



**Energy & Commerce Committee  
Subcommittee on Energy and Air Quality  
United States House of Representatives**

**Hearing on  
Discussion Draft Concerning Alternative Fuels, Infrastructure, and Vehicles**

**Testimony of**

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**June 7, 2007**

Good morning, Chairman Boucher and Members of the Subcommittee. My name is Bob Dinneen and I am president and CEO of the Renewable Fuels Association (RFA), the national trade association representing the U.S. ethanol industry.

This is an important and timely hearing, and I am pleased to be here to discuss the future of our nation's ethanol industry and how the "Discussion Draft on Alternative Fuels, Infrastructure, and Vehicles" can help our country achieve its energy security goals.

**Background**

Today's ethanol industry consists of 120 biorefineries located in 19 different states with the capacity to process more than 2 billion bushels of grain into 6.2 billion gallons of high octane, low carbon, clean burning motor fuel, and more than 12 million metric tons of livestock and poultry feed. It is a dynamic and growing industry that is revitalizing rural America, reducing emissions in our nation's cities, and lowering our dependence on imported petroleum.

Ethanol has become an essential component of the U.S. motor fuel market. Today, ethanol is blended in 50 percent of the nation's fuel, and is sold virtually from coast to coast and border to border. The almost 5 billion gallons of ethanol produced and sold in the U.S. last year contributed significantly to the nation's economic, environmental and energy security.

According to an analysis completed for the RFA<sup>1</sup>, the approximately 5 billion gallons of ethanol produced in 2006 resulted in the following impacts:

- Added \$41.9 billion to gross output;
- Created 163,034 jobs in all sectors of the economy;
- Increased economic activity and new jobs from ethanol increased household income by \$6.7 billion, money that flows directly into consumers' pockets;
- Contributed \$2.7 billion of tax revenue for the Federal government and \$2.2 billion for State and Local governments; and,
- Reduced oil imports by 206 million barrels of oil, valued at \$11.2 billion.

There are currently 77 biorefineries under construction. With eight existing biorefineries expanding, the industry expects more than 6.4 billion gallons of new production capacity to be in operation by the end of 2009.

## **Title I – Fuels**

***Alternative Fuels Program:*** The RFA applauds the Subcommittee for its comprehensive approach to policies that will lead to the increased production and use of renewable fuels such as ethanol, and also recognizes the need to reduce greenhouse gas (GHG) emissions. The Subcommittee's Discussion Draft moves the debate regarding renewable fuels forward and sets a bold target for renewable and other alternative fuels. The Alternative Fuel Standard (AFS) included in the Discussion Draft closely follows the structure of the existing Renewable Fuels Standard (RFS) program diligently implemented by the U.S. Environmental Protection Agency (EPA).

However, the RFA does not believe that an ecumenical alternative fuels program as outlined in the Discussion Draft provides the market with adequate certainty for *any* of the available alternative fuels to attract sufficient investment to grow with the confidence the RFS has provided ethanol and biodiesel. There is no question that our nation's pressing energy needs demand the increased use of all alternative fuels. But we would suggest that separate and distinct programs creating certain marketplace opportunities for other alternative fuels would be a more effective means of stimulating investment in these new technologies.

The Discussion Draft maintains and extends the "compliance values" included in EPA's rulemaking implementing the RFS. While this is an appropriate mechanism to rationalize an AFS market, it magnifies our concerns about an ecumenical approach to fuel policy. These compliance values have the effect of creating a significant but as yet unknown number of "paper credits" that actually work to reduce the volume of petroleum potentially displaced by this program. If, for example, there is a billion gallons of renewable diesel used, and indeed there could be significantly more than that produced and used in the near future, the volume of petroleum displaced would be reduced by 700 million gallons. Such a scenario seems to be working at cross purposes to the fundamental objective of the program.

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<sup>1</sup> *Contribution of the Ethanol Industry to the Economy of the United States*, Dr. John Urbanchuk, Director, LECG, LLC, December, 2006.

If the Committee determines that an “Alternative” fuel program, as opposed to a “Renewable” fuel program is preferred, the RFA would suggest either increasing the volume required or modifying the compliance values to be pegged to gasoline, as opposed to ethanol, to preserve the petroleum displacement objectives of the program.

The RFA supports the waiver language included in the Discussion Draft, which extends waiver request authority to obligated parties. As this is a program imposed on refiners, it is logical and appropriate that they have the ability to petition for a waiver in the unlikely event of inadequate supplies of alternative fuels.

***Low Carbon Fuels Standard:*** The RFA generally supports Federal efforts to address climate change, in part because one set of uniform, national standards can be more effective than several, overlapping state and regional approaches. While we cannot speak to the climate change impacts of all new technologies and fuels, we can address the GHG emissions benefits of renewable fuels such as ethanol.

The Pew Center for Global Climate Change recently concluded that renewable fuels offer the greatest immediate term opportunity to reduce GHG emissions from the transportation sector. This is true because renewable fuels are readily available and can be used without significant infrastructural or technological advancement. The United States already uses more than 5.5 billion gallons of ethanol annually. In 2006, ethanol use in the U.S. reduced CO<sub>2</sub>-equivalent emissions by approximately 8 million tons, according to the U.S. Department of Energy. This is the equivalent of removing 1.2 million cars from the road from a climate change perspective.

The RFA supports moving U.S. fuels policy to one based on its carbon impact. A low carbon fuels standard that is a separate and distinct program from the existing renewable fuels program, as in the Discussion Draft, will provide the marketplace with a higher level of certainty. However, much greater clarity will be required with respect to the criteria to be used in determining lifecycle GHG emissions and carbon intensity standards than is currently included in the Discussion Draft for the renewable fuels industry to be able to properly evaluate the effect such programs will have on future demand for renewable fuels and investment in new technologies.

***Grants for cellulosic ethanol production:*** To achieve the levels of ethanol production envisioned by this legislation, it will take the rapid commercialization of cellulosic ethanol. The most effective way to speed the commercialization of cellulosic ethanol is to fully fund the programs enacted in the Energy Policy Act of 2005 for research and development of cellulosic ethanol, and increase funding where necessary. Energy crops and agricultural waste products such as switch grass, miscanthus, wood chips and corn stover all must be researched, developed and commercialized as additional ethanol feedstocks to realize annual production levels included in the AFS. New biorefineries are being built in new regions of the country everyday – the East Coast, the Gulf Coast, the Pacific Northwest and even Hawaii. The increased funding available in the grant program that promotes geographical dispersion included in the Discussion Draft will help to commercialize cellulosic ethanol quickly and continue the trend just beginning to expand ethanol production beyond the traditional corn belt.

## **Title II – Alternative Fuel Infrastructure**

***Alternative Fuels Infrastructure Development:*** Today, ethanol is a high octane component in motor fuel, currently blended in roughly 50 percent of the nation’s gasoline. But because existing EPA regulations and automotive warranty language restricts ethanol to no more than 10 percent by volume, the blend market for ethanol will be saturated shortly and certainly well below the targets for renewable and alternative fuels required by the Discussion Draft. Therefore, expanding ethanol use more rapidly into a growing flexible fuel vehicle (FFV) market where up to 85 percent ethanol can be used will be essential to meeting the petroleum displacement objectives of this bill.

A key to the expanded use of E-85 will be a significant increase in E-85 refueling infrastructure. Today, there are more than 1,200 E-85 pumps at service stations across the country, more than doubling in number since the passage of the Energy Policy Act of 2005. However, that number remains insignificant considering the 170,000 service stations nationwide. Recently, regional chains like Kroger and Meijer Inc. have taken the initiative to install E-85 pumps at their stores in Ohio and Texas, and Michigan and Indiana, respectively. National chains, like Wal-Mart, have also shown an interest in installing E-85 pumps at their 388 company-owned stations across the country.

The RFA strongly supports the Discussion Draft’s grant program to assist with the installation, replacement and conversion of E-85 refueling infrastructure. Expanding grants and other incentive programs to encourage alternative fuel infrastructure will encourage FFV production and new markets for E-85 and other alternative fuels will open.

***Prohibition of Franchisor Restrictions of Alternative Fuel Infrastructure:*** The need for opening up the gasoline supply infrastructure to E-85, to allow convenient refueling of the millions of FFVs that the auto companies have manufactured over the last several years and will manufacture in increased numbers over the years to come, is critical to achieving our national goals of greater energy security and economic development. It is also critical to reducing our emissions of greenhouse gases through the increased use of biofuels, like ethanol.

The RFA supports the proposed amendment to the Petroleum Marketing Practices Act included in the Discussion Draft to prohibit a franchisor from restricting a franchisee’s ability to install alternative fueling infrastructure, convert an existing pump to alternative fuel use, advertise the availability of alternative fuel, or sell alternative fuel in any specified area of the marketing premises.

This provision is necessary because existing law intended to prevent companies from discouraging investment in alternative fuels has proven to be ineffective. The Gasohol Competition Act, enacted in the early 1980’s to prevent oil companies from interfering with the expansion of ethanol infrastructure, is hampered by the fact that it requires a demonstration of “anti-trust injuries.” That is an extremely high burden to prove against one’s supplier. For a marketer, that would mean that he could not sue unless his contract with the supplier has been terminated. Short of that, the marketer would be unable to demonstrate antitrust injury, and so

there would be no remedy available for the wrongful conduct of the supplier. Moreover, such litigation would be extremely costly.

The Discussion Draft represents a giant step in the right direction to stop such interference by the oil companies. However, the Discussion draft, as written, would still require a marketer to sue his supplier. The RFA recommends the Subcommittee consider the creation of a regulatory enforcement regime. Assigning responsibility to an appropriate regulatory agency to ensure that marketers eager to give their customers the option of using alternative fuels have the realistic opportunity to do so would make a major contribution to opening up the market for E-85 and other alternative fuels.

***Alternative Fuel Dispenser Requirements:*** The Discussion Draft imposes a requirement on gasoline marketers to invest in alternative fuel infrastructure after a finding by the Secretary of Transportation that 15 percent of the vehicles in a given area are FFVs. If the marketplace responds correctly, however, and E-85 refueling infrastructure expands as rapidly as the FFV market appears it will, there may not be a need for mandates to further compel the production of FFVs and the installation of alternative fuel pumps. Thus, the RFA would recommend that the study of FFV availability in an area include a concurrent analysis of FFV refueling infrastructure, and that the mandate for alternative fuel pumps be contingent upon a finding of inadequate refueling infrastructure.

In addition, the RFA would suggest lowering the percentage trigger from 15 percent to 10 percent. Today's premium grade gasoline is only 10 percent of the market, and yet the infrastructure is in place nationwide to accommodate that level of demand for the product. Alternative fuels should have similar market share standards.

***Pipeline Feasibility Study:*** Over the past several years, the ethanol industry has worked to expand a "Virtual Pipeline" through aggressive use of the rail system, barge and truck traffic. As a result, we can move product quickly to those areas where it is needed. Many ethanol plants have the capability to load unit trains of ethanol for shipment to ethanol terminals in key markets. Unit trains are quickly becoming the norm, not the exception, which was not the case just a few years ago. Railroad companies are working with our industry to develop infrastructure to meet future demand for ethanol. We are also working closely with terminal operators and refiners to identify ethanol storage facilities and install blending equipment. We will continue to grow the necessary infrastructure to make sure that in any market we need to ship ethanol there is rail access at gasoline terminals, and that those terminals are able to take unit trains.

That said, many stakeholders in the biofuels industry are beginning to look at the practical issues involved with shipping ethanol via a dedicated pipeline. Shipping ethanol in pipelines is done today in Brazil, and it has been done at times in the U.S., as well, in dedicated pipelines. If the marketplace demands it, as it does in Brazil, and there is enough ethanol demand to warrant the investment in the infrastructure for dedicated pipelines, such a system will develop in the U.S. Studying the feasibility of transporting ethanol by pipeline from the Midwest to the East and West coasts, as proposed in the Discussion Draft, will be very helpful.

### **Title III – Vehicles**

***Flexible Fuel Vehicle Production:*** Today there are more than 230 million cars on American roads today capable of running on an up to 10 percent blend of ethanol. Of these, only 6 million are FFVs, capable of using up to an 85 percent blend of ethanol. America's automakers have realized the benefits of ethanol, particularly E-85, and have joined with the ethanol industry to aggressively develop the infrastructure and provide the vehicle fleet necessary to grow the E-85 market. Ford, General Motors and DaimlerChrysler pledged to increase production of FFVs to half of all new vehicles by 2012, or about 4 million new FFVs a year. General Motors has been a leader in promoting the use of ethanol. Its campaign, "Live Green, Go Yellow," which focuses on the yellow gas caps that now come standard with all GM FFVs, has helped to raise public awareness of ethanol and especially E-85.

The Discussion Draft includes a specific timetable for FFV production across all models, unless exempted by the Secretary of Transportation. While the schedule for FFV production included in the Discussion Draft is largely consistent with the announced FFV commitments of U.S. automakers, the important factor is the signal such a requirement sends to the marketplace, providing certainty that a market for E-85 will exist. The RFA supports this effort.

***Consumer Awareness:*** The RFA enthusiastically supports the establishment of a public education campaign to make American consumers more aware of the benefits and availability of FFVs and the locations of alternative fueling stations. Clearly, U.S. auto manufacturers have made a significant commitment to increase FFV production. Now is the time to embark on a significant campaign to increase consumer awareness of the vehicles choices available to them.

### **Conclusion**

The continued commitment of the 110<sup>th</sup> Congress, this Subcommittee, and the careful drafting of legislation that will expand the use of renewable fuels will all contribute to ensuring America's future energy security. The RFA looks forward to working with you to further develop this important legislation.

Thank you.