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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 EPAct, 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 proposed listing of state boutique fuel requirements. However, a lot of work remains. As the Agency continues to work on all these actions, the most important and significant fuels requirement established in EPAct 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 has required significant resources for the regulatory development and impact analysis work and will require significant additional resources to implement it. 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. The RFS program is critical, and as such, it is important that it be carefully developed and implemented for the long term.

The Renewable Fuels Standard

Under EPAct, the RFS program requires that increasing volumes of renewable fuel be blended into gasoline in the continental United States beginning in 2006. EPAct establishes the years for which the RFS is in effect and the required minimum annual volumes of renewable fuel. The renewable volume begins at 4 billion gallons in 2006 and 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. EPAct requires that EPA annually establish the percentage requirement, which will apply individually to refiners, blenders, and importers to ensure the total volume of renewable fuels specified for that year in EPAct is achieved.

That Act provided the Agency with less than 5 months to develop and implement the RFS program by regulation. With the close cooperation and support of our stakeholders, including renewable fuel producers and oil refiners, EPA was able to accomplish this 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 provided 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 EPAct. 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 of ethanol use so far in 2006, it is expected that in excess of 4.5 billion gallons of renewable fuels will be used in the US this year. Thus we do not anticipate that any deficit will be required to be carried over into 2007.

Although the Act prescribed many aspects of the program, including the required renewable fuel volumes, it did not specify certain critical elements, such as 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 methodology for determining the appropriate value of credits for the different renewable fuels. Further, 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.

The proposed RFS rulemaking must also clearly 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, including 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. Many of the issues have been considerably more complex than originally envisioned.

Program Development Overview

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 fuel marketers and distributors to gather information and suggestions which were incorporated into drafting the various compliance and credit trading provisions. Completion of a proposed rulemaking in an expeditious fashion was only possible by working closely with these stakeholders on the critical elements, including important provisions that offer maximum flexibility, such as the credit trading provisions, and limiting disruptions or changes in existing procedures, such as record keeping and reporting. Through close collaboration and cooperation, we believe the proposal will have broad stakeholder support allowing EPA to move forward quickly with a final rule.

Closing

Following extensive dialog with all stakeholders, along with the significant efforts of our own technical and legal staff, I am pleased to report that tomorrow, September 7th Administrator Stephen Johnson will sign this landmark proposal. We will be pleased to brief Congressional staff on the details of the proposal over the course of the next few days if requested. Following public review and comment on the proposal, our goal is to promulgate final RFS regulations early in 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.