

IN THE SENATE OF THE UNITED STATES

An amendment to S. 14, The Energy Policy Act of 2003 offered by _____

At the appropriate place, add the following:

Subtitle D—Motor Fuels

SEC. 731. SHORT TITLE

This subtitle may be cited as the “Reliable Fuels Act”.

PART A—RENEWABLE FUELS

SEC. 741. RENEWABLE CONTENT OF GASOLINE.

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

(1) by redesignating subsection (o) as subsection (r); and

(2) by inserting after subsection (n) the following:

“(o) RENEWABLE FUEL PROGRAM.—

“(1) DEFINITIONS.—In this section:

“(A) CELLULOSIC BIOMASS ETHANOL.—The term ‘cellulosic biomass ethanol’ means ethanol derived from any lignocellulosic or hemicellulosic matter that is available on a renewable or recurring basis, including—

“(i) dedicated energy crops and trees;

“(ii) wood and wood residues;

“(iii) plants;

“(iv) grasses;

“(v) agricultural residues;

“(vi) fibers;

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

“(viii) municipal solid waste.

“(B) RENEWABLE FUEL.—

1 “(i) IN GENERAL.—The term ‘renewable fuel’ means motor vehicle fuel
2 that—

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

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

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

10 “(ii) INCLUSION.—The term ‘renewable fuel’ includes—

11 “(I) cellulosic biomass ethanol; and

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

14 “(C) SMALL REFINERY.—The term ‘small refinery’ means a refinery for which
15 the average aggregate daily crude oil throughput for a calendar year (as determined by
16 dividing the aggregate throughput for the calendar year by the number of days in the
17 calendar year) does not exceed 75,000 barrels.

18 “(2) RENEWABLE FUEL PROGRAM.—

19 “(A) REGULATIONS.—

20 “(i) IN GENERAL.—Not later than 1 year after the date of enactment of
21 this paragraph, the Administrator shall promulgate regulations to ensure that
22 gasoline sold or introduced into commerce in the United States (except in
23 Alaska and Hawaii), on an annual average basis, contains the applicable volume
24 of renewable fuel determined in accordance with subparagraph (B).

25 “(ii) PROVISIONS OF REGULATIONS.— Regardless of the date of
26 promulgation, the regulations promulgated under clause (I)—

27 “(I) shall contain compliance provisions applicable to refiners,

blenders, distributors, and importers, as appropriate, to ensure that the requirements of this paragraph are met; but

“(II) shall not—

“(aa) restrict cases in which renewable fuel may be used; or

“(bb) impose any per-gallon obligation for the use of renewable fuel.

“(iii) REQUIREMENT IN CASE OF FAILURE TO PROMULGATE

REGULATIONS.—If the Administrator does not promulgate regulations under clause (i), the percentage of renewable fuel in gasoline sold or dispensed to consumers in the United States, on a volume basis, shall be 1.8 percent for calendar year 2005.

“(B) APPLICABLE VOLUME.—

“(i) CALENDAR YEARS 2005 THROUGH 2012.—For the purpose of subparagraph (A), the applicable volume for any of calendar years 2005 through 2012 shall be determined in accordance with the following table:

“Calendar year:	Applicable volume of renewable fuel (in billions of gallons):
2005	2.6
2006	2.9
2007	3.2
2008	3.5
2009	3.9
2010	4.3
2011	4.7
2012	5.0.

“(ii) CALENDAR YEAR 2013 AND THEREAFTER.—For the purpose of subparagraph (A), the applicable volume for calendar year 2013 and each calendar year thereafter shall be equal to the product obtained by multiplying—

“(I) the number of gallons of gasoline that the Administrator estimates will be sold or introduced into commerce in the calendar year;

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“(II) the ratio that—

“(aa) 5,000,000,000 gallons of renewable fuel; bears to

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

“(3) APPLICABLE PERCENTAGES.—

“(A) PROVISION OF ESTIMATE OF VOLUMES OF GASOLINE SALES.—Not later than October 31 of each of calendar years 2004 through 2011, the Administrator of the Energy Information Administration shall provide to the Administrator of the Environmental Protection Agency an estimate of the volumes of gasoline sold or introduced into commerce in the United States during the following calendar year.

“(B) DETERMINATION OF APPLICABLE PERCENTAGES.—

“(i) IN GENERAL.—Not later than November 30 of each of calendar years 2005 through 2012, based on the estimate provided under subparagraph (A), the Administrator of the Environmental Protection Agency shall determine and publish in the Federal Register, with respect to the following calendar year, the renewable fuel obligation that ensures that the requirements of paragraph (2) are met.

“(ii) REQUIRED ELEMENTS.—The renewable fuel obligation determined for a calendar year under clause (i) shall—

“(I) be applicable to refineries, blenders, and importers, as appropriate;

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

“(III) subject to subparagraph (C)(i), consist of a single applicable percentage that applies to all categories of persons specified in subclause (I).

“(C) ADJUSTMENTS.—In determining the applicable percentage for a calenda

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“(i) to prevent the imposition of redundant obligations on any person specified in subparagraph (B)(ii)(I); and

“(ii) to account for the use of renewable fuel during the previous calendar year by small refineries that are exempt under paragraph (9).

“(4) CELLULOSIC BIOMASS ETHANOL.—For the purpose of paragraph (2), 1 gallon of cellulosic biomass ethanol shall be considered to be the equivalent of 1.5 gallons of renewable fuel.

“(5) CREDIT PROGRAM.—

“(A) IN GENERAL.—The regulations promulgated under paragraph (2)(A) shall provide—

“(i) for the generation of an appropriate amount of credits by any person that refines, blends, or imports gasoline that contains a quantity of renewable fuel that is greater than the quantity required under paragraph (2);

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

“(iii) for the generation of credits by small refineries in accordance with paragraph (9)(C).

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

1 “(C) DURATION OF CREDITS.—A credit generated under this paragraph shall
2 be valid to show compliance—

3 “(i) subject to clause (ii), for the calendar year in which the credit was
4 generated or the following calendar year; or

5 “(ii) if the Administrator promulgates regulations under paragraph (6),
6 for the calendar year in which the credit was generated or any of the following 2
7 calendar years.

8 “(D) INABILITY TO GENERATE OR PURCHASE SUFFICIENT CREDITS.—The
9 regulations promulgated under paragraph (2)(A) shall include provisions allowing any
10 person that is unable to generate or purchase sufficient credits to meet the requirements
11 of paragraph (2) to carry forward a renewable fuel deficit on condition that the person,
12 in the calendar year following the year in which the renewable fuel deficit is created—

13 “(i) achieves compliance with the renewable fuel requirement under
14 paragraph (2); and

15 “(ii) generates or purchases additional renewable fuel credits to offset
16 the renewable fuel deficit of the previous year.

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

18 “(A) STUDY.—For each of calendar years 2005 through 2012, the
19 Administrator of the Energy Information Administration shall conduct a study of
20 renewable fuel blending to determine whether there are excessive seasonal variations in
21 the use of renewable fuel.

22 “(B) REGULATION OF EXCESSIVE SEASONAL VARIATIONS.—If, for any
23 calendar year, the Administrator of the Energy Information Administration, based on the
24 study under subparagraph (A), makes the determinations specified in subparagraph
25 (C), the Administrator of the Environmental Protection Agency shall promulgate
26 regulations to ensure that 35 percent or more of the quantity of renewable fuel
27 necessary to meet the requirements of paragraph (2) is used during each of the 2
28 periods specified in subparagraph (D) of each subsequent calendar year.

1 “(C) DETERMINATIONS.—The determinations referred to in subparagraph (B)
2 are that—

3 “(i) less than 35 percent of the quantity of renewable fuel necessary to
4 meet the requirements of paragraph (2) has been used during 1 of the 2 periods
5 specified in subparagraph (D) of the calendar year; and

6 “(ii) a pattern of excessive seasonal variation described in clause (i) will
7 continue in subsequent calendar years.

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

9 “(i) April through September; and

10 “(ii) January through March and October through December.

11 “(E) EXCLUSION.—Renewable fuel blended or consumed in calendar year
12 2005 in a State that has received a waiver under section 209(b) of the Clean Air Act
13 (42 USC 7543 (b)) shall not be included in the study under subparagraph (A).

14 “(7) WAIVERS.—

15 “(A) IN GENERAL.—The Administrator, in consultation with the Secretary of
16 Agriculture and the Secretary of Energy, may waive the requirements of paragraph (2)
17 in whole or in part on petition by 1 or more States by reducing the national quantity of
18 renewable fuel required under paragraph (2)—

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

23 “(ii) based on a determination by the Administrator, after public notice
24 and opportunity for comment, that there is an inadequate domestic supply or
25 distribution capacity to meet the requirement.

26 “(B) PETITIONS FOR WAIVERS.—The Administrator, in consultation with the
27 Secretary of Agriculture and the Secretary of Energy, shall approve or disapprove a
28 State petition for a waiver of the requirements of paragraph (2) within 90 days after the

1 date on which the petition is received by the Administrator.

2 “(C) TERMINATION OF WAIVERS.—A waiver granted under subparagraph (A)
3 shall terminate after 1 year, but may be renewed by the Administrator after consultation
4 with the Secretary of Agriculture and the Secretary of Energy.

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

6 “(A) IN GENERAL.—Not later than 180 days after the date of enactment of this
7 paragraph, the Secretary of Energy shall conduct for the Administrator a study
8 assessing whether the renewable fuel requirement under paragraph (2) will likely result
9 in significant adverse impacts on consumers in 2005, on a national, regional, or State
10 basis.

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

12 “(i) supplies and prices;

13 “(ii) blendstock supplies; and

14 “(iii) supply and distribution system capabilities.

15 “(C) RECOMMENDATIONS BY THE SECRETARY.—Based on the results of the
16 study, the Secretary of Energy shall make specific recommendations to the
17 Administrator concerning waiver of the requirements of paragraph (2), in whole or in
18 part, to prevent any adverse impacts described in subparagraph (A).

19 “(D) WAIVER.—

20 “(i) IN GENERAL.—Not later than 270 days after the date of enactment
21 of this paragraph, the Administrator shall, if and to the extent recommended by
22 the Secretary of Energy under subparagraph (C), waive, in whole or in part, the
23 renewable fuel requirement under paragraph (2) by reducing the national
24 quantity of renewable fuel required under paragraph (2) in calendar 2005.

25 “(ii) NO EFFECT ON WAIVER AUTHORITY.—Clause (i) does not limit the
26 authority of the Administrator to waive the requirements of paragraph (2) in
27 whole, or in part, under paragraph (7).

28 “(9) SMALL REFINERIES.—

1 “(A) TEMPORARY EXEMPTION.—

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

4 “(ii) EXTENSION OF EXEMPTION.—

5 “(I) STUDY BY SECRETARY OF ENERGY.—Not later than
6 December 31, 2007, the Secretary of Energy shall conduct for the
7 Administrator a study to determine whether compliance with the
8 requirements of paragraph (2) would impose a disproportionate
9 economic hardship on small refineries.

10 “(II) EXTENSION OF EXEMPTION.—In the case of a small
11 refinery that the Secretary of Energy determines under subclause (I)
12 would be subject to a disproportionate economic hardship if required
13 to comply with paragraph (2), the Administrator shall extend the
14 exemption under clause (i) for the small refinery for a period of not less
15 than 2 additional years.

16 “(B) PETITIONS BASED ON DISPROPORTIONATE ECONOMIC HARDSHIP.—

17 “(i) EXTENSION OF EXEMPTION.—A small refinery may at any time
18 petition the Administrator for an extension of the exemption under
19 subparagraph (A) for the reason of disproportionate economic hardship.

20 “(ii) EVALUATION OF PETITIONS.—In evaluating a petition under clause
21 (i), the Administrator, in consultation with the Secretary of Energy, shall
22 consider the findings of the study under subparagraph (A)(ii) and other
23 economic factors.

24 “(iii) DEADLINE FOR ACTION ON PETITIONS.—The Administrator shall
25 act on any petition submitted by a small refinery for a hardship exemption not
26 later than 90 days after the date of receipt of the petition.

27 “(C) CREDIT PROGRAM.—If a small refinery notifies the Administrator that the
28 small refinery waives the exemption under subparagraph (A), the regulations

1 promulgated under paragraph (2)(A) shall provide for the generation of credits by the
2 small refinery under paragraph (5) beginning in the calendar year following the date of
3 notification.

4 “(D) OPT-IN FOR SMALL REFINERIES.—A small refinery shall be subject to the
5 requirements of paragraph (2) if the small refinery notifies the Administrator that the
6 small refinery waives the exemption under subparagraph (A).

7 “(10) ETHANOL MARKET CONCENTRATION ANALYSIS.—

8 “(A) ANALYSIS.—

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

15 “(ii) SCORING.—For the purpose of scoring under clause (i) using the
16 Herfindahl-Hirschman Index, all marketing arrangements among industry
17 participants shall be considered.

18 “(B) REPORT.—Not later than December 1, 2004, and annually thereafter, the
19 Federal Trade Commission shall submit to Congress and the Administrator a report on
20 the results of the market concentration analysis performed under subparagraph (A)(i).

21 “(p) RENEWABLE FUEL SAFE HARBOR.—

22 “(1) IN GENERAL.—

23 “(A) SAFE HARBOR.—Notwithstanding any other provision of Federal or State
24 law, no renewable fuel (as defined in subsection (o)(1)) used or intended to be used as
25 a motor vehicle fuel, nor any motor vehicle fuel containing renewable fuel, shall be
26 deemed to be defective in design or manufacture by reason of the fact that the fuel is, or
27 contains, renewable fuel, if—

28 “(i) the fuel does not violate a control or prohibition imposed by the

1 Administrator under this section; and

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

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

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

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

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

12 (1) in paragraph (1)—

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

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

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

19 (c) EXCLUSION FROM ETHANOL WAIVER.—Section 211(h) of the Clean Air Act (42 U.S.C.
20 7545(h)) is amended—

21 (1) by redesignating paragraph (5) as paragraph (6); and

22 (2) by inserting after paragraph (4) the following:

23 “(5) EXCLUSION FROM ETHANOL WAIVER.—

24 “(A) PROMULGATION OF REGULATIONS.— Upon notification, accompanied by
25 supporting documentation, from the Governor of a State that the Reid vapor pressure
26 limitation established by paragraph (4) will increase emissions that contribute to air
27 pollution in any area in the State, the Administrator shall, by regulation, apply, in lieu of
28 the Reid vapor pressure limitation established by paragraph (4), the Reid vapor

1 pressure limitation established by paragraph (1) to all fuel blends containing gasoline
2 and 10 percent denatured anhydrous ethanol that are sold, offered for sale, dispensed,
3 supplied, offered for supply, transported, or introduced into commerce in the area
4 during the high ozone season.

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

8 “(C) EFFECTIVE DATE.—

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

12 “(I) the first day of the first high ozone season for the area that
13 begins after the date of receipt of the notification; or

14 “(II) 1 year after the date of receipt of the notification.

15 “(ii) EXTENSION OF EFFECTIVE DATE BASED ON DETERMINATION OF
16 INSUFFICIENT SUPPLY.—

17 “(I) IN GENERAL.—If, after receipt of a notification with respect
18 to an area from a Governor of a State under subparagraph (A), the
19 Administrator determines, on the Administrator’s own motion or on
20 petition of any person and after consultation with the Secretary of
21 Energy, that the promulgation of regulations described in subparagraph
22 (A) would result in an insufficient supply of gasoline in the State, the
23 Administrator, by regulation—

24 “(aa) shall extend the effective date of the regulations
25 under clause (i) with respect to the area for not more than 1
26 year; and

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

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

4 **SEC. 742. RENEWABLE FUEL.**

5 (a) IN GENERAL.—The Clean Air Act is amended by inserting after section 211 (42 U.S.C.
6 7411) the following:

7 **“SEC. 212. RENEWABLE FUEL.**

8 (a) DEFINITIONS.—In this section:

9 “(1) MUNICIPAL SOLID WASTE.—The term ‘municipal solid waste’ has the meaning
10 given the term ‘solid waste’ in section 1004 of the Solid Waste Disposal Act (42 U.S.C.
11 6903).

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

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

15 (b) SURVEY OF RENEWABLE FUEL MARKET.—

16 “(1) SURVEY AND REPORT.—Not later than December 1, 2006, and annually thereafter
17 er, the
18 Admini
19 strator
20 shall—

21 “(A) conduct, with respect to each conventional gasoline use area and each
22 reformulated gasoline use area in each State, a survey to determine the market shares
23 of—

24 “(i) conventional gasoline containing ethanol;

25 “(ii) reformulated gasoline containing ethanol;

26 “(iii) conventional gasoline containing renewable fuel; and

27 “(iv) reformulated gasoline containing renewable fuel; and

28 “(B) submit to Congress, and make publicly available, a report on the results of

1 the survey under subparagraph (A).

2 “(2) RECORDKEEPING AND REPORTING REQUIREMENTS.—

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

6 “(B) RELIANCE ON EXISTING REQUIREMENTS.—To avoid duplicative
7 requirements, in carrying out subparagraph (A), the Administrator shall rely, to the
8 maximum extent practicable, on reporting and recordkeeping requirements in effect on
9 the date of enactment of this section.

10 “(3) CONFIDENTIALITY.—Activities carried out under this subsection shall be
11 conducted in a manner designed to protect confidentiality of individual responses.

12 “(c) COMMERCIAL BYPRODUCTS FROM MUNICIPAL SOLID WASTE LOAN GUARANTEE
13 PROGRAM.—

14 “(1) ESTABLISHMENT OF PROGRAM.—The Secretary shall establish a program to
15 provide guarantees of loans by private institutions for the construction of facilities for the
16 processing and conversion of municipal solid waste into fuel ethanol and other commercial
17 byproducts.

18 “(2) REQUIREMENTS.—The Secretary may provide a loan guarantee under paragraph
19 (1) to an applicant if—

20 “(A) without a loan guarantee, credit is not available to the applicant under
21 reasonable terms or conditions sufficient to finance the construction of a facility
22 described in paragraph (1);

23 “(B) the prospective earning power of the applicant and the character and value
24 of the security pledged provide a reasonable assurance of repayment of the loan to be
25 guaranteed in accordance with the terms of the loan; and

26 “(C) the loan bears interest at a rate determined by the Secretary to be
27 reasonable, taking into account the current average yield on outstanding obligations of
28 the United States with remaining periods of maturity comparable to the maturity of the

1 loan.

2 “(4) CRITERIA.—In selecting recipients of loan guarantees from among applicants, the
3 Secretary shall give preference to proposals that—

4 “(A) meet all applicable Federal and State permitting requirements;

5 “(B) are most likely to be successful; and

6 “(C) are located in local markets that have the greatest need for the facility
7 because of—

8 “(i) the limited availability of land for waste disposal; or

9 “(ii) a high level of demand for fuel ethanol or other commercial
10 byproducts of the facility.

11 “(5) MATURITY.—A loan guaranteed under paragraph (1) shall have a maturity of not
12 more than 20 years.

13 “(6) TERMS AND CONDITIONS.—The loan agreement for a loan guaranteed under
14 paragraph (1) shall provide that no provision of the loan agreement may be amended or waived
15 without the consent of the Secretary.

16 “(7) ASSURANCE OF REPAYMENT.—The Secretary shall require that an applicant for a
17 loan guarantee under paragraph (1) provide an assurance of repayment in the form of a
18 performance bond, insurance, collateral, or other means acceptable to the Secretary in an
19 amount equal to not less than 20 percent of the amount of the loan.

20 “(8) GUARANTEE FEE.—The recipient of a loan guarantee under paragraph (1) shall
21 pay the Secretary an amount determined by the Secretary to be sufficient to cover the
22 administrative costs of the Secretary relating to the loan guarantee.

23 “(9) FULL FAITH AND CREDIT.—

24 “(A) IN GENERAL.—The full faith and credit the United States is pledged to the
25 payment of all guarantees made under this subsection.

26 “(B) CONCLUSIVE EVIDENCE.—Any guarantee made by the Secretary under
27 this subsection shall be conclusive evidence of the eligibility of the loan for the guarantee
28 with respect to principal and interest.

1 “(C) VALIDITY.—The validity of the guarantee shall be incontestable in the
2 hands of a holder of the guaranteed loan.

3 “(10) REPORTS.—Until each guaranteed loan under this subsection has been repaid in
4 full, the Secretary shall annually submit to Congress a report on the activities of the Secretary
5 under this subsection.

6 “(11) AUTHORIZATION OF APPROPRIATIONS.— There are authorized to be
7 appropriated such sums as are necessary to carry out this subsection.

8 “(12) TERMINATION OF AUTHORITY.—The authority of the Secretary to issue a new
9 loan guarantee under paragraph (1) terminates on the date that is 10 years after the date of
10 enactment of this section.

11 “(d) AUTHORIZATION OF APPROPRIATIONS FOR RESOURCE CENTER.—There is authorized to
12 be appropriated, for a resource center to further develop bioconversion technology using low-cost
13 biomass for the production of ethanol at the Center for Biomass-Based Energy at the University of
14 Mississippi and the University of Oklahoma, \$4,000,000 for each of fiscal years 2004 through 2006.

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

16 “(1) IN GENERAL.—The Administrator shall provide grants for the research into, and
17 development and implementation of, renewable fuel production technologies in RFG States with
18 low rates of ethanol production, including low rates of production of cellulosic biomass ethanol.

19 “(2) ELIGIBILITY.—

20 “(A) IN GENERAL.—The entities eligible to receive a grant under this subsection
21 are academic institutions in RFG States, and consortia made up of combinations of
22 academic institutions, industry, State government agencies, or local government
23 agencies in RFG States, that have proven experience and capabilities with relevant
24 technologies.

25 “(B) APPLICATION.—To be eligible to receive a grant under this subsection, an
26 eligible entity shall submit to the Administrator an application in such manner and form,
27 and accompanied by such information, as the Administrator may specify.

28 “(4) AUTHORIZATION OF APPROPRIATIONS.— There is authorized to be appropriated

1 to carry out this subsection \$25,000,000 for each of fiscal years 2004 through 2008.

2 “(f) CELLULOSIC BIOMASS ETHANOL CONVERSION ASSISTANCE—

3 “(1) IN GENERAL.—The Secretary may provide grants to merchant producers of
4 cellulosic biomass ethanol in the United States to assist the producers in building eligible
5 production facilities described in paragraph (2) for the production of cellulosic biomass ethanol.

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

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

9 “(B) uses cellulosic biomass feedstocks derived from agricultural residues or
10 municipal solid waste.

11 “(3) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated
12 to carry out this subsection—

13 “(A) \$100,000,000 for fiscal year 2004;

14 “(B) \$250,000,000 for fiscal year 2005; and

15 “(C) \$400,000,000 for fiscal year 2006.”

16 (b) CONFORMING AMENDMENT.—The table of contents for the Clean Air Act (42 U.S.C.
17 7401 prec.) is amended by inserting after the item relating to section 211 the following:
18 “212. Renewable fuels.”

19 **SEC. 743. SURVEY OF RENEWABLE FUELS CONSUMPTION.**

20 Section 205 of the Department of Energy Organization Act (42 U.S.C. 7135) is amended by
21 adding at the end the following:

22 “(m) SURVEY OF RENEWABLE FUELS CONSUMPTION.—

23 “(1) IN GENERAL.—In order to improve the ability to evaluate the effectiveness of the
24 Nation’s renewable fuels mandate, the Administrator shall conduct and publish the results of a
25 survey of renewable fuels consumption in the motor vehicle fuels market in the United States
26 monthly, and in a manner designed to protect the confidentiality of individual responses.

27 “(2) ELEMENTS OF SURVEY.—In conducting the survey, the Administrator shall collect
28 information retrospectively to 1998, on a national basis and a regional basis, including—

1 “(A) the quantity of renewable fuels produced;

2 “(B) the cost of production;

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

4 “(D) the quantity of renewable fuels blended;

5 “(E) the quantity of renewable fuels imported; and

6 “(F) market price data.”.

7 **PART B—FEDERAL REFORMULATED FUELS**

8 **SEC. 751. SHORT TITLE.**

9 This part may be cited as the “Federal Reformulated Fuels Act of 2003”.

10 **SEC. 752. LEAKING UNDERGROUND STORAGE TANKS.**

11 (a) USE OF LUST FUNDS FOR REMEDIATION OF CONTAMINATION FROM ETHER FUEL

12 ADDITIVES.—Section 9003(h) of the Solid Waste Disposal Act (42 U.S.C. 6991b(h)) is amended—

13 (1) in paragraph (7)(A)—

14 (A) by striking “paragraphs (1) and (2) of this subsection” and inserting

15 “paragraphs (1), (2), and (12)”;

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

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

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

19 “(A) IN GENERAL.—The Administrator and the States may use funds made
20 available under section 9013(1) to carry out corrective actions with respect to a release
21 of methyl tertiary butyl ether or other ether fuel additive that presents a threat to human
22 health, welfare, or the environment.

23 “(B) APPLICABLE AUTHORITY.—Subparagraph (A) shall be carried out—

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

27 “(ii) in the case of a State, in accordance with a cooperative agreement
28 entered into by the Administrator and the State under paragraph (7).”.

1 (b) RELEASE PREVENTION AND COMPLIANCE.—Subtitle I of the Solid Waste Disposal Act (42
2 U.S.C. 6991 et seq.) is amended by striking section 9010 and inserting the following:

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

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

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

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

9 “(B) State requirements regulating underground storage tanks that are similar or
10 identical to this subtitle, as determined by the Administrator; and

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

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

14 “In addition to amounts made available under section 2007(f), there are authorized to be
15 appropriated from the Leaking Underground Storage Tank Trust Fund, notwithstanding section
16 9508(c)(1) of the Internal Revenue Code of 1986—

17 “(1) to carry out section 9003(h)(12), \$200,000,000 for fiscal year 2003, to remain
18 available until expended; and

19 “(2) to carry out section 9010—

20 “(A) \$50,000,000 for fiscal year 2003; and

21 “(B) \$30,000,000 for each of fiscal years 2004 through 2008.”.

22 (c) TECHNICAL AMENDMENTS.—(1) Section 1001 of the Solid Waste Disposal Act (42
23 U.S.C. prec. 6901) is amended by striking the item relating to section 9010 and inserting the following:

24 “Sec. 9010. Release prevention and compliance.

25 “Sec. 9011. Authorization of appropriations.”.

26 (2) Section 9001(3)(A) of the Solid Waste Disposal Act (42 U.S.C. 6991(3)(A)) is amended
27 by striking “sustances” and inserting “substances”.

28 (3) Section 9003(f)(1) of the Solid Waste Disposal Act (42 U.S.C. 6991b(f)(1)) is amended

1 by striking “subsection (c) and (d) of this section” and inserting “subsections (c)
2 and (d)”.

3 (4) Section 9004(a) of the Solid Waste Disposal Act (42 U.S.C. 6991c(a)) is amended in the
4 second sentence by striking “referred to” and all that follows and inserting “referred to in subparagraph
5 (A) or (B), or both, of section 9001(2).”.

6 (5) Section 9005 of the Solid Waste Disposal Act (42 U.S.C. 6991d) is amended—(A) in
7 subsection (a), by striking “study taking” and inserting “study, taking”;

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

9 (C) in subsection (b)(4), by striking “Environmental” and inserting “Environmental”.

10 **SEC. 753. RESTRICTIONS ON THE USE OF MTBE.**

11 (a) FINDINGS.—Congress finds that—

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

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

18 (3) at the time of the adoption of the fuel oxygenate standard, Congress was aware
19 that—

20 (A) significant use of MTBE could result from the adoption of that standard; and

21 (B) the use of MTBE would likely be important to the cost-effective implementation of
22 that standard;

23 (4) Congress is aware that gasoline and its component additives have leaked from
24 storage tanks, with consequences for water quality;

25 (5) the fuel industry responded to the fuel oxygenate standard established by Public
26 Law 101–549 by making substantial investments in—

27 (A) MTBE production capacity; and

28 (B) systems to deliver MTBE-containing gasoline to the marketplace;

1 (6) when leaked or spilled into the environment, MTBE may cause serious problems of
2 drinking water quality;

3 (7) in recent years, MTBE has been detected in water sources throughout the United
4 States;

5 (8) MTBE can be detected by smell and taste at low concentrations;

6 (9) while small quantities of MTBE can render water supplies unpalatable, the precise
7 human health effects of MTBE consumption at low levels are yet unknown as of the date of
8 enactment of this Act;

9 (10) in the report entitled “Achieving Clean Air and Clean Water: The Report of the
10 Blue Ribbon Panel on Oxygenates in Gasoline” and dated September 1999, Congress was
11 urged—

12 (A) to eliminate the fuel oxygenate standard;

13 (B) to greatly reduce use of MTBE; and

14 (C) to maintain the environmental performance of reformulated gasoline;

15 (11) Congress has—

16 (A) reconsidered the relative value of MTBE in gasoline; and

17 (B) decided to eliminate use of MTBE as a fuel additive;

18 (12) the timeline for elimination of use of MTBE as a fuel additive must be established in
19 a manner that achieves an appropriate balance among the goals of—

20 (A) environmental protection;

21 (B) adequate energy supply; and

22 (C) reasonable fuel prices; and

23 (13) it is appropriate for Congress to provide some limited transition assistance—

24 (A) to merchant producers of MTBE who produced MTBE in response to a
25 market created by the oxygenate requirement contained in the Clean Air Act (42
26 U.S.C. 7401 et seq.); and

27 (B) for the purpose of mitigating any fuel supply problems that may result from
28 elimination of a widely-used fuel additive.

1 (b) PURPOSES.—The purposes of this section are—

2 (1) to eliminate use of MTBE as a fuel oxygenate; and

3 (2) to provide assistance to merchant producers of MTBE in making the transition from
4 producing MTBE to producing other fuel additives.

5 (c) AUTHORITY FOR WATER QUALITY PROTECTION FROM FUELS.—Section 211(c) of the
6 Clean Air Act (42 U.S.C. 7545(c)) is amended—

7 (1) in paragraph (1)(A)—

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

9 (B) by striking “air pollution which” and inserting “air pollution, or water
10 pollution, that”;

11 (2) in paragraph (4)(B), by inserting “or water quality protection,” after “emission
12 control,”; and

13 (3) by adding at the end the following:

14 “(5) RESTRICTIONS ON USE OF MTBE.—

15 “(A) IN GENERAL.—Subject to subparagraph (E), not later than 4 years after
16 the date of enactment of this paragraph, the use of methyl tertiary butyl ether in motor
17 vehicle fuel in any State other than a State described in subparagraph (C) is prohibited.

18 “(B) REGULATIONS.—The Administrator shall promulgate regulations to effect
19 the prohibition in subparagraph (A).

20 “(C) STATES THAT AUTHORIZE USE.—A State described in this subparagraph
21 is a State that submits to the Administrator a notice that the State authorizes use of
22 methyl tertiary butyl ether in motor vehicle fuel sold or used in the State.

23 “(D) PUBLICATION OF NOTICE.—The Administrator shall publish in the Federal
24 Register each notice submitted by a State under subparagraph (C).

25 “(E) TRACE QUANTITIES.—In carrying out subparagraph (A), the
26 Administrator may allow trace quantities of methyl tertiary butyl ether, not to exceed
27 0.5 percent by volume, to be present in motor vehicle fuel in cases that the
28 Administrator determines to be appropriate.

1 “(6) MTBE MERCHANT PRODUCER CONVERSION ASSISTANCE.—

2 “(A) GRANTS.—The Secretary of Energy, in consultation with the
3 Administrator, may make grants to merchant producers of methyl tertiary butyl ether in
4 the United States to assist the producers in the conversion of eligible production
5 facilities described in subparagraph (C) to the production of—

6 “(i) iso-octane or alkylates, unless the Administrator, in consultation
7 with the Secretary of Energy, determines that transition assistance for the
8 production of iso-octane or alkylates is inconsistent with the criteria specified in
9 subparagraph (B); and

10 “(ii) any other fuel additive that meets the criteria specified in
11 subparagraph (B).

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

13 “(i) use of the fuel additive is consistent with this subsection;

14 “(ii) the Administrator has not determined that the fuel additive may
15 reasonably be anticipated to endanger public health or the environment;

16 “(iii) the fuel additive has been registered and tested, or is being tested,
17 in accordance with the requirements of this section; and

18 “(iv) the fuel additive will contribute to replacing quantities of motor
19 vehicle fuel rendered unavailable as a result of paragraph (5).

20 “(C) ELIGIBLE PRODUCTION FACILITIES.— A production facility shall be eligible
21 to receive a grant under this paragraph if the production facility—

22 “(i) is located in the United States; and

23 “(ii) produced methyl tertiary butyl ether for consumption in
24 nonattainment areas during the period—

25 “(I) beginning on the date of enactment of this paragraph; and

26 “(II) ending on the effective date of the prohibition on the use of
27 methyl tertiary butyl ether under paragraph (5).

28 “(D) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be

1 appropriated to carry out this paragraph \$250,000,000 for each of fiscal years 2004
2 through 2007.”.

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

6 **SEC. 754. ELIMINATION OF OXYGEN CONTENT REQUIREMENT FOR REFORMULATED GASOLINE.**

7 (a) ELIMINATION.—

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

10 (A) in paragraph (2)—

11 (i) in the second sentence of subparagraph (A), by striking “(including
12 the oxygen content requirement contained in subparagraph (B))”;

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

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

16 (B) in paragraph (3)(A), by striking clause (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) and (iii) as clauses (i) and (ii),
21 respectively; and

22 (ii) in subparagraph (C)—

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

24 (II) by redesignating clause (iii) as clause (ii).

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

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

28 and

1 (B) in the case of any other State, beginning 270 days after the date of
2 enactment of this Act.

3 (b) MAINTENANCE OF TOXIC AIR POLLUTANT EMISSION REDUCTIONS.—Section 211(k)(1)
4 of the Clean Air Act (42 U.S.C. 7545(k)(1)) is amended—

5 (1) by striking “Within 1 year after the enactment of the Clean Air Act Amendments of
6 1990,” and inserting the following:

7 “(A) IN GENERAL.—Not later than November 15, 1991,”; and

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

9 “(B) MAINTENANCE OF TOXIC AIR POLLUTANT EMISSIONS REDUCTIONS FROM
10 REFORMULATED GASOLINE.—

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

13 “(ii) REGULATIONS CONCERNING EMISSIONS OF TOXIC AIR
14 POLLUTANTS.—Not later than 270 days after the date of enactment of this
15 subparagraph, the Administrator shall establish by regulation, for each refinery
16 or importer (other than a refiner or importer in a State that has received a
17 waiver under section 209(b) with respect to gasoline produced for use in that
18 State), standards for toxic air pollutants from use of the reformulated gasoline
19 produced or distributed by the refiner or importer that maintain the reduction of
20 the average annual aggregate emissions of toxic air pollutants for reformulated
21 gasoline produced or distributed by the refiner or importer during calendar
22 years 1999 and 2000 (as determined on the basis of data collected by the
23 Administrator with respect to the refiner or importer).

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

26 “(I) APPLICABILITY OF STANDARDS.—For any calendar year,
27 the standards applicable to a refiner or importer under clause (ii) shall
28 apply to the quantity of gasoline produced or distributed by the refiner

1 or importer in the calendar year only to the extent that the quantity is
2 less than or equal to the average annual quantity of reformulated
3 gasoline produced or distributed by the refiner or importer during
4 calendar years 1999 and 2000.

5 “(II) APPLICABILITY OF OTHER STANDARDS.—For any
6 calendar year, the quantity of gasoline produced or distributed by a
7 refiner or importer that is in excess of the quantity subject to subclause
8 (I) shall be subject to standards for emissions of toxic air pollutants
9 promulgated under subparagraph (A) and paragraph (3)(B).

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

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

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

19 “(aa) the quantity of reformulated gasoline produced
20 that is in excess of the average annual quantity of reformulated
21 gasoline produced in 1999 and 2000; and

22 “(bb) the reduction of the average annual aggregate
23 emissions of toxic air pollutants in each PADD, based on retail
24 survey data or data from other appropriate sources.

25 “(II) EFFECT OF FAILURE TO MAINTAIN AGGREGATE TOXICS
26 REDUCTIONS.—If, in any calendar year, the reduction of the average
27 annual aggregate emissions of toxic air pollutants in a PADD fails to
28 meet or exceed the reduction of the average annual aggregate emissions

1 of toxic air pollutants in the PADD in calendar years 1999 and 2000,
2 the Administrator, not later than 90 days after the date of publication of
3 the report for the calendar year under subclause (I), shall—

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

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

17 “(vi) REGULATIONS TO CONTROL HAZARDOUS AIR POLLUTANTS FROM
18 MOTOR VEHICLES AND MOTOR VEHICLE FUELS.—Not later than July 1, 2004,
19 the Administrator shall promulgate final regulations to control hazardous air
20 pollutants from motor vehicles and motor vehicle fuels, as provided for in
21 section 80.1045 of title 40, Code of Federal Regulations (as in effect on the
22 date of enactment of this subparagraph).”.

23 (c) COMMINGLING.—

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

26 “(11) COMMINGLING.—The regulations under paragraph (1) shall permit the
27 commingling at a retail station of reformulated gasoline containing ethanol and reformulated
28 gasoline that does not contain ethanol if, each time such commingling occurs—

1 “(A) the retailer notifies the Administrator before the commingling, identifying
2 the exact location of the retail station and the specific tank in which the commingling will
3 take place; and

4 “(B) the retailer certifies that the reformulated gasoline resulting from the
5 commingling will meet all applicable requirements for reformulated gasoline, including
6 content and emission performance standards.

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

14 (e) SAVINGS CLAUSE.—

15 (1) IN GENERAL.—Nothing in this section or any amendment made by this
16 section affects or prejudices any legal claim or action with respect to regulations
17 promulgated by the Administrator before the date of enactment of this Act regarding—

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

19 (B) the adjustment of standards applicable to a specific refinery or
20 importer made under those regulations.

21 (2) ADJUSTMENT OF STANDARDS.—

22 (A) APPLICABILITY.—The Administrator may apply any adjustments to
23 the standards applicable to a refinery or importer under subparagraph (B)(iii)(I)
24 of section 211(k)(1) of the Clean Air Act (as added by subsection (b)(2)),
25 except that—

26 (i) the Administrator shall revise the adjustments to be based
27 only on calendar years 1999 and 2000;

28 (ii) any such adjustment shall not be made at a level below the

1 average percentage of reductions of emissions of toxic air pollutants for
 2 reformulated gasoline supplied to PADD I during calendar years 1999
 3 and 2000; and

4 (iii) in the case of an adjustment based on toxic air pollutant
 5 emissions from reformulated gasoline significantly below the national
 6 annual average emissions of toxic air pollutants from all reformulated
 7 gasoline—

8 (I) the Administrator may revise the adjustment to take
 9 account of the scope of the prohibition on methyl tertiary butyl
 10 ether imposed by paragraph (5) of section 211(c) of the Clean
 11 Air Act (as added by section ___(c)); and

12 (II) any such adjustment shall require the refiner or
 13 importer, to the maximum extent practicable, to maintain the
 14 reduction achieved during calendar years 1999 and 2000 in the
 15 average annual aggregate emissions of toxic air pollutants from
 16 reformulated gasoline produced or distributed by the refiner or
 17 importer.

18 **SEC. 755. PUBLIC HEALTH AND ENVIRONMENTAL IMPACTS OF FUELS AND FUEL ADDITIVES.**

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

20 (1) in paragraph (2)—

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

22 (B) by striking subparagraph (A) and inserting the following:

23 “(A) to conduct tests to determine potential public health and environmental
 24 effects of the fuel or additive (including carcinogenic, teratogenic, or mutagenic effects);
 25 and”; and

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

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

28 “(A) IN GENERAL.—Not later than 2 years after the date of enactment of this

1 paragraph, the Administrator shall—

2 “(i) conduct a study on the effects on public health (including the effects
3 on children, pregnant women, minority or low-income communities, and other
4 sensitive populations), air quality, and water resources of increased use of, and
5 the feasibility of using as substitutes for methyl tertiary butyl ether in gasoline—

6 “(I) ethyl tertiary butyl ether;

7 “(II) tertiary amyl methyl ether;

8 “(III) di-isopropyl ether;

9 “(IV) tertiary butyl alcohol;

10 “(V) other ethers and heavy alcohols, as determined by then

11 Administrator;

12 “(VI) ethanol;

13 “(VII) iso-octane; and

14 “(VIII) alkylates;

15 “(ii) conduct a study on the effects on public health (including the effects
16 on children, pregnant women, minority or low-income communities, and other
17 sensitive populations), air quality, and water resources of the adjustment for
18 ethanol-blended reformulated gasoline to the volatile organic compounds
19 performance requirements that are applicable under paragraphs (1) and (3) of
20 section 211(k); and

21 “(iii) submit to the Committee on Environment and Public Works of the
22 Senate and the Committee on Energy and Commerce of the House of
23 Representatives a report describing the results of the studies under clauses (i)
24 and (ii).

25 “(B) CONTRACTS FOR STUDY.—In carrying out this paragraph, the
26 Administrator may enter into 1 or more contracts with nongovernmental entities such
27 as—

28 “(i) the national energy laboratories; and

1 “(ii) institutions of higher education (as defined in section 101 of the
2 Higher Education Act of 1965 (20 U.S.C. 1001)).”.

3 **SEC. 756. ANALYSES OF MOTOR VEHICLE FUEL CHANGES.**

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

6 “(q) ANALYSES OF MOTOR VEHICLE FUEL CHANGES AND EMISSIONS MODEL.—

7 “(1) ANTI-BACKSLIDING ANALYSIS.—

8 “(A) DRAFT ANALYSIS.—Not later than 4 years after the date of enactment of
9 this paragraph, the Administrator shall publish for public comment a draft analysis of the
10 changes in emissions of air pollutants and air quality due to the use of motor vehicle fuel
11 and fuel additives resulting from implementation of the amendments made by the
12 Reliable Fuels Act.

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

16 “(2) EMISSIONS MODEL.—For the purposes of this subsection, as soon as the
17 necessary data are available, the Administrator shall develop and finalize an emissions model
18 that reasonably reflects the effects of gasoline characteristics or components on emissions from
19 vehicles in the motor vehicle fleet during calendar year 2006.”.

20 **SEC. 757. ADDITIONAL OPT-IN AREAS UNDER REFORMULATED GASOLINE PROGRAM.**

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

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

23 “(6) OPT-IN AREAS.—

24 “(A) CLASSIFIED AREAS.—

25 “(i) IN GENERAL.—Upon”;

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

27 “(ii) EFFECT OF INSUFFICIENT DOMESTIC CAPACITY TO PRODUCE
28 REFORMULATED GASOLINE.—If”;

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

2 (A) in the first sentence, by striking “subparagraph (A)” and inserting “clause
3 (i)”; and

4 (B) in the second sentence, by striking “this paragraph” and inserting “this
5 subparagraph”; and

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

7 “(B) OZONE TRANSPORT REGION.—

8 “(i) APPLICATION OF PROHIBITION.—

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

17 “(II) PUBLICATION OF APPLICATION.—As soon as practicable
18 after the date of receipt of an application under subclause (I), the
19 Administrator shall publish the application in the Federal Register.

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

22 “(I) commencing as soon as practicable but not later than 2
23 years after the date of approval by the Administrator of the application
24 of the Governor of the State; and

25 “(II) ending not earlier than 4 years after the commencement
26 date determined under subclause (I).

27 “(iii) EXTENSION OF COMMENCEMENT DATE BASED ON INSUFFICIENT

1 CAPACITY.—

2 “(I) IN GENERAL.—If, after receipt of an application from a
3 Governor of a State under clause (i), the Administrator determines, on
4 the Administrator’s own motion or on petition of any person, after
5 consultation with the Secretary of Energy, that there is insufficient
6 capacity to supply reformulated gasoline, the Administrator, by
7 regulation—

8 “(aa) shall extend the commencement date with respect
9 to the State under clause (ii)(I) for not more than 1 year; and

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

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

15 **SEC. 758. FEDERAL ENFORCEMENT OF STATE FUELS REQUIREMENTS.**

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

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

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

20 “(i) IN GENERAL.—A State”; and

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

22 “(ii) ENFORCEMENT BY THE ADMINISTRATOR.—In any case in which a
23 State prescribes and enforces a control or prohibition under clause (i), the
24 Administrator, at the request of the State, shall enforce the control or
25 prohibition as if the control or prohibition had been adopted under the other
26 provisions of this section.”.

27 **SEC. 759. FUEL SYSTEM REQUIREMENTS HARMONIZATION STUDY.**

28 (a) STUDY.—

1 (1) IN GENERAL.—The Administrator of the Environmental Protection Agency and the
2 Secretary of Energy shall jointly conduct a study of Federal, State, and local requirements
3 concerning motor vehicle fuels, including—

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

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

8 (2) REQUIRED ELEMENTS.—The study shall assess—

9 (A) the effect of the variety of requirements described in paragraph (1) on the
10 supply, quality, and price of motor vehicle fuels available to the consumer;

11 (B) the effect of the requirements described in paragraph (1) on achievement
12 of—

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

14 (ii) related environmental and public health protection standards and
15 goals (including the protection of children, pregnant women, minority or
16 low-income communities, and other sensitive populations);

17 (C) the effect of Federal, State, and local motor vehicle fuel regulations,
18 including multiple motor vehicle fuel requirements, on—

19 (i) domestic refiners;

20 (ii) the fuel distribution system; and

21 (iii) industry investment in new capacity;

22 (D) the effect of the requirements described in paragraph (1) on emissions from
23 vehicles, refiners, and fuel handling facilities;

24 (E) the feasibility of developing national or regional motor vehicle fuel slates for
25 the 48 contiguous States that, while protecting and improving air quality at the national,
26 regional, and local levels, could—

27 (i) enhance flexibility in the fuel distribution infrastructure and improve

1 fuel fungibility;

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

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

4 (iv) enhance fuel quality, consistency, and supply; and

5 (F) the feasibility of providing incentives, and the need for the development of
6 national standards necessary, to promote cleaner burning motor vehicle fuel.

7 (b) REPORT.—

8 (1) IN GENERAL.—Not later than June 1, 2007, the Administrator of the Environmental
9 Protection Agency and the Secretary of Energy shall submit to Congress a report on the results
10 of the study conducted under subsection (a).

11 (2) RECOMMENDATIONS.—

12 (A) IN GENERAL.—The report shall contain recommendations for legislative and
13 administrative actions that may be taken—

14 (i) to improve air quality;

15 (ii) to reduce costs to consumers and producers; and

16 (iii) to increase supply liquidity.

17 (B) REQUIRED CONSIDERATIONS.—The recommendations under subparagraph
18 (A) shall take into account the need to provide advance notice of required modifications
19 to refinery and fuel distribution systems in order to ensure an adequate supply of motor
20 vehicle fuel in all States.

21 (3) CONSULTATION.—In developing the report, the Administrator of the Environmental
22 Protection Agency and the Secretary of Energy shall consult with—

23 (A) the Governors of the States;

24 (B) automobile manufacturers;

25 (C) State and local air pollution control regulators;

26 (D) public health experts;

27 (E) motor vehicle fuel producers and distributors; and

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(F) the public.