

U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY

2321 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6301
(202) 225-6371
www.science.house.gov

July 25, 2011

The Honorable Lisa Jackson
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Dear Administrator Jackson:

I am writing concerning the Environmental Protection Agency's (EPA) decision to proceed with developing a "Tier 3" rulemaking that would establish more stringent fuel specifications and light-duty vehicle emissions standards. It is my understanding that EPA expects to issue a proposed rule by the end of 2011 and a final rule in 2012.

These regulations will have significant economic implications. Compliance with these new standards will require refineries to make very large capital investments in an effort to reduce sulfur and vapor pressure in gasoline. When coupled with other EPA regulations on our Nation's refineries, such as greenhouse gas (GHG) regulations and an increasingly stringent National Ambient Air Quality (NAAQS) standard for ozone, domestic refineries could be placed at a competitive disadvantage that may result in refinery closures. Refinery closures could mean less domestic supply of gasoline, increased imports, reduced energy security and the loss of good paying domestic jobs at a time when our Nation can least afford additional unemployment.

Even faced with all of these potential economic repercussions on consumers and the domestic refining industry, EPA is proceeding without having made a determination that the health and welfare of the public will benefit from this rulemaking and without having completed a Congressionally-mandated study. Section 209 of the Energy Independence and Security Act (EISA) of 2007 required EPA to complete a study, 18 months after the date of enactment, to determine whether the "renewable fuel volumes required by this section (Section 211) will adversely impact air quality" and to make a determination as to whether additional fuel requirements are necessary before proceeding with a rulemaking.

During a July 7th hearing held by the Energy and Environment Subcommittee of this Committee, EPA Director of the Office of Transportation and Air Quality (OTAG) Ms. Margo Oge confirmed to me that EPA failed to complete the Section 209 antibacksliding study by the statutory deadline. According to Ms. Oge, the study remains uncompleted.

As the basis of any rulemaking should include an adequate body of sound scientific research and the opportunity for comment by all stakeholders in the process, EPA's decision to proceed, with this rulemaking, in the absence of key information is premature, irresponsible, and inconsistent with the law.

Given that EISA directed EPA to use the Section 209 study as a foundation for a rulemaking found to be necessary, before proceeding, EPA must complete the study mandated by section 209 and provide the essential data showing that lowering the sulfur content and vapor pressure of gasoline will achieve cost effective, real emissions reductions and associated benefits; and is necessary for meeting 2017 vehicle emissions standards.

I find the current situation troubling and ask that you provide responses to the following:

- 1) Please detail the reasons for the failure to complete the aforementioned anti-backsliding study mandated in Section 209 of EISA and due in June 2009.
- 2) Please provide a timeline for completion of the anti-backsliding study.
- 3) Please detail budgetary support for this study, both with respect to current FY 11 spending as well as that requested for FY 12.
- 4) Please describe the process that EPA plans to follow in making the anti-backsliding data and study available to the public for review and comments.
 - a. When will EPA release the results of this assessment to the public?
 - b. Please describe the timing and the process EPA plans to use in response to public comments on the study.
 - c. How do these processes align with the transparency and openness principles outlined in your memo entitled "Transparency in EPA's Operations," dated April 23, 2009?
- 5) EPA was directed to use the anti-backsliding study as the basis for any necessary future changes to fuels. Given that the study has not been published, what authorization does EPA have to pursue fuel specification changes? What scientific and technical information is EPA relying on in the absence of the data the anti-backsliding study was to provide?
- 6) Please describe EPA's rationale and data in the development of new fuels rules.
- 7) Has EPA completed an assessment of the potential need for additional controls?

- 8) Is it the Agency's intent to use the new NAAQS for ozone as a basis for the determination that additional controls are needed? If so, please describe the timing of features of the yet to be established new NAAQS for ozone and how they tie to the 2017 Presidential target date for new GHG requirements and potential additional controls on vehicles and fuel quality.
- 9) Provide the detailed scientific and technical assessment EPA used to make a determination that health and welfare of the public will benefit from further sulfur reductions beyond current standards.
- 10) Has EPA identified, if any, emission control devices impaired by current sulfur standards? If so, please provide a detailed list of identified control devices.
- 11) Has EPA identified any new automotive technologies that can reasonably be expected to be deployed in the near term that would be impaired by current sulfur standards? If so, please provide a detailed list of the identified technologies.
- 12) Were the Tier 2 standards in place today for vehicles and gasoline quality established in conjunction with one another? Due to this process, was gasoline sulfur reduced for successful design and operation of Tier 2 vehicles? What conditions have changed that lead the Agency to believe that Tier 2 vehicles are no longer performing properly with Tier 2 fuels?
- 13) Has EPA calculated the up-front and recurring costs of such a regulation? Has EPA calculated how these costs would impact fuel prices?
- 14) What are the fuel supply impacts from reducing sulfur in gasoline? What are the fuel supply impacts from reducing vapor pressure?
- 15) Do other available markets exist for the light end products (e.g. butane & pentanes) that could no longer be used in gasoline blending due to the further reduction of sulfur?

More energy intensive refinery processes can increase refinery GHG emissions. Has EPA considered how Tier 3 regulation would impact refinery emissions?

- a. Does EPA plan to credit refiners GHG requirements to offset new Tier 3 requirements?
- b. If not, what impact will this regulation have on the competitiveness of U.S. refiners?

16) Is EPA taking U.S. energy security into consideration in developing a Tier 3 rule? Could this rule result in reduced supply, increased imports, refinery closures, or any combination thereof?

Please provide the written responses by no later than two weeks from the date of this letter. Should you have any questions please contact the Majority Energy and Environment Subcommittee Committee Staff at (202) 225-6371.

Sincerely,



Ralph Hall
Chairman

cc: The Honorable Eddie Bernice Johnson, Ranking Member
The Honorable Andy Harris, Chairman, Subcommittee on Energy and Environment
The Honorable Brad Miller, Ranking Member, Subcommittee on Energy and Environment