

106TH CONGRESS
2D SESSION

S. 2971

To amend the Clean Air Act to phase out the use of methyl tertiary butyl ether in fuels or fuel additives, to promote the use of renewable fuels, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 27, 2000

Mr. HARKIN introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

A BILL

To amend the Clean Air Act to phase out the use of methyl tertiary butyl ether in fuels or fuel additives, to promote the use of renewable fuels, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Clean and Renewable
5 Fuels Act of 2000”.

1 **SEC. 2. USE AND CLEANUP OF METHYL TERTIARY BUTYL**
2 **ETHER.**

3 (a) IN GENERAL.—Section 211(c) of the Clean Air
4 Act (42 U.S.C. 7545(c)) is amended by adding at the end
5 the following:

6 “(5) PROHIBITION ON METHYL TERTIARY
7 BUTYL ETHER AND OTHER ETHER COMPOUNDS.—

8 “(A) SPECIFIED NONATTAINMENT
9 AREAS.—

10 “(i) IN GENERAL.—Effective begin-
11 ning January 1, 2001, a person shall not
12 sell or dispense to ultimate consumers any
13 fuel or fuel additive containing methyl ter-
14 tiary butyl ether in an area of the United
15 States other than an area described in
16 clause (ii).

17 “(ii) AREAS.—An area described in
18 this clause is an area that is a specified
19 nonattainment area—

20 “(I) that is required to meet the
21 oxygen content requirement for refor-
22 mulated gasoline established under
23 subsection (k); and

24 “(II) in which methyl tertiary
25 butyl ether was used to meet the oxy-

1 gen content requirement before Janu-
2 ary 1, 2000.

3 “(B) INTERIM PERIOD OF USE OF MTBE IN
4 A FUEL OR FUEL ADDITIVE.—

5 “(i) PHASED REDUCTION.—

6 “(I) IN GENERAL.—The Admin-
7 istrator shall promulgate regulations
8 to require—

9 “(aa) during the 1-year pe-
10 riod beginning on the date that is
11 1 year after the date of enact-
12 ment of this paragraph, a $\frac{1}{3}$ re-
13 duction in the quantity of methyl
14 tertiary butyl ether that may be
15 sold or dispensed for use in a
16 fuel or fuel additive;

17 “(bb) during the 1-year pe-
18 riod beginning on the date that is
19 2 years after the date of enact-
20 ment of this paragraph, a $\frac{2}{3}$ re-
21 duction in the quantity of methyl
22 tertiary butyl ether that may be
23 sold or dispensed for use in a
24 fuel or fuel additive; and

1 “(cc) that in no area does
2 the quantity of methyl tertiary
3 butyl ether sold or dispensed for
4 use in a fuel or fuel additive in-
5 crease.

6 “(II) BASIS FOR REDUCTIONS.—
7 Reductions under subclause (I) shall
8 be based on the quantity of methyl
9 tertiary butyl ether sold or dispensed
10 for use in a fuel or fuel additive in the
11 United States during the 1-year pe-
12 riod ending on the date of enactment
13 of this paragraph.

14 “(III) EQUITABLE TREAT-
15 MENT.—The regulations promulgated
16 by the Administrator under subclause
17 (I) shall, to the maximum extent prac-
18 ticable, provide equitable treatment—

19 “(aa) on a geographical
20 basis; and

21 “(bb) among fuel manufac-
22 turers, refiners, distributors, and
23 retailers.

24 “(IV) TRADING OF AUTHORIZA-
25 TIONS TO SELL OR DISPENSE

1 MTBE.—To facilitate the most orderly
2 and efficient reduction in the use of
3 methyl tertiary butyl ether in a fuel or
4 fuel additive, the regulations promul-
5 gated by the Administrator under sub-
6 clause (I) may allow for persons sub-
7 ject to the regulations to sell to and
8 purchase from each other authoriza-
9 tions to sell or dispense methyl ter-
10 tiary butyl ether for use in a fuel or
11 fuel additive.

12 “(ii) LABELING.—

13 “(I) IN GENERAL.—The Admin-
14 istrator shall promulgate regulations
15 that require any person selling or dis-
16 pensing gasoline that contains methyl
17 tertiary butyl ether at retail promi-
18 nently to label the gasoline dispensing
19 system for the gasoline with a
20 notice—

21 “(aa) stating that the gaso-
22 line contains methyl tertiary
23 butyl ether; and

24 “(bb) providing such infor-
25 mation concerning the human

1 health and environmental risks
2 associated with methyl tertiary
3 butyl ether as the Administrator
4 determines to be appropriate.

5 “(II) PERIOD OF EFFECTIVE-
6 NESS.—The regulations promulgated
7 under subclause (I) shall be effective
8 during the period—

9 “(aa) beginning as soon as
10 practicable, but not later than 60
11 days, after the date of enactment
12 of this paragraph; and

13 “(bb) ending on the date
14 that is 3 years after the date of
15 enactment of this paragraph.

16 “(C) PROHIBITION ON USE OF MTBE IN A
17 FUEL OR FUEL ADDITIVE.—Effective beginning
18 on the date that is 3 years after the date of en-
19 actment of this paragraph, a person shall not
20 manufacture, introduce into commerce, offer for
21 sale, sell, or dispense a fuel or fuel additive con-
22 taining methyl tertiary butyl ether or any other
23 ether compound.

24 “(D) WAIVER.—The Administrator may by
25 regulation waive the prohibition under subpara-

1 graph (C) with respect to an ether compound
2 other than methyl tertiary butyl ether if the Ad-
3 ministrator determines that the use of the ether
4 compound in a fuel or fuel additive will not
5 pose a significant risk to human health or the
6 environment.

7 “(E) AREAS OF MTBE CONTAMINATION.—

8 If the Administrator finds that methyl tertiary
9 butyl ether is contaminating or posing a sub-
10 stantial risk of contamination of soil, ground
11 water, or surface water in an area, the Admin-
12 istrator may take such action as is necessary to
13 protect human health and the environment in
14 the area, including requiring a more rapid re-
15 duction (including immediate termination) of
16 the quantity of methyl tertiary butyl ether sold
17 or dispensed for use in a fuel or fuel additive
18 in the area than required under subparagraph
19 (A) or (B).

20 “(F) STATE AUTHORITY TO REGULATE

21 MTBE.—Notwithstanding any other provision of
22 law, a State may impose such restrictions, in-
23 cluding a prohibition, on the manufacture, sale,
24 or use of methyl tertiary butyl ether in a fuel
25 or fuel additive as the State determines to be

1 appropriate to protect human health and the
2 environment.”.

3 (b) REMEDIAL ACTION CONCERNING MTBE CON-
4 TAMINATION.—

5 (1) UNDERGROUND STORAGE TANKS.—Section
6 9003(h) of the Solid Waste Disposal Act (42 U.S.C.
7 6991b(h)) is amended by striking paragraph (3) and
8 inserting the following:

9 “(3) PRIORITY.—In carrying out a corrective
10 action under this subsection, or in issuing an order
11 that requires an owner or operator to carry out a
12 corrective action under this subsection, the Adminis-
13 trator (or a State under paragraph (7)) shall give
14 priority to a release of petroleum from an under-
15 ground storage tank that poses the greatest threat
16 to human health, human welfare, and the environ-
17 ment.”.

18 (2) CLEANUP GUIDELINES.—Section 1442 of
19 the Safe Drinking Water Act (42 U.S.C. 300j-1) is
20 amended by adding at the end the following:

21 “(f) CLEANUP GUIDELINES FOR MTBE.—

22 “(1) IN GENERAL.—The Administrator—

23 “(A) shall develop technical guidelines to
24 assist States, local governments, private land-
25 owners, and other interested parties in the in-

1 vestigation and cleanup of methyl tertiary butyl
2 ether in soil or ground water; and

3 “(B) may enter into cooperative agree-
4 ments with the United States Geological Sur-
5 vey, the Department of Agriculture, States,
6 local governments, private landowners, and
7 other interested parties—

8 “(i) to establish voluntary pilot
9 projects for the cleanup of methyl tertiary
10 butyl ether and the protection of private
11 wells from contamination by methyl ter-
12 tiary butyl ether; and

13 “(ii) to provide technical assistance in
14 carrying out such projects.

15 “(2) PRIVATE WELLS.—This subsection does
16 not authorize the issuance of guidance or regulations
17 concerning the use or protection of private wells.”.

18 (3) STATE SOURCE WATER ASSESSMENT PRO-
19 GRAMS.—Section 1453(a) of the Safe Drinking
20 Water Act (42 U.S.C. 300j-13(a)) is amended by
21 adding at the end the following:

22 “(8) MTBE CONTAMINATION.—

23 “(A) IN GENERAL.—The Administrator
24 shall amend the guidance under this subsection
25 to require that State source water assessment

1 programs be revised to give high priority to
 2 ground water areas and aquifers that have been
 3 contaminated, or are most vulnerable to con-
 4 tamination, by methyl tertiary butyl ether.

5 “(B) APPROVAL OF REVISIONS.—Each re-
 6 vision under subparagraph (A) shall be sub-
 7 mitted and approved or disapproved by the Ad-
 8 ministrator in accordance with the schedule de-
 9 scribed in paragraph (3).”.

10 **SEC. 3. OXYGEN CONTENT REQUIREMENT UNDER REFOR-**
 11 **MULATED GASOLINE PROGRAM.**

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

14 (1) in the first sentence—

15 (A) by striking “Within 1 year after the
 16 enactment of the Clean Air Act Amendments of
 17 1990,” and inserting the following:

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

20 (B) by inserting before the period at the
 21 end the following: “and opt-in areas under
 22 paragraph (6)”;

23 (2) in the second sentence—

24 (A) by inserting “and other” after “volatile
 25 organic”; and

1 (B) by inserting “and precursors of toxic
2 air pollutants” after “toxic air pollutants”; and
3 (3) by adding at the end the following:

4 “(B) WAIVER OF PER-GALLON OXYGEN
5 CONTENT REQUIREMENT.—

6 “(i) PROCEDURE FOR SUBMISSION OF
7 PETITIONS.—The Administrator shall pro-
8 mulgate regulations that establish a proce-
9 dure providing for the submission of peti-
10 tions for—

11 “(I) a waiver, with respect to an
12 area, of any per-gallon oxygen content
13 requirement established under para-
14 graph (2)(B) or (3)(A)(v); and

15 “(II) the averaging, with respect
16 to an area, of the oxygen content re-
17 quirement established under para-
18 graphs (2)(B) and (3)(A)(v) over such
19 period of time, not to exceed 1 year,
20 as is determined appropriate by the
21 Administrator.

22 “(ii) CRITERIA FOR GRANTING OF PE-
23 TITIONS.—After consultation with the Sec-
24 retary of Energy and the Secretary of Ag-
25 riculture, the Administrator shall grant a

1 petition submitted under clause (i) if the
2 Administrator finds that granting the peti-
3 tion is necessary—

4 “(I) to avoid a shortage or dis-
5 ruption in supply of reformulated gas-
6 oline;

7 “(II) to avoid the payment by
8 consumers of excessive prices for re-
9 formulated gasoline; or

10 “(III) to facilitate the attainment
11 by an area of a national primary am-
12 bient air quality standard.

13 “(iii) MAINTENANCE OF HUMAN
14 HEALTH AND ENVIRONMENTAL BENE-
15 FITS.—The regulations promulgated under
16 clause (i) shall ensure that the human
17 health and environmental benefits of refor-
18 mulated gasoline are fully maintained dur-
19 ing the period of any waiver of a per-gallon
20 oxygen content requirement.”.

21 (b) TEMPORARY REDUCTION OF OXYGEN CONTENT
22 REQUIREMENT.—Section 211(k) of the Clean Air Act (42
23 U.S.C. 7545(k)) is amended—

24 (1) by redesignating paragraph (10) as para-
25 graph (11); and

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

3 “(10) TEMPORARY REDUCTION OF OXYGEN
4 CONTENT REQUIREMENT.—

5 “(A) IN GENERAL.—If, upon petition of a
6 State, the Secretary of Energy, with the con-
7 currence of the Secretary of Agriculture, finds
8 that, with respect to any area, there is, as a re-
9 sult of unforeseeable or unavoidable cir-
10 cumstances, an insufficient supply of
11 oxygenates to meet the oxygen content require-
12 ment of paragraphs (2)(B) and (3)(A)(v), the
13 Administrator may, in accordance with section
14 307, promulgate regulations temporarily reduc-
15 ing (including waiving) the oxygen content re-
16 quirement, with respect to the area, to the ex-
17 tent necessary to ensure an adequate supply of
18 reformulated gasoline.

19 “(B) DURATION OF REDUCTION.—

20 “(i) IN GENERAL.—A temporary re-
21 duction in the oxygen content requirement
22 under subparagraph (A) shall remain in ef-
23 fect for a period of 90 days unless the Sec-
24 retary of Energy finds, before the end of

1 that period, that a sufficient supply of
2 oxygenates exists.

3 “(ii) EXTENSION.—Upon the expira-
4 tion of the 90-day period under clause (i),
5 the temporary reduction in the oxygen con-
6 tent requirement may be extended for an
7 additional 90-day period in accordance
8 with subparagraph (A).

9 “(C) MAINTENANCE OF HUMAN HEALTH
10 AND ENVIRONMENTAL BENEFITS.—The regula-
11 tions promulgated under subparagraph (A)
12 shall ensure that the human health and envi-
13 ronmental benefits of reformulated gasoline are
14 fully maintained during the period of the tem-
15 porary reduction in the oxygen content require-
16 ment.”.

17 **SEC. 4. LIMITATIONS ON AROMATICS AND OLEFINS IN RE-**
18 **FORMULATED GASOLINE.**

19 Section 211(k)(3)(A) of the Clean Air Act (42 U.S.C.
20 7545(k)(3)(A)) is amended—

21 (1) by striking clause (ii) and inserting the fol-
22 lowing:

23 “(ii) AROMATICS.—

24 “(I) IN GENERAL.—The aromatic
25 hydrocarbon content of the reformu-

1 lated gasoline shall not exceed 22 per-
2 cent by volume.

3 “(II) AVERAGE.—The average
4 aromatic hydrocarbon content of the
5 reformulated gasoline shall not exceed
6 the average aromatic hydrocarbon
7 content of reformulated gasoline sold
8 in covered areas for use in baseline
9 vehicles when using reformulated gas-
10 oline during either calendar year 1999
11 or calendar year 2000.

12 “(III) MAXIMUM PER GALLON.—
13 No gallon of reformulated gasoline
14 shall have an aromatic hydrocarbon
15 content in excess of 30 percent.”; and

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

17 “(vi) OLEFINS.—

18 “(I) IN GENERAL.—The olefin
19 content of the reformulated gasoline
20 shall not exceed 8 percent by volume.

21 “(II) AVERAGE.—The average
22 olefin content of the reformulated gas-
23 oline shall not exceed the average
24 olefin content of reformulated gasoline
25 sold in covered areas for use in base-

1 line vehicles when using reformulated
2 gasoline during either calendar year
3 1999 or calendar year 2000.

4 “(III) MAXIMUM PER GALLON.—
5 No gallon of reformulated gasoline
6 shall have an olefin content in excess
7 of 10 percent.”.

8 **SEC. 5. MODIFICATION OF PERFORMANCE STANDARDS.**

9 Section 211(k)(3)(B) of the Clean Air Act (42 U.S.C.
10 7545(k)(3)(B)) is amended—

11 (1) in the last sentence of clause (i), by insert-
12 ing before the period at the end the following: “,
13 and, to the maximum extent practicable using avail-
14 able science, determined on the basis of the ozone-
15 forming potential of volatile organic compounds and
16 taking into account the effect on ozone formation of
17 reducing carbon monoxide emissions”; and

18 (2) in clause (ii)—

19 (A) in the first sentence, by inserting “, or
20 precursors of toxic air pollutants,” after “toxic
21 air pollutants” each place it appears;

22 (B) in the second sentence, by inserting
23 before the period at the end the following: “, or
24 precursors of toxic air pollutants”;

1 (C) in the third sentence, by inserting “, or
2 precursors,” after “such air pollutants”; and

3 (D) in the last sentence, by inserting be-
4 fore the period at the end the following: “, and,
5 to the maximum extent practicable using avail-
6 able science, determined on the basis of the rel-
7 ative toxicity or carcinogenic potency, whichever
8 is more protective of human health and the en-
9 vironment”.

10 **SEC. 6. ANTI-BACKSLIDING.**

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

13 (1) in the last sentence, by striking “Any reduc-
14 tion” and inserting the following:

15 “(iii) TREATMENT OF GREATER RE-
16 Ductions.—Any reduction”; and

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

18 “(iv) ANTI-BACKSLIDING PROVI-
19 SION.—

20 “(I) IN GENERAL.—Not later
21 than October 1, 2000, the Adminis-
22 trator shall revise performance stand-
23 ards under this subparagraph as nec-
24 essary to ensure that—

1 “(aa) the ozone-forming po-
2 tential, taking into account all
3 ozone precursors (including vola-
4 tile organic compounds, oxides of
5 nitrogen, and carbon monoxide),
6 of the aggregate emissions during
7 the high ozone season (as deter-
8 mined by the Administrator)
9 from baseline vehicles when using
10 reformulated gasoline does not
11 exceed the ozone-forming poten-
12 tial of the aggregate emissions
13 during the high ozone season
14 from baseline vehicles when using
15 reformulated gasoline that com-
16 plies with the regulations that
17 were in effect on January 1,
18 2000, and were applicable to re-
19 formulated gasoline sold in cal-
20 endar year 2000 and subsequent
21 calendar years; and

22 “(bb) the aggregate emis-
23 sions of the pollutants specified
24 in subclause (II), or precursors of
25 those pollutants, from baseline

1 vehicles when using reformulated
2 gasoline do not exceed the aggregate
3 emissions of those pollutants,
4 or precursors, from baseline
5 vehicles when using reformulated
6 gasoline that complies with the
7 regulations that were in effect on
8 January 1, 2000, and were applicable
9 to reformulated gasolines
10 sold in calendar year 2000 and
11 subsequent calendar years.

12 “(II) SPECIFIED POLLUTANTS.—

13 The pollutants specified in this sub-
14 clause are—

15 “(aa) toxic air pollutants,
16 categorized by degree of toxicity
17 and carcinogenic potency;

18 “(bb) particulate matter
19 (PM-10) and fine particulate
20 matter (PM-2.5);

21 “(cc) pollutants regulated
22 under section 108; and

23 “(dd) such other pollutants,
24 and precursors to pollutants, as
25 the Administrator determines by

1 regulation should be controlled to
2 prevent the deterioration of air
3 quality and to achieve attainment
4 of a national ambient air quality
5 standard in 1 or more areas.

6 “(III) ADJUSTMENT FOR EMIS-
7 SIONS OF CARBON MONOXIDE.—

8 “(aa) IN GENERAL.—In car-
9 rying out subclause (I), the Ad-
10 ministrator shall adjust the per-
11 formance standard for emissions
12 of volatile organic compounds
13 under this subparagraph to ac-
14 count for emissions of carbon
15 monoxide that are greater than
16 or less than the carbon monoxide
17 baseline determined under item
18 (bb).

19 “(bb) CARBON MONOXIDE
20 BASELINE.—The carbon mon-
21 oxide baseline shall be equal to
22 the mass carbon monoxide emis-
23 sions achieved by reformulated
24 gasoline that contains 2 percent
25 oxygen by weight and meets the

1 other performance standards
2 under this subparagraph.

3 “(IV) UPDATING OF BASELINE
4 VEHICLES.—Not later than 3 years
5 after the date of enactment of this
6 clause, the Administrator shall revise
7 the performance standards under this
8 subparagraph by redefining the term
9 ‘baseline vehicles’ as used in this
10 clause to mean vehicles representative
11 of vehicles (including off-road vehi-
12 cles) in use as of January 1, 2000.”.

13 (b) REFORMULATED GASOLINE CARBON MONOXIDE
14 REDUCTION CREDIT.—Section 182(c)(2)(B) of the Clean
15 Air Act (42 U.S.C. 7511a(c)(2)(B)) is amended by adding
16 at the end the following: “An adjustment to the volatile
17 organic compound emission reduction requirements under
18 section 211(k)(3)(B)(iv) shall be credited toward the re-
19 quirement for VOC emissions reductions under this sub-
20 paragraph.”.

21 **SEC. 7. CERTIFICATION OF FUELS AS EQUIVALENT TO RE-**
22 **FORMULATED GASOLINE.**

23 Section 211(k)(4)(B) of the Clean Air Act (42 U.S.C.
24 7545(k)(4)(B)) is amended—

1 (1) by redesignating clauses (i) and (ii) as sub-
2 clauses (I) and (II), respectively, and indenting ap-
3 propriately to reflect the amendments made by this
4 section;

5 (2) by striking “The Administrator” and insert-
6 ing the following:

7 “(i) IN GENERAL.—The Adminis-
8 trator”;

9 (3) in clause (i) (as designated by paragraph
10 (2))—

11 (A) in subclause (I) (as redesignated by
12 paragraph (1)), by striking “, and” and insert-
13 ing a semicolon;

14 (B) in subclause (II) (as redesignated by
15 paragraph (1))—

16 (i) by striking “achieve equivalent”
17 and inserting the following: “achieve—

18 “(aa) equivalent”;

19 (ii) by striking the period at the end
20 and inserting “; or”; and

21 (iii) by adding at the end the fol-
22 lowing:

23 “(bb) combined reductions
24 in emissions of ozone forming
25 volatile organic compounds and

1 carbon monoxide that result in a
 2 reduction in ozone concentration,
 3 as provided in clause (ii)(I), that
 4 is equivalent to or greater than
 5 the reduction in ozone concentra-
 6 tion achieved by a reformulated
 7 gasoline meeting the applicable
 8 requirements of paragraph (3);”;
 9 and

10 (C) by adding at the end the following:

11 “(III) achieve equivalent or
 12 greater reductions in emissions of
 13 toxic air pollutants, or precursors of
 14 toxic air pollutants, than are achieved
 15 by a reformulated gasoline meeting
 16 the applicable requirements of para-
 17 graph (3); and

18 “(IV) meet the requirements of
 19 paragraph (3)(B)(iv).”; and

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

21 “(ii) CARBON MONOXIDE CREDIT.—

22 “(I) IN GENERAL.—In deter-
 23 mining whether a fuel formulation or
 24 slate of fuel formulations achieves
 25 combined reductions in emissions of

1 ozone forming volatile organic com-
2 pounds and carbon monoxide in an
3 area that result in a reduction in
4 ozone concentration that is equivalent
5 to or greater than the reduction in
6 ozone concentration achieved by a re-
7 formulated gasoline meeting the appli-
8 cable requirements of paragraph (3)
9 in the area, the Administrator—

10 “(aa) shall consider, to the
11 extent appropriate, the change in
12 carbon monoxide emissions from
13 baseline vehicles attributable to
14 an oxygen content in the fuel for-
15 mulation or slate of fuel formula-
16 tions that exceeds any minimum
17 oxygen content requirement for
18 reformulated gasoline applicable
19 to the area; and

20 “(bb) may consider, to the
21 extent appropriate, the change in
22 carbon monoxide emissions de-
23 scribed in item (aa) from vehicles
24 other than baseline vehicles.

1 “(II) OXYGEN CREDITS.—Any
 2 excess oxygen content that is taken
 3 into consideration in making a deter-
 4 mination under subclause (I) may not
 5 be used to generate credits under
 6 paragraph (7)(A).

7 “(III) RELATION TO TITLE I.—
 8 Any fuel formulation or slate of fuel
 9 formulations that is certified as equiv-
 10 alent or greater under this subpara-
 11 graph, taking into consideration the
 12 combined reductions in emissions of
 13 volatile organic compounds and car-
 14 bon monoxide, shall receive the same
 15 volatile organic compounds reduction
 16 credit for the purposes of subsections
 17 (b)(1) and (c)(2)(B) of section 182 as
 18 a fuel meeting the applicable require-
 19 ments of paragraph (3).”.

20 **SEC. 8. ADDITIONAL OPT-IN AREAS UNDER REFORMU-**
 21 **LATED GASOLINE PROGRAM.**

22 Section 211(k)(6) of the Clean Air Act (42 U.S.C.
 23 7545(k)(6)) is amended—

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

1 “(6) OPT-IN AREAS.—

2 “(A) CLASSIFIED AREAS.—

3 “(i) IN GENERAL.—Upon”;

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

6 “(ii) EFFECT OF INSUFFICIENT DO-
7 MESTIC CAPACITY TO PRODUCE REFORMU-
8 LATED GASOLINE.—If”;

9 (3) in subparagraph (A)(ii) (as so redesign-
10 nated)—

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

13 (B) in the second sentence, by striking
14 “this paragraph” and inserting “this subpara-
15 graph”; and

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

17 “(B) NONCLASSIFIED AREAS.—

18 “(i) IN GENERAL.—Upon the applica-
19 tion of the Governor of a State, the Ad-
20 ministrator shall apply the prohibition
21 specified in paragraph (5) in any area in
22 the State that is not a covered area or an
23 area referred to in subparagraph (A)(i).

24 “(ii) PUBLICATION OF APPLICA-
25 TION.—As soon as practicable after receipt

1 of an application under clause (i), the Ad-
 2 ministrator shall publish the application in
 3 the Federal Register.”.

4 **SEC. 9. UPDATING OF BASELINE YEAR.**

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

7 (1) by striking subparagraph (A) and inserting
 8 the following:

9 “(A) REGULATIONS.—

10 “(i) EMISSIONS.—The Administrator
 11 shall promulgate regulations applicable to
 12 each refiner, blender, or importer of gaso-
 13 line ensuring that gasoline sold or intro-
 14 duced into commerce by the refiner, blend-
 15 er, or importer (other than reformulated
 16 gasoline subject to the requirements of
 17 paragraph (1)) does not result in average
 18 per gallon emissions of—

19 “(I) volatile organic compounds;

20 “(II) oxides of nitrogen;

21 “(III) carbon monoxide;

22 “(IV) toxic air pollutants;

23 “(V) particulate matter (PM–10)

24 or fine particulate matter (PM–2.5);

25 or

1 “(VI) any precursor of a pollutant specified in subclauses (I) through
2 ant specified in subclauses (I) through
3 (V);

4 in excess of such emissions of such pollutants attributable to gasoline sold or introduced into commerce in calendar year
5 ants attributable to gasoline sold or introduced into commerce in calendar year
6 duced into commerce in calendar year
7 1999 or calendar year 2000, in whichever
8 occurred the lower of such emissions, by
9 that refiner, blender, or importer.

10 “(ii) MEASUREMENT OF AVERAGE
11 PER GALLON EMISSIONS.—For the purposes of clause (i), average per gallon
12 emissions shall be measured on the basis
13 of—
14 of—

15 “(I) mass; and

16 “(II) to the maximum extent
17 practicable using available science—

18 “(aa) ozone-forming potential;
19 tial;

20 “(bb) degree of toxicity; and

21 “(cc) carcinogenic potency.

22 “(iii) AROMATIC HYDROCARBON CONTENT AND OLEFIN CONTENT.—The Administrator shall promulgate regulations
23 TENT AND OLEFIN CONTENT.—The Administrator shall promulgate regulations
24 ministrators shall promulgate regulations
25 applicable to each refiner, blender, or im-

1 porter of gasoline ensuring that gasoline
2 sold or introduced into commerce by the
3 refiner, blender, or importer (other than
4 reformulated gasoline subject to the re-
5 quirements of paragraph (1)) does not
6 have an aromatic hydrocarbon content or
7 olefin content in excess of such content of
8 gasoline sold or introduced into commerce
9 in calendar year 1999 or calendar year
10 2000, in whichever occurred the lower of
11 such content, by that refiner, blender, or
12 importer.”;

13 (2) in subparagraph (C)—

14 (A) by striking “clauses (i) through (iv)”
15 and inserting “subclauses (I) through (VI) of
16 subparagraph (A)(i)”;

17 (B) by inserting “or volatile organic com-
18 pounds” after “nitrogen”; and

19 (C) by striking “(on a mass basis)” and
20 inserting “(as measured in accordance with
21 subparagraph (A)(ii))”; and

22 (3) in subparagraph (E)—

23 (A) by striking “calendar year 1990” and
24 inserting “calendar year 1999 or calendar year

1 2000 (as determined under subparagraph
2 (A)(i)"); and

3 (B) by striking "such 1990 gasoline" and
4 inserting "such 1999 or 2000 gasoline".

5 (b) REGULATIONS.—As soon as practicable after the
6 date of enactment of this Act, the Administrator of the
7 Environmental Protection Agency shall revise the regula-
8 tions promulgated under section 211(k) of the Clean Air
9 Act (42 U.S.C. 7545(k)) to reflect the amendments made
10 by subsection (a).

11 **SEC. 10. RENEWABLE CONTENT OF GASOLINE AND DIESEL**
12 **FUEL.**

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

15 (1) by redesignating subsection (o) as sub-
16 section (q); and

17 (2) by inserting after subsection (n) the fol-
18 lowing:

19 “(o) RENEWABLE CONTENT OF GASOLINE.—

20 “(1) IN GENERAL.—

21 “(A) REGULATIONS.—Not later than Sep-
22 tember 1, 2000, the Administrator shall pro-
23 mulgate regulations applicable to each refiner,
24 blender, or importer of gasoline to ensure that
25 gasoline sold or introduced into commerce in

1 the United States by the refiner, blender, or im-
 2 porter complies with the renewable content re-
 3 quirements of this subsection.

4 “(B) RENEWABLE CONTENT REQUIRE-
 5 MENTS.—

6 “(i) IN GENERAL.—All gasoline sold
 7 or introduced into commerce in the United
 8 States by a refiner, blender, or importer
 9 shall contain, on a quarterly average basis,
 10 a quantity of fuel derived from a renewable
 11 source that is not less than the applicable
 12 percentage by volume for the quarter.

13 “(ii) APPLICABLE PERCENTAGE.—For
 14 the purposes of clause (i), the applicable
 15 percentage for a quarter of a calendar year
 16 shall be determined in accordance with the
 17 following table:

“Calendar year:	Applicable percentage of fuel derived from a renewable source:
2000	1.3
2001	1.5
2002	1.8
2003	2.1
2004	2.4
2005	2.7
2006	3.0
2007	3.3
2008	3.6
2009	3.9
2010 and thereafter	4.2.

18 “(C) FUEL DERIVED FROM A RENEWABLE
 19 SOURCE.—For the purposes of this subsection,

1 a fuel shall be considered to be derived from a
2 renewable source if the fuel—

3 “(i) is produced from—

4 “(I) agricultural commodities,
5 agricultural products, or residues of
6 agricultural commodities or agricul-
7 tural products;

8 “(II) plant materials, including
9 grasses, fibers, wood, and wood resi-
10 dues;

11 “(III) dedicated energy crops and
12 trees;

13 “(IV) animal wastes, animal by-
14 products, and other materials of ani-
15 mal origin;

16 “(V) municipal wastes and refuse
17 derived from plant or animal sources;
18 and

19 “(VI) other biomass; and

20 “(ii) is used to replace or reduce the
21 quantity of fossil fuel present in a fuel
22 mixture used to operate a motor vehicle,
23 motor vehicle engine, nonroad vehicle, or
24 nonroad engine.

25 “(D) CREDIT PROGRAM.—

1 “(i) IN GENERAL.—The regulations
2 promulgated under this subsection shall
3 provide for the generation of an appro-
4 priate amount of credits by a person that
5 refines, blends, or imports gasoline that
6 contains, on a quarterly average basis, a
7 quantity of fuel derived from a renewable
8 source that is greater than the quantity re-
9 quired under subparagraph (B).

10 “(ii) USE OF CREDITS.—The regula-
11 tions shall provide that a person that gen-
12 erates the credits may use the credits, or
13 transfer all or a portion of the credits to
14 another person, for the purpose of com-
15 plying with subparagraph (B).

16 “(iii) REGULATIONS TO PREVENT EX-
17 CESSIVE GEOGRAPHICAL CONCENTRA-
18 TION.—The Administrator, in consultation
19 with the Secretary of Energy and the Sec-
20 retary of Agriculture, may promulgate reg-
21 ulations governing the generation and
22 trading of credits described in clause (i) in
23 order to prevent excessive geographical
24 concentration in the use of fuel derived

1 from a renewable source that would tend
2 unduly—

3 “(I) to affect the price, supply, or
4 distribution of such fuel;

5 “(II) to impede the development
6 of the renewable fuels industry; or

7 “(III) to otherwise interfere with
8 the purposes of this subsection.

9 “(2) WAIVERS.—

10 “(A) IN GENERAL.—The Administrator, in
11 consultation with the Secretary of Agriculture
12 and the Secretary of Energy, may waive the re-
13 quirements of paragraph (1)(B) with respect to
14 an area in whole or in part on petition by a
15 State—

16 “(i) based on a determination by the
17 Administrator, after public notice and op-
18 portunity for comment, that—

19 “(I) implementation of the re-
20 quirements would severely harm the
21 economy or environment of the area;
22 or

23 “(II) there is an inadequate do-
24 mestic supply or distribution capacity
25 with respect to fuel from renewable

1 sources in the area to meet the re-
2 quirements of paragraph (1)(B); and

3 “(ii) only after a determination by the
4 Administrator that use of the credit pro-
5 gram described in paragraph (1)(D) would
6 not adequately alleviate the circumstances
7 on which the petition is based.

8 “(B) PETITIONS FOR WAIVERS.—The Ad-
9 ministrator, in consultation with the Secretary
10 of Agriculture and the Secretary of Energy—

11 “(i) shall approve or deny a State pe-
12 tition for a waiver of the requirements of
13 paragraph (1)(B) within 180 days after
14 the date on which the petition is received;
15 but

16 “(ii) may extend that period for up to
17 60 additional days to provide for public no-
18 tice and opportunity for comment and for
19 consideration of the comments submitted.

20 “(C) TERMINATION OF WAIVERS.—A waiv-
21 er granted under subparagraph (A) shall termi-
22 nate on the earlier of—

23 “(i) the date on which the Adminis-
24 trator, in consultation with the Secretary
25 of Agriculture and the Secretary of En-

1 ergy, determines that the reason for the
2 waiver no longer exists; or

3 “(ii) the date that is 1 year after the
4 date on which the waiver is granted.

5 “(D) RENEWAL OF WAIVERS.—A waiver
6 granted under subparagraph (A) may be re-
7 newed by the Administrator after consultation
8 with the Secretary of Agriculture and the Sec-
9 retary of Energy.

10 “(E) OXYGEN CONTENT WAIVERS.—The
11 grant or denial of a waiver under subsection
12 (k)(2)(B) shall not affect the requirements of
13 this subsection.

14 “(3) GUIDANCE FOR LABELING.—After con-
15 sultation with the Secretary of Agriculture and the
16 Secretary of Energy, the Administrator shall issue
17 guidance to the States for labeling, at the point of
18 retail sale—

19 “(A) the fuel derived from a renewable
20 source that is contained in the fuel sold; and

21 “(B) the major fuel additive components of
22 the fuel sold.

23 “(4) REPORTS TO CONGRESS.—Not less often
24 than every 3 years, the Administrator shall submit
25 to Congress a report—

1 “(A) describing reductions in emissions of
2 criteria air pollutants listed under section 108
3 that result from implementation of this sub-
4 section;

5 “(B) in consultation with the Secretary of
6 Agriculture, describing—

7 “(i) the impact of implementation of
8 this subsection on—

9 “(I) the demand for farm com-
10 modities, biomass, and other materials
11 used for producing fuel derived from a
12 renewable source; and

13 “(II) the adequacy of food and
14 feed supplies; and

15 “(ii) the effect of implementation of
16 this subsection on farm income, employ-
17 ment, and economic growth, particularly in
18 rural areas; and

19 “(C) in consultation with the Secretary of
20 Energy—

21 “(i) describing greenhouse gas emis-
22 sion reductions that result from implemen-
23 tation of this subsection; and

24 “(ii) assessing the effect of implemen-
25 tation of this subsection on United States

1 energy security and reliance on imported
2 petroleum.

3 “(p) RENEWABLE CONTENT OF DIESEL FUEL.—

4 “(1) IN GENERAL.—

5 “(A) REGULATIONS.—Not later than Sep-
6 tember 1, 2000, the Administrator shall pro-
7 mulgate regulations applicable to each refiner,
8 blender, or importer of diesel fuel to ensure
9 that the diesel fuel sold or introduced into com-
10 merce in the United States by the refiner,
11 blender, or importer complies with the renew-
12 able content requirements established by the
13 Administrator under this subsection.

14 “(B) RENEWABLE CONTENT REQUIRE-
15 MENTS.—

16 “(i) IN GENERAL.—All diesel fuel sold
17 or introduced into commerce in the United
18 States by a refiner, blender, or importer
19 shall contain, on a quarterly average basis,
20 a quantity of fuel derived from a renewable
21 source (as described in subsection
22 (o)(1)(C)) that is not less than the applica-
23 ble percentage by volume for the quarter.

24 “(ii) APPLICABLE PERCENTAGE.—For
25 the purposes of clause (i), the applicable

1 percentage for a quarter of a calendar
2 year—

3 “(I) shall be established by the
4 Administrator;

5 “(II) shall gradually increase
6 over time; and

7 “(III) in the case of calendar
8 year 2010 and each calendar year
9 thereafter, shall be 1.0 percent.

10 “(2) OTHER ELEMENTS OF PROGRAM.—The
11 Administrator shall by regulation establish a pro-
12 gram to carry out paragraph (1) that, in order to
13 ensure the use of biodiesel fuel, has other elements
14 that are similar to the elements of the program for
15 gasoline under subsection (o), including—

16 “(A) a credit program similar to that de-
17 scribed in subsection (o)(1)(D); and

18 “(B) waiver authority similar to that pro-
19 vided by subsection (o)(2).”.

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

23 (1) in paragraph (1)—

1 (A) in the first sentence, by striking “or
2 (n)” each place it appears and inserting “(n),
3 (o), or (p)”;

4 (B) in the second sentence, by striking “or
5 (m)” and inserting “(m), (o), or (p)”;

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

9 (c) PREVENTION OF EFFECTS ON HIGHWAY APPOR-
10 TIONMENTS.—

11 (1) SURFACE TRANSPORTATION PROGRAM.—
12 Section 104(b)(3) of title 23, United States Code, is
13 amended by adding at the end the following:

14 “(C) DETERMINATION OF ESTIMATED TAX
15 PAYMENTS.—For the purpose of determining
16 under subparagraph (A)(iii) the estimated tax
17 payments attributable to highway users in a
18 State paid into the Highway Trust Fund (other
19 than the Mass Transit Account) in a fiscal
20 year, the amount paid into the Highway Trust
21 Fund with respect to the sale of gasohol or
22 other fuels containing alcohol by reason of the
23 tax imposed by section 4041 (relating to special
24 fuels) or 4081 (relating to gasoline) of the In-
25 ternal Revenue Code of 1986 shall be treated as

1 being equal to the amount that would have been
2 so imposed with respect to that sale without re-
3 gard to the reduction in revenues resulting from
4 the application of the regulations promulgated
5 under section 6(f) of the Toxic Substances Con-
6 trol Act (15 U.S.C. 2605(f)), subsections (o)
7 and (p) of section 211 of the Clean Air Act (42
8 U.S.C. 7545), and the following provisions of
9 the Internal Revenue Code of 1986:

10 “(i) Section 4041(b)(2) (relating to
11 exemption for qualified methanol and eth-
12 anol fuel).

13 “(ii) Section 4041(k) (relating to fuels
14 containing alcohol).

15 “(iii) Section 4041(m) (relating to
16 certain alcohol fuels).

17 “(iv) Section 4081(c) (relating to re-
18 duced rate on gasoline mixed with alco-
19 hol).”.

20 (2) MINIMUM GUARANTEE.—Section 105(f)(1)
21 of title 23, United States Code, is amended—

22 (A) by striking “(1) IN GENERAL.—Be-
23 fore” and inserting the following: “(1) IN GEN-
24 ERAL.—

25 “(A) ADJUSTMENT.—Before”; and

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

2 “(B) DETERMINATION OF ESTIMATED TAX
3 PAYMENTS.—For the purpose of determining
4 under this subsection the estimated tax pay-
5 ments attributable to highway users in a State
6 paid into the Highway Trust Fund (other than
7 the Mass Transit Account) in a fiscal year, the
8 amount paid into the Highway Trust Fund with
9 respect to the sale of gasohol or other fuels con-
10 taining alcohol by reason of the tax imposed by
11 section 4041 (relating to special fuels) or 4081
12 (relating to gasoline) of the Internal Revenue
13 Code of 1986 shall be treated as being equal to
14 the amount that would have been so imposed
15 with respect to that sale without regard to the
16 reduction in revenues resulting from the appli-
17 cation of the regulations promulgated under
18 section 6(f) of the Toxic Substances Control
19 Act (15 U.S.C. 2605(f)), subsections (o) and
20 (p) of section 211 of the Clean Air Act (42
21 U.S.C. 7545), and the following provisions of
22 the Internal Revenue Code of 1986:

23 “(i) Section 4041(b)(2) (relating to
24 exemption for qualified methanol and eth-
25 anol fuel).

1 “(ii) Section 4041(k) (relating to fuels
2 containing alcohol).

3 “(iii) Section 4041(m) (relating to
4 certain alcohol fuels).

5 “(iv) Section 4081(c) (relating to re-
6 duced rate on gasoline mixed with alco-
7 hol).”.

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