

107TH CONGRESS
1ST SESSION

H. R. 20

To amend section 211 of the Clean Air Act to modify the provisions regarding the oxygen content of reformulated gasoline and to improve the regulation of the fuel additive, methyl tertiary butyl ether (MTBE), and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 3, 2001

Mr. GREENWOOD introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To amend section 211 of the Clean Air Act to modify the provisions regarding the oxygen content of reformulated gasoline and to improve the regulation of the fuel additive, methyl tertiary butyl ether (MTBE), 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. WAIVER OF OXYGEN CONTENT REQUIRE-**
4 **MENTS.**

5 Section 211(k) of the Clean Air Act (42 U.S.C.
6 7545(k)) is amended by adding the following new para-
7 graph at the end:

1 “(11) WAIVER OF OXYGEN CONTENT REQUIRE-
2 MENT.—

3 “(A) IN GENERAL.—Upon petition to the
4 Administrator by the Governor of a State, the
5 Administrator shall waive any oxygen content
6 requirement in effect under this subsection for
7 that State.

8 “(B) ACTION BY ENVIRONMENTAL PRO-
9 TECTION AGENCY.—Not later than 270 days
10 after the date of receipt of a petition submitted
11 under subparagraph (A), the Administrator
12 shall grant the waiver of the oxygen content re-
13 quirement requested in the petition. If, by the
14 date that is 270 days after the date of receipt
15 of such a petition, the Administrator has not
16 granted the petition, the petition shall be
17 deemed to be granted. The waiver under this
18 subparagraph shall take effect on the date 90
19 days after the petition is granted or deemed
20 granted unless the Administrator establishes an
21 earlier effective date.

22 “(C) SPECIAL RULE.—The oxygen content
23 requirement in effect under this subsection shall
24 not apply to a State referred to in subsection
25 (c)(4)(B).”.

1 **SEC. 2. CONTROL OF OXYGENATES.**

2 (a) EPA AUTHORITY.—(1) Section 211(c)(1) of the
3 Clean Air Act (42 U.S.C. 7545(c)(1)) is amended by in-
4 serting “(A)” after “(1)” by redesignating subparagraphs
5 (A) and (B) as clauses (i) and (ii) and by adding the fol-
6 lowing at the end thereof:

7 “(B) The Administrator may, by regulation, control
8 or prohibit the use of any oxygenate (including methyl ter-
9 tiary butyl ether, ‘MTBE’) as a fuel, or fuel additive for
10 fuel, for use in a motor vehicle, motor vehicle engine, or
11 nonroad engine or nonroad vehicle if in the judgment of
12 the Administrator such oxygenate causes or contributes to
13 contamination of drinking water which may reasonably be
14 anticipated to endanger public health, welfare, or the envi-
15 ronment in the United States.”.

16 (2) Section 211(c)(2)(A) of such Act (42 U.S.C.
17 7545(c)(2)(A)) is amended by inserting “(i) of subpara-
18 graph” before “(A) of paragraph”.

19 (3) Section 211(c)(2)(B) of such Act (42 U.S.C.
20 7545(c)(2)(B)) is amended by striking “(B)” and insert-
21 ing “(ii) of subparagraph (A)”.

22 (4) Section 211(c)(2)(C) of such Act (42 U.S.C.
23 7545(c)(2)(C)) is amended by inserting “clause (i) or (ii)
24 of subparagraph (A) of” before “paragraph (1)”.

1 (5) Section 211(c)(2) of such Act (42 U.S.C.
2 7545(c)(2)) is amended by adding the following at the end
3 thereof:

4 “(D) If the Administrator seeks to control or prohibit
5 the use of any oxygenate under subparagraph (B) of para-
6 graph (1), the Administrator shall take into account infor-
7 mation as to whether such control or prohibition will affect
8 the use of any other oxygenate in a manner which may
9 reasonably be anticipated to endanger public health, wel-
10 fare, or the environment in the United States.”.

11 (b) MTBE LEVELS.—Section 211(c) of the Clean Air
12 Act (42 U.S.C. 7545(c)) is amended by adding the fol-
13 lowing at the end thereof:

14 “(5) MTBE LEVELS.—Within 1 year after the enact-
15 ment of this paragraph, the Administrator shall promul-
16 gate regulations to require that, for the calendar year be-
17 ginning January 1, 2005, and for each calendar year
18 thereafter, the annual volume of methyl tertiary butyl
19 ether (MTBE) manufactured or introduced into commerce
20 in a calendar year in the United States for use as a fuel,
21 or fuel additive for fuel, for use in a motor vehicle, motor
22 vehicle engine, or nonroad engine or nonroad vehicle shall
23 not exceed the average annual volume of MTBE estimated
24 by the Administrator to have been manufactured or intro-
25 duced into commerce in calendar years 1986 through 1991

1 in the United States for use as a fuel or fuel additive for
2 fuel, for use in a motor vehicle, motor vehicle engine, or
3 nonroad engine or nonroad vehicle. The regulations under
4 this paragraph may include regulations regarding the
5 quantity of MTBE on a per-gallon basis or annual average
6 basis provided that such an annual average standard has
7 associated with it a per-gallon maximum standard.”.

8 (c) STATE AUTHORITY.—Section 211(c)(4) of the
9 Clean Air Act (42 U.S.C. 7545(c)(4)) is amended by add-
10 ing the following at the end:

11 “(D) The Administrator may permit any State to
12 prescribe and enforce controls or prohibitions on the use
13 of methyl tertiary butyl ether (MTBE) as a fuel additive
14 in fuel offered for sale, or sold, at retail in a calendar year
15 in that State in order to reduce the volume of MTBE of-
16 fered for sale, or sold, at retail in that State to levels below
17 the levels estimated by the State to be offered for sale,
18 or sold, at retail in that State under paragraph (1)(B)
19 or (5). The Administrator may also permit any such State
20 to establish such controls or prohibitions on MTBE on a
21 more expeditious schedule than required under paragraph
22 (1)(B) or (5). Any State seeking additional controls or
23 prohibitions or a more expeditious schedule under this
24 subparagraph shall submit a petition to the Administrator.
25 The Administrator may only grant such a petition if the

1 Administrator finds that the controls on MTBE in effect
2 under paragraph (1)(B) or (5) will not prevent MTBE
3 from causing or contributing to air pollution in that State,
4 or contamination of drinking water in that State, which
5 may reasonably be anticipated to endanger public health,
6 welfare, or the environment. No State may submit such
7 a petition to the Administrator before the date 1 year after
8 the enactment of this subparagraph. The Administrator
9 shall act on such petitions within 180 days of receipt. No
10 State referred to in subparagraph (B) shall be subject to
11 the requirements of this subparagraph.

12 “(E) Subparagraph (D) shall not limit the authority
13 of any State under any other provision of law to prescribe
14 and enforce any control or prohibition on the use of methyl
15 tertiary butyl ether (MTBE) as a fuel additive.”

16 **SEC. 3. MAINTENANCE OF EMISSION CONTROL BENEFITS.**

17 (a) TOXIC AIR POLLUTANTS.—Section 211(k)(3) of
18 the Clean Air Act (42 U.S.C. 7545(k)(3)) is amended by
19 adding the following at the end:

20 “(C) MAINTAINING TOXIC CONTROL BENE-
21 FITS IN OXYGEN WAIVER AREAS.—(i) Not later
22 than 90 days after the date of enactment of
23 this subparagraph, the Administrator shall pro-
24 pose, and not later than later than 270 days
25 after the enactment of this subparagraph, pro-

1 mulgate, regulations under this subparagraph
2 (consistent with section 211(k)(3)(B)(ii) of the
3 Clean Air Act) establishing regional perform-
4 ance standards to ensure that the levels of re-
5 ductions of toxic air pollutants achieved under
6 the Reformulated Gasoline Program in effect
7 under this subsection are maintained in areas
8 where the oxygen content requirement is waived
9 under paragraph (11).

10 “(ii) For purposes of establishing regional
11 performance standards under this subpara-
12 graph, the Administrator shall determine the
13 reductions of toxic air pollutants achieved under
14 the Reformulated Gasoline Program in effect
15 under this subsection on average in calendar
16 years 1998 and 1999 in various regions se-
17 lected, in consultation with the Secretary of En-
18 ergy. Such regions shall be selected on the basis
19 of the existing gasoline distribution and supply
20 network to the extent practicable. The Adminis-
21 trator’s determination shall be based on compli-
22 ance survey data, other appropriate and reliable
23 data and the Environmental Protection Agen-
24 cy’s existing Phase II complex model.

1 “(iii) The Administrator shall convert the
2 average air toxic reductions, calculated as de-
3 scribed in clause (ii), into annual average re-
4 gional performance standards. Such regional
5 performance standards shall apply to reformu-
6 lated gasoline to be sold, or offered for sale, or
7 introduced into commerce in areas where the
8 oxygen content requirement is waived under
9 paragraph (11).

10 “(iv) The performance standards under
11 this subparagraph shall not apply to the extent
12 that regulations under this Act (including the
13 Environmental Protection Agency’s existing
14 Phase II Reformulated Gasoline air toxics per-
15 formance standards, or regulations promulgated
16 under section 202(l)) are more stringent than
17 such performance standards. The performance
18 standards under this subparagraph shall not
19 apply in any State referred to in section
20 211(c)(4)(B).

21 “(v) Pending promulgation of regulations
22 under this subparagraph, the Environmental
23 Protection Agency’s Phase II Reformulated
24 Gasoline complex model toxic performance
25 standards shall apply in areas where the oxygen

1 content requirement is waived under paragraph
2 (11).”.

3 (b) CRITERIA AIR POLLUTANTS.—Section 211 of the
4 Clean Air Act (42 U.S.C. 7545) is amended by adding
5 at the end the following:

6 “(p) CONVENTIONAL GASOLINE.—

7 “(1) IN GENERAL.—Not later than October 1,
8 2007—

9 “(A) the Administrator shall determine
10 whether the use of conventional gasoline during
11 the period of calendar years 2005 and 2006 re-
12 sulted in a greater volume of emissions of cri-
13 teria air pollutants listed under section 108, de-
14 termined on the basis of a weighted average of
15 those pollutants, than the volume of such emis-
16 sions during the period of calendar years 1998
17 and 1999; and

18 “(B) if the Administrator determines that
19 a significant increase in emissions occurred, the
20 Administrator shall promulgate such regula-
21 tions under subsection (c) concerning the use of
22 conventional gasoline as are appropriate regard-
23 ing that increase.

24 “(2) APPLICABILITY TO CERTAIN STATES.—The
25 Administrator shall make the determination under

1 paragraph (1)(A) without regard to, and the regula-
2 tions promulgated under paragraph (1)(B) shall not
3 apply to, any State that has received a waiver under
4 section 209(b).”.

5 **SEC. 4. ASSURANCE OF ADEQUATE FUEL SUPPLY.**

6 Any regulation or modification of fuel properties pro-
7 mulgated by, or approved by the Administrator of the En-
8 vironmental Protection Agency under the amendments
9 made by this Act, shall take into account the need to pro-
10 vide lead time for refinery and fuel distribution system
11 modifications necessary to assure adequate fuel supply for
12 all States. Such regulation or modification shall include
13 provisions for the banking and trading of allowances with-
14 in, but not between, the regions referred to in section
15 211(k)(3)(C) of the Clean Air Act.

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