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BEFORE THE COMMITTEE ON ENERGY AND NATURAL RESOURCES**

JUNE 19, 2006

Mr. Chairman, and members of the Committee, I appreciate the opportunity to come before you today to testify on the status of the Environmental Protection Agency's efforts to develop the comprehensive rulemaking implementing the Energy Policy Act's Renewable Fuels Standard.

The Energy Policy Act of 2005

The Energy Policy Act of 2005, or EAct, required EPA to take a significant number of specific actions that directly affect our nation's fuel supply and quality. Some of these actions have already been proposed or have taken effect, including the removal of the oxygen standard for the federal reformulated gasoline program, proposal of new gasoline benzene content standards to control mobile source air toxics, and the recent proposed listing of boutique fuels. However, a lot of work remains. As the Agency continues to work on all these actions, the most important and significant requirement established in EAct is a national renewable fuels standard, or RFS. Since increasing the amount of domestically-produced renewable fuels is a key element of the President's energy initiatives and supports his goal of reducing the country's dependence on imported oil, the Agency has placed the highest priority in preparing this major rulemaking. This effort will require significant resources for the necessary technical and analytical work. EPA also understands the need to implement an RFS rulemaking that maximizes existing fuel production and minimizes impacts on the fuel distribution system.

Interest in renewable fuels has grown significantly in recent years due to concerns about high fuel prices, our nation's dependence on foreign oil, and emissions of greenhouse gases such as carbon dioxide. These are some of the reasons that the RFS program garnered such strong support during its development, and why Congress continues to investigate ways to expand the use of renewable fuels. In this context, we see the RFS program as a critical first step, and as such, it is important that it be carefully designed for the long term.

The Renewable Fuels Standard

Under EPCA, the RFS program requires that increasing volumes of renewable fuel be blended into gasoline in the continental United States beginning in 2006. With the help of our stakeholders, including renewable fuel producers and oil refiners, EPA has been able to accelerate the implementation of these EPCA provisions by making use of a default requirement provided in the Act that only applies to 2006. Last December we promulgated a direct final rule to implement the default standard that allowed the program to begin in January without all the credit trading and compliance provisions that the full program requires. The default rule provides us one additional year, until January of 2007, to implement the full program. Under the 2006 RFS default rule, refiners, importers, and gasoline blenders are collectively responsible for ensuring that the amount of renewable fuel volume used nationwide is at least 2.78 percent of the total gasoline used in the continental United States, as specified in EPCA. This equates to approximately 4.0 billion gallons of renewable fuel, of which both ethanol and biodiesel count. If the default standard is not met in 2006, the rule specifies that the deficit volume of renewable fuel would carry over to the RFS requirement for 2007. Based on data demonstrating ethanol use in 2005, and projections for 2006, it is expected that far greater than 4.0 billion gallons of renewable fuels will be used in 2006 in the US.

We are currently in the process of developing the full program that will apply in 2007 and beyond. EPA will propose a rule this year that would implement the comprehensive RFS program. The Agency expects to publish the proposal in September for public review and comment. We plan to complete the rulemaking early in 2007.

Although the Act prescribed many aspects of the program, including the required renewable fuel volumes, it did not specify the structure of the credit trading program. Unlike past programs in which credit trading was used simply as a cost savings measure or a way to increase compliance flexibility, for the RFS program it will be a critical aspect of demonstrating compliance. Credit trading also differs under the RFS program because those parties that produce renewable fuels are not the same parties that must demonstrate compliance. We have been working closely with our stakeholders to design the credit trading program, and there have been many difficult issues to resolve. These issues include defining a renewable fuel credit, what parties can generate credits, how credits are generated, when and by whom credits can be traded, the life of a credit, and the methodologies for determining the appropriate value of credits for ethanol produced from cellulosic feedstocks, as well as qualifying non-ethanol renewables, such as biodiesel. However, we continue to make progress on addressing these issues through the concerted efforts of our technical and legal staff.

The proposed RFS rulemaking will also define the liable parties for the RFS program, establish how liable parties demonstrate compliance with their obligation, and establish the necessary compliance and enforcement provisions. Many of the issues involved have been considerably more complex than originally envisioned. For now, I will provide an overview of the extensive process EPA has undertaken to develop this important rulemaking.

EPAAct establishes the years for which the RFS is in effect and the required annual volumes of renewable fuel. While the 2006 level is 4 billion gallons, the volume increases to 4.7 billion gallons in 2007, 5.4 billion gallons in 2008 and continues to scale up to 7.5 billion gallons in 2012. EPAAct requires that annually EPA is to establish the percentage requirement, which will apply individually to refiners, blenders, and importers, that will ensure use of the total volume of renewable fuels specified for that year in EPAAct.

In order to implement a rulemaking of this magnitude, it was imperative for the Agency to promptly enter into close dialog with the affected parties to understand how the RFS program would impact the stakeholders in real world applications. EPA directly engaged all the major stakeholders, including the refining industry, renewable fuel providers, and the fuel marketers and distributors to gather information and suggestions which were incorporated into drafting the various compliance and credit trading program provisions. Following extensive dialog with these stakeholders, the Agency believes we are very close to completing proposed comprehensive regulations.

Another critical component of the rulemaking is provisions to ensure compliance, such as recordkeeping and reporting. Because this rule impacts parties not traditionally affected by motor vehicle fuel regulations, namely those in the business of producing renewable fuels, there is an additional layer of complexity not found in our other clean fuel programs. The Agency continues to work with affected parties to develop an RFS program that, where possible, utilizes existing EPA systems for collecting data and submitting records while avoiding duplicative burden.

Closing

EPA is committed to helping ensure the continued successful implementation of the national renewable fuels program. We have accelerated the process for the RFS rule and are on track to issue a final rule in early 2007.

I want to thank you, Mr. Chairman and the members of the Committee for your interest in the Agency's progress in developing this important rule. This concludes my prepared statement. I would be pleased to answer any questions that you may have.