(7)”.

14 (4) Section 9005 (42 U.S.C. 6991d) is
15 amended—

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

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

20 (C) in subsection (b)(4), by striking
21 “Evironmental” and inserting “Environ-
22 mental”.



1 **Subtitle C—Boutique Fuels**

2 **SEC. 1531. REDUCING THE PROLIFERATION OF BOUTIQUE**
3 **FUELS.**

4 (a) TEMPORARY WAIVERS DURING SUPPLY EMER-
5 GENCIES.—Section 211(c)(4)(C) of the Clean Air Act (42
6 U.S.C. 7545(c)(4)(C)) is amended by inserting “(i)” after
7 “(C)” and by adding the following new clauses at the end
8 thereof:

9 “(ii) The Administrator may temporarily waive a con-
10 trol or prohibition respecting the use of a fuel or fuel addi-
11 tive required or regulated by the Administrator pursuant
12 to subsection (c), (h), (i), (k), or (m) of this section or
13 prescribed in an applicable implementation plan under sec-
14 tion 110 approved by the Administrator under clause (i)
15 of this subparagraph if, after consultation with, and con-
16 currence by, the Secretary of Energy, the Administrator
17 determines that—

18 “(I) extreme and unusual fuel or fuel additive
19 supply circumstances exist in a State or region of
20 the Nation which prevent the distribution of an ade-
21 quate supply of the fuel or fuel additive to con-
22 sumers;

23 “(II) such extreme and unusual fuel and fuel
24 additive supply circumstances are the result of a
25 natural disaster, an Act of God, a pipeline or refin-



1 ery equipment failure, or another event that could
2 not reasonably have been foreseen or prevented and
3 not the lack of prudent planning on the part of the
4 suppliers of the fuel or fuel additive to such State
5 or region; and

6 “(III) it is in the public interest to grant the
7 waiver (for example, when a waiver is necessary to
8 meet projected temporary shortfalls in the supply of
9 the fuel or fuel additive in a State or region of the
10 Nation which cannot otherwise be compensated for).

11 “(iii) If the Administrator makes the determinations
12 required under clause (ii), such a temporary extreme and
13 unusual fuel and fuel additive supply circumstances waiver
14 shall be permitted only if—

15 “(I) the waiver applies to the smallest geo-
16 graphic area necessary to address the extreme and
17 unusual fuel and fuel additive supply circumstances;

18 “(II) the waiver is effective for a period of 20
19 calendar days or, if the Administrator determines
20 that a shorter waiver period is adequate, for the
21 shortest practicable time period necessary to permit
22 the correction of the extreme and unusual fuel and
23 fuel additive supply circumstances and to mitigate
24 impact on air quality;



1 “(III) the waiver permits a transitional period,
2 the exact duration of which shall be determined by
3 the Administrator (but which shall be for the short-
4 est practicable period), after the termination of the
5 temporary waiver to permit wholesalers and retailers
6 to blend down their wholesale and retail inventory;

7 “(IV) the waiver applies to all persons in the
8 motor fuel distribution system; and

9 “(V) the Administrator has given public notice
10 to all parties in the motor fuel distribution system,
11 and local and State regulators, in the State or re-
12 gion to be covered by the waiver.

13 The term ‘motor fuel distribution system’ as used in this
14 clause shall be defined by the Administrator through rule-
15 making.

16 “(iv) Within 180 days of the date of enactment of
17 this clause, the Administrator shall promulgate regula-
18 tions to implement clauses (ii) and (iii).

19 “(v) Nothing in this subparagraph shall—

20 “(I) limit or otherwise affect the application of
21 any other waiver authority of the Administrator pur-
22 suant to this section or pursuant to a regulation
23 promulgated pursuant to this section; and

24 “(II) subject any State or person to an enforce-
25 ment action, penalties, or liability solely arising from



1 actions taken pursuant to the issuance of a waiver
2 under this subparagraph.”.

3 (b) LIMIT ON NUMBER OF BOUTIQUE FUELS.—Sec-
4 tion 211(c)(4)(C) of the Clean Air Act (42 U.S.C.
5 7545(c)(4)), as amended by subsection (a), is further
6 amended by adding at the end the following:

7 “(v)(I) The Administrator shall have no authority,
8 when considering a State implementation plan or a State
9 implementation plan revision, to approve under this para-
10 graph any fuel included in such plan or revision if the ef-
11 fect of such approval increases the total number of fuels
12 approved under this paragraph as of September 1, 2004,
13 in all State implementation plans.

14 “(II) The Administrator, in consultation with the
15 Secretary of Energy, shall determine the total number of
16 fuels approved under this paragraph as of September 1,
17 2004, in all State implementation plans and shall publish
18 a list of such fuels, including the states and Petroleum
19 Administration for Defense District in which they are
20 used, in the Federal Register for public review and com-
21 ment no later than 90 days after enactment.

22 “(III) The Administrator shall remove a fuel from the
23 list published under subclause (II) if a fuel ceases to be
24 included in a State implementation plan or if a fuel in
25 a State implementation plan is identical to a Federal fuel



1 formulation implemented by the Administrator, but the
2 Administrator shall not reduce the total number of fuels
3 authorized under the list published under subclause (II).

4 “(IV) Subclause (I) shall not limit the Administra-
5 tor’s authority to approve a control or prohibition respect-
6 ing any new fuel under this paragraph in a State imple-
7 mentation plan or revision to a State implementation plan
8 if such new fuel:

9 “(aa) completely replaces a fuel on the list pub-
10 lished under subclause (II); or

11 “(bb) does not increase the total number of
12 fuels on the list published under subclause (II) as of
13 September 1, 2004.

14 In the event that the total number of fuels on the list pub-
15 lished under subclause (II) at the time of the Administra-
16 tor’s consideration of a control or prohibition respecting
17 a new fuel is lower than the total number of fuels on such
18 list as of September 1, 2004, the Administrator may ap-
19 prove a control or prohibition respecting a new fuel under
20 this subclause if the Administrator, after consultation with
21 the Secretary of Energy, publishes in the Federal Register
22 after notice and comment a finding that, in the Adminis-
23 trator’s judgment, such control or prohibition respecting
24 a new fuel will not cause fuel supply or distribution inter-



1 ruptions or have a significant adverse impact on fuel
2 producibility in the affected area or contiguous areas.

3 “(V) The Administrator shall have no authority
4 under this paragraph, when considering any particular
5 State’s implementation plan or a revision to that State’s
6 implementation plan, to approve any fuel unless that fuel
7 was, as of the date of such consideration, approved in at
8 least one State implementation plan in the applicable Pe-
9 troleum Administration for Defense District. However, the
10 Administrator may approve as part of a State implementa-
11 tion plan or State implementation plan revision a fuel with
12 a summertime Reid Vapor Pressure of 7.0 psi. In no event
13 shall such approval by the Administrator cause an increase
14 in the total number of fuels on the list published under
15 subclause (II).

16 “(VI) Nothing in this clause shall be construed to
17 have any effect regarding any available authority of States
18 to require the use of any fuel additive registered in accord-
19 ance with subsection (b), including any fuel additive reg-
20 istered in accordance with subsection (b) after the enact-
21 ment of this subclause.”.

22 (c) STUDY AND REPORT TO CONGRESS ON BOU-
23 TIQUE FUELS.—

24 (1) JOINT STUDY.—The Administrator of the
25 Environmental Protection Agency and the Secretary



1 shall undertake a study of the effects on air quality,
2 on the number of fuel blends, on fuel availability, on
3 fuel fungibility, and on fuel costs of the State plan
4 provisions adopted pursuant to section 211(c)(4)(C)
5 of the Clean Air Act (42 U.S.C. 7545(c)(4)(C)).

6 (2) FOCUS OF STUDY.—The primary focus of
7 the study required under paragraph (1) shall be to
8 determine how to develop a Federal fuels system
9 that maximizes motor fuel fungibility and supply,
10 addresses air quality requirements, and reduces
11 motor fuel price volatility including that which has
12 resulted from the proliferation of boutique fuels, and
13 to recommend to Congress such legislative changes
14 as are necessary to implement such a system. The
15 study should include the impacts on overall energy
16 supply, distribution, and use as a result of the legis-
17 lative changes recommended.

18 (3) CONDUCT OF STUDY.—In carrying out their
19 joint duties under this section, the Administrator
20 and the Secretary shall use sound science and objec-
21 tive science practices, shall consider the best avail-
22 able science, shall use data collected by accepted
23 means and shall consider and include a description
24 of the weight of the scientific evidence. The Adminis-
25 trator and the Secretary shall coordinate the study



1 required by this section with other studies required
2 by the act.

3 (4) RESPONSIBILITY OF ADMINISTRATOR.—In
4 carrying out the study required by this section, the
5 Administrator shall coordinate obtaining comments
6 from affected parties interested in the air quality
7 impact assessment portion of the study.

8 (5) RESPONSIBILITY OF SECRETARY.—In car-
9 rying out the study required by this section, the Sec-
10 retary shall coordinate obtaining comments from af-
11 fected parties interested in the fuel availability,
12 number of fuel blends, fuel fungibility and fuel costs
13 portion of the study.

14 (6) REPORT TO CONGRESS.—The Administrator
15 and the Secretary jointly shall submit the results of
16 the study required by this section in a report to the
17 Congress not later than 12 months after the date of
18 the enactment of this Act, together with any rec-
19 ommended regulatory and legislative changes. Such
20 report shall be submitted to the Committee on En-
21 ergy and Commerce of the United States House of
22 Representatives and the Committees on Energy and
23 Natural Resources and on Environment and Public
24 Works of the United States Senate.



1 (7) AUTHORIZATION OF APPROPRIATIONS.—

2 There is authorized to be appropriated jointly to the
3 Administrator and the Secretary \$500,000 for the
4 completion of the study required under this sub-
5 section.

6 (d) DEFINITIONS.—In this section:

7 (1) The term “Administrator” means the Ad-
8 ministrator of the Environmental Protection Agency.

9 (2) The term “fuel” means gasoline, diesel fuel,
10 and any other liquid petroleum product commercially
11 known as gasoline and diesel fuel for use in highway
12 and nonroad motor vehicles.

13 (3) The term “a control or prohibition respect-
14 ing a new fuel” means a control or prohibition on
15 the formulation, composition, or emissions character-
16 istics of a fuel that would require the increase or de-
17 crease of a constituent in gasoline or diesel fuel.

