

107TH CONGRESS
1ST SESSION

S. 892

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

MAY 15, 2001

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 2001”.

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, 2002, 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, 2001.

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 Section 211(k)(1) of the Clean Air Act (42 U.S.C.
13 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 **SEC. 4. LIMITATIONS ON AROMATICS AND OLEFINS IN RE-**
22 **FORMULATED GASOLINE.**

23 Section 211(k)(3)(A) of the Clean Air Act (42 U.S.C.
24 7545(k)(3)(A)) is amended—

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

3 “(ii) AROMATICS.—

4 “(I) IN GENERAL.—The aromatic
5 hydrocarbon content of the reformu-
6 lated gasoline shall not exceed 22 per-
7 cent by volume.

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

17 “(III) MAXIMUM PER GALLON.—

18 No gallon of reformulated gasoline
19 shall have an aromatic hydrocarbon
20 content in excess of 30 percent.”; and

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

22 “(vi) OLEFINS.—

23 “(I) IN GENERAL.—The olefin
24 content of the reformulated gasoline
25 shall not exceed 8 percent by volume.

1 “(II) AVERAGE.—The average
2 olefin content of the reformulated gas-
3 oline shall not exceed the average
4 olefin content of reformulated gasoline
5 sold in covered areas for use in base-
6 line vehicles when using reformulated
7 gasoline during either calendar year
8 1999 or calendar year 2000.

9 “(III) MAXIMUM PER GALLON.—
10 No gallon of reformulated gasoline
11 shall have an olefin content in excess
12 of 10 percent.”.

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

14 Section 211(k)(3)(B) of the Clean Air Act (42 U.S.C.
15 7545(k)(3)(B)) is amended—

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

23 (2) in clause (ii)—

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

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

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

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

16 **SEC. 6. ANTI-BACKSLIDING.**

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

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

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

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

24 “(iv) ANTI-BACKSLIDING PROVI-
25 SION.—

1 “(I) IN GENERAL.—Not later
2 than October 1, 2001, the Adminis-
3 trator shall revise performance stand-
4 ards under this subparagraph as nec-
5 essary to ensure that—

6 “(aa) the ozone-forming po-
7 tential, taking into account all
8 ozone precursors (including vola-
9 tile organic compounds, oxides of
10 nitrogen, and carbon monoxide),
11 of the aggregate emissions during
12 the high ozone season (as deter-
13 mined by the Administrator)
14 from baseline vehicles when using
15 reformulated gasoline does not
16 exceed the ozone-forming poten-
17 tial of the aggregate emissions
18 during the high ozone season
19 from baseline vehicles when using
20 reformulated gasoline that com-
21 plies with the regulations that
22 were in effect on January 1,
23 2000, and were applicable to re-
24 formulated gasoline sold in cal-

1 endar year 2000 and subsequent
2 calendar years; and

3 “(bb) the aggregate emis-
4 sions of the pollutants specified
5 in subclause (II), or precursors of
6 those pollutants, from baseline
7 vehicles when using reformulated
8 gasoline do not exceed the aggre-
9 gate emissions of those pollut-
10 ants, or precursors, from baseline
11 vehicles when using reformulated
12 gasoline that complies with the
13 regulations that were in effect on
14 January 1, 2000, and were appli-
15 cable to reformulated gasolines
16 sold in calendar year 2000 and
17 subsequent calendar years.

18 “(II) SPECIFIED POLLUTANTS.—

19 The pollutants specified in this sub-
20 clause are—

21 “(aa) toxic air pollutants,
22 categorized by degree of toxicity
23 and carcinogenic potency;

1 “(bb) particulate matter
2 (PM-10) and fine particulate
3 matter (PM-2.5);

4 “(cc) pollutants regulated
5 under section 108; and

6 “(dd) such other pollutants,
7 and precursors to pollutants, as
8 the Administrator determines by
9 regulation should be controlled to
10 prevent the deterioration of air
11 quality and to achieve attainment
12 of a national ambient air quality
13 standard in 1 or more areas.

14 “(III) ADJUSTMENT FOR EMIS-
15 SIONS OF CARBON MONOXIDE.—

16 “(aa) IN GENERAL.—In car-
17 rying out subclause (I), the Ad-
18 ministrator shall adjust the per-
19 formance standard for emissions
20 of volatile organic compounds
21 under this subparagraph to ac-
22 count for emissions of carbon
23 monoxide that are greater than
24 or less than the carbon monoxide

1 baseline determined under item
2 (bb).

3 “(bb) CARBON MONOXIDE
4 BASELINE.—The carbon mon-
5 oxide baseline shall be equal to
6 the mass carbon monoxide emis-
7 sions achieved by reformulated
8 gasoline that contains 2 percent
9 oxygen by weight and meets the
10 other performance standards
11 under this subparagraph.”.

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

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

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

24 (1) by redesignating clauses (i) and (ii) as sub-
25 clauses (I) and (II), respectively, and indenting ap-

1 appropriately to reflect the amendments made by this
2 section;

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

5 “(i) IN GENERAL.—The Adminis-
6 trator”;

7 (3) in clause (i) (as designated by paragraph
8 (2))—

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

12 (B) in subclause (II) (as redesignated by
13 paragraph (1))—

14 (i) by striking “achieve equivalent”
15 and inserting the following: “achieve—

16 “(aa) equivalent”;

17 (ii) by striking the period at the end
18 and inserting “; or”; and

19 (iii) by adding at the end the fol-
20 lowing:

21 “(bb) combined reductions
22 in emissions of ozone forming
23 volatile organic compounds and
24 carbon monoxide that result in a
25 reduction in ozone concentration,

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

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

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

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

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

19 “(ii) CARBON MONOXIDE CREDIT.—

20 “(I) IN GENERAL.—In deter-
21 mining whether a fuel formulation or
22 slate of fuel formulations achieves
23 combined reductions in emissions of
24 ozone forming volatile organic com-
25 pounds and carbon monoxide in an

1 area that result in a reduction in
2 ozone concentration that is equivalent
3 to or greater than the reduction in
4 ozone concentration achieved by a re-
5 formulated gasoline meeting the appli-
6 cable requirements of paragraph (3)
7 in the area, the Administrator—

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

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

23 “(II) OXYGEN CREDITS.—Any
24 excess oxygen content that is taken
25 into consideration in making a deter-

1 mination under subclause (I) may not
2 be used to generate credits under
3 paragraph (7)(A).

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

17 **SEC. 8. ADDITIONAL OPT-IN AREAS UNDER REFORMU-**
18 **LATED GASOLINE PROGRAM.**

19 Section 211(k)(6) of the Clean Air Act (42 U.S.C.
20 7545(k)(6)) is amended—

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

23 “(6) OPT-IN AREAS.—

24 “(A) CLASSIFIED AREAS.—

25 “(i) IN GENERAL.—Upon”;

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

3 “(ii) EFFECT OF INSUFFICIENT DO-
4 MESTIC CAPACITY TO PRODUCE REFORMU-
5 LATED GASOLINE.—If”;

6 (3) in subparagraph (A)(ii) (as so redesign-
7 nated)—

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

10 (B) in the second sentence, by striking
11 “this paragraph” and inserting “this subpara-
12 graph”; and

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

14 “(B) NONCLASSIFIED AREAS.—

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

21 “(ii) PUBLICATION OF APPLICA-
22 TION.—As soon as practicable after receipt
23 of an application under clause (i), the Ad-
24 ministrators shall publish the application in
25 the Federal Register.”.

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

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

4 (1) by striking subparagraph (A) and inserting
5 the following:

6 “(A) REGULATIONS.—

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

16 “(I) volatile organic compounds;

17 “(II) oxides of nitrogen;

18 “(III) carbon monoxide;

19 “(IV) toxic air pollutants;

20 “(V) particulate matter (PM-10)

21 or fine particulate matter (PM-2.5);

22 or

23 “(VI) any precursor of a pollut-

24 ant specified in subclauses (I) through

25 (V);

1 in excess of such emissions of such pollut-
2 ants attributable to gasoline sold or intro-
3 duced into commerce in calendar year
4 1999 or calendar year 2000, in whichever
5 occurred the lower of such emissions, by
6 that refiner, blender, or importer.

7 “(ii) MEASUREMENT OF AVERAGE
8 PER GALLON EMISSIONS.—For the pur-
9 poses of clause (i), average per gallon
10 emissions shall be measured on the basis
11 of—

12 “(I) mass; and

13 “(II) to the maximum extent
14 practicable using available science—

15 “(aa) ozone-forming poten-
16 tial;

17 “(bb) degree of toxicity; and

18 “(cc) carcinogenic potency.

19 “(iii) AROMATIC HYDROCARBON CON-
20 TENT AND OLEFIN CONTENT.—The Ad-
21 ministrator shall promulgate regulations
22 applicable to each refiner, blender, or im-
23 porter of gasoline ensuring that gasoline
24 sold or introduced into commerce by the
25 refiner, blender, or importer (other than

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

10 (2) in subparagraph (C)—

11 (A) by striking “clauses (i) through (iv)”
12 and inserting “subclauses (I) through (VI) of
13 subparagraph (A)(i)”;

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

16 (C) by striking “(on a mass basis)” and
17 inserting “(as measured in accordance with
18 subparagraph (A)(ii))”; and

19 (3) in subparagraph (E)—

20 (A) by striking “calendar year 1990” and
21 inserting “calendar year 1999 or calendar year
22 2000 (as determined under subparagraph
23 (A)(i))”; and

24 (B) by striking “such 1990 gasoline” and
25 inserting “such 1999 or 2000 gasoline”.

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

7 **SEC. 10. RENEWABLE CONTENT OF GASOLINE AND DIESEL**
 8 **FUEL.**

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

11 (1) by redesignating subsection (o) as sub-
 12 section (p); and

13 (2) by inserting after subsection (n) the fol-
 14 lowing:

15 “(o) RENEWABLE CONTENT OF MOTOR VEHICLE
 16 FUEL.—

17 “(1) IN GENERAL.—

18 “(A) REGULATIONS.—Not later than Sep-
 19 tember 1, 2001, the Administrator shall pro-
 20 mulgate regulations applicable to each refiner,
 21 blender, or importer of motor vehicle fuel to en-
 22 sure that motor vehicle fuel sold or introduced
 23 into commerce in the United States by the re-
 24 finer, blender, or importer complies with the re-

1 newable content requirements of this sub-
 2 section.

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

5 “(i) IN GENERAL.—All motor vehicle
 6 fuel sold or introduced into commerce in
 7 the United States by a refiner, blender, or
 8 importer shall contain, on a semiannual av-
 9 erage basis, a quantity of fuel derived from
 10 a renewable source, measured on a gaso-
 11 line-equivalent energy content basis (as de-
 12 termined by the Secretary of Energy) that
 13 is not less than the applicable percentage
 14 by volume for the semiannual period.

15 “(ii) APPLICABLE PERCENTAGE.—For
 16 the purposes of clause (i), the applicable
 17 percentage for a semiannual period of a
 18 calendar year shall be determined in ac-
 19 cordance with the following table:

“Calendar year:	Applicable percentage of fuel derived from a renewable source:
2001	0.8
2002	1.0
2003	1.2
2004	1.4
2005	1.6
2006	1.8
2007	2.1
2008	2.4
2009	2.7
2010	3.0
2011 and thereafter	3.3.

1 “(C) FUEL DERIVED FROM A RENEWABLE
2 SOURCE.—For the purposes of this subsection,
3 a fuel shall be considered to be derived from a
4 renewable source if the fuel—

5 “(i) is produced from—

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

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

13 “(III) dedicated energy crops and
14 trees;

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

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

21 “(VI) other biomass; and

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

1 motor vehicle engine, nonroad vehicle, or
2 nonroad engine.

3 “(D) CREDIT PROGRAM.—

4 “(i) IN GENERAL.—The regulations
5 promulgated under this subsection shall
6 provide for the generation of an appro-
7 priate amount of credits by a person that
8 refines, blends, or imports motor vehicle
9 fuel that contains, on a semiannual aver-
10 age basis, a quantity of fuel derived from
11 a renewable source that is greater than the
12 quantity required under subparagraph (B).

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

19 “(iii) REGULATIONS TO PREVENT EX-
20 CESSIVE GEOGRAPHICAL CONCENTRA-
21 TION.—The Administrator, in consultation
22 with the Secretary of Energy and the Sec-
23 retary of Agriculture, may promulgate reg-
24 ulations governing the generation and
25 trading of credits described in clause (i) in

1 order to prevent excessive geographical
2 concentration in the use of fuel derived
3 from a renewable source that would tend
4 unduly—

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

7 “(II) to impede the development
8 of the renewable fuels industry; or

9 “(III) to otherwise interfere with
10 the purposes of this subsection.

11 “(2) WAIVERS.—

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

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

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

1 “(II) there is an inadequate do-
2 mestic supply or distribution capacity
3 with respect to fuel from renewable
4 sources in the area to meet the re-
5 quirements of paragraph (1)(B); and

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

11 “(B) APPROVAL.—The Administrator shall
12 approve a waiver under subparagraph (A) only
13 to the extent necessary to—

14 “(i) avoid severe economic or environ-
15 mental harm; or

16 “(ii) equalize demand with supply or
17 distribution capacity.

18 “(C) PETITIONS FOR WAIVERS.—The Ad-
19 ministrator, in consultation with the Secretary
20 of Agriculture and the Secretary of Energy—

21 “(i) shall approve or deny a State pe-
22 tition for a waiver of the requirements of
23 paragraph (1)(B) within 180 days after
24 the date on which the petition is received;
25 but

1 “(ii) may extend that period for up to
2 60 additional days to provide for public no-
3 tice and opportunity for comment and for
4 consideration of the comments submitted.

5 “(D) TERMINATION OF WAIVERS.—A waiv-
6 er granted under subparagraph (A) shall termi-
7 nate on the earlier of—

8 “(i) the date on which the Adminis-
9 trator, in consultation with the Secretary
10 of Agriculture and the Secretary of En-
11 ergy, determines that the reason for the
12 waiver no longer exists; or

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

15 “(3) REPORTS TO CONGRESS.—Not less often
16 than every 3 years, the Administrator shall—

17 “(A) in consultation with the Secretary of
18 Agriculture, submit to Congress a report that
19 describes—

20 “(i) the impact of implementation of
21 this subsection on—

22 “(I) the demand for farm com-
23 modities, biomass, and other materials
24 used for producing fuel derived from a
25 renewable source; and

1 “(II) the adequacy of food and
2 feed supplies; and

3 “(ii) the effect of implementation of
4 this subsection on farm income, employ-
5 ment, and economic growth, particularly in
6 rural areas; and

7 “(B) in consultation with the Secretary of
8 Energy, submit to Congress a report that—

9 “(i) describes greenhouse gas emission
10 reductions that result from implementation
11 of this subsection; and

12 “(ii) assesses the effect of implemen-
13 tation of this subsection on United States
14 energy security and reliance on imported
15 petroleum.”.

16 (b) PENALTIES AND ENFORCEMENT.—Section
17 211(d) of the Clean Air Act (42 U.S.C. 7545(d)) is
18 amended—

19 (1) in paragraph (1)—

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

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

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

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