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BEFORE THE  
SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS  
OF THE COMMITTEE ON ENERGY AND COMMERCE  
U.S. HOUSE OF REPRESENTATIVES**

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Thank you, Mr. Chairman and Members of the Subcommittee, for the invitation to appear here today. I appreciate the opportunity to discuss the vital role cleaner burning gasoline plays in improving America's air quality and EPA's efforts to respond to the President's Energy Policy in regard to boutique fuels. I will also discuss our on-going actions to address the use of MTBE as a gasoline additive.

Before discussing these issues, I will review the history and development of the federal reformulated gasoline (RFG) program, and discuss the air quality benefits derived from that program.

**History of RFG**

When Congress passed the Clean Air Act Amendments of 1990, it established a number of programs to achieve cleaner motor vehicles and cleaner fuels. These programs have been highly successful in protecting public health by reducing harmful exhaust from the tailpipes of motor vehicles. In the 1990 Amendments, after extensive deliberation, Congress struck a balance between vehicle and fuel emission control programs. The RFG program was designed to serve several goals. These include improving air quality and extending the gasoline supply through the use of oxygenates.

Congress established the overall requirements of the RFG program by identifying the specific cities in which the fuel would be required and setting specific performance standards for RFG, including a requirement that such gasoline contain a minimum of two percent oxygen by weight. The oil industry, states, oxygenate producers and other stakeholders were involved in a successful regulatory negotiation that resulted in the development of RFG proposed regulations in 1991. EPA published the final regulations establishing the detailed requirements of the two-phase program in early 1994.

The first phase of the federal reformulated gasoline program introduced cleaner gasoline in January 1995 primarily to help reduce vehicle emissions that cause ozone (smog) and toxic pollution in our cities. The second phase of the program went into effect in January, 2000 and was designed to further reduce emissions of volatile organic compounds (VOC), oxides of nitrogen (NOx) and air toxics.

Under the Clean Air Act, ten metropolitan areas that have the most serious air pollution levels are required to use RFG. Although not required to participate, some areas in the Northeast, in Kentucky, Texas and Missouri have elected to join, or "opt-in," to the RFG program as a relatively cost-effective measure to help combat their air pollution problems. Today, roughly 35 percent of this country's gasoline consumption is cleaner-burning reformulated gasoline. The Clean Air Act Amendments of 1990 also required that RFG contain

two percent minimum oxygen content by weight. Although neither the Clean Air Act nor EPA requires the use of any specific oxygenate, ethanol and MTBE are the only oxygenates used to any significant extent in the RFG program, with fuel providers choosing to use MTBE in about 87 percent of the RFG. Ethanol is used in 100 percent of RFG in Chicago and Milwaukee, which are closer to major ethanol production centers.

### **Benefits of RFG**

Ambient monitoring data from the first year of the RFG program (1995) indicated that the use of RFG had significantly reduced vehicle-related tailpipe emissions including air toxics. One of the air toxics controlled by RFG is benzene, a known human carcinogen. The 1995 study showed that the program reduced ambient levels of benzene dramatically with a median reduction of 38 percent from the previous year. Overall, the emission reductions that can be attributed to the RFG program are equivalent to taking 16 million cars off the road. Since the RFG program began six and one-half years ago, we estimate that it has resulted in annual reductions of VOC and NOx combined of at least 105,000 tons, and at least 24,000 tons of toxic air pollutants.

As an example of the benefits, EPA estimates that in Chicago alone, the Phase II RFG program results in annual reductions of 8,000 tons of VOC and NOx combined and 2,000 tons of toxic vehicle emissions, benefitting almost 8 million citizens.

### **The Use of MTBE in Gasoline**

There is significant concern about contamination of drinking water in many areas of the country. Current data on MTBE in ground and surface waters indicate numerous detections of MTBE at low levels. Data from the U.S. Geological Survey indicates a strong relationship between MTBE use as a fuel additive in an area and finding detections of low levels of MTBE. In response to concerns about MTBE contamination, twelve states have banned MTBE, one as early as the end of 2002. At least a dozen more states are considering similar bans. Refiners and other gasoline marketers are concerned that state laws that ban the use of MTBE in future years present new challenges to this country's fuel production and distribution system. In recent weeks, however, at least one state has signaled that it may reconsider the effective date of its MTBE ban.

Last year, EPA published an Advance Notice of Proposed Rulemaking requesting comments on a phase down or phase out of MTBE from gasoline under Section 6 of the Toxic Substances Control Act (TSCA). EPA believes that TSCA is the only regulatory tool currently available to the Agency for limiting or eliminating the use of MTBE. TSCA gives EPA authority to ban, phase out, limit or control the manufacture or use of any chemical substance deemed to pose an unreasonable risk to public health or the environment. We expect to have a proposal prepared for inter-agency review later this year.

### **Boutique Fuels**

The Clean Air Act authorizes states to regulate fuels through their own state implementation plans in order to achieve a national air quality standard. This has resulted in a number of different formulations being required by states – formulations that are often referred

to as boutique fuels. These state fuel programs can limit flexibility in the fuel distribution system, particularly if a disruption occurs.

The President's Energy Policy Report issued on May 17, 2001 directed that EPA, in consultation with USDA, DOE and other agencies:

*study opportunities to maintain or improve the environmental benefits of state and local "boutique" clean fuel programs while exploring ways to increase the flexibility of the fuels distribution infrastructure, improve fungibility, and provide added gasoline market liquidity.*

In response to this directive and to understand the current situation and future outlook for boutique fuels, EPA consulted with over 40 stakeholder groups, including gasoline refiners, distributors and marketers, pipeline operators, auto manufacturers, state and local government officials, and environmental and public health organizations.

Following this extensive outreach process, EPA initiated its own assessment of boutique fuels, focusing on the various types of fuels and the factors that lead state and local governments to adopt boutique fuel requirements. We also evaluated the air quality benefits the fuels provide and assessed the impact of these fuels on the gasoline production and distribution system. As a result of this evaluation, EPA identified two major issues associated with federal, state and local clean fuel programs. The first is the need for greater flexibility in the process by which fuel marketers make the transition from winter to summer grade reformulated gasoline. In both 2000 and 2001, gasoline prices rose sharply during the transition period, particularly in the Midwest, and EPA believes that regulatory changes could be a factor in helping to moderate price spikes during future transition periods.

The second issue is the number of state and local boutique fuels programs and the challenges that this presents to the gasoline distribution system. EPA has identified several reasons why states have adopted their own boutique fuels requirements, including reduced cost compared with the federal RFG program, local air pollution control needs, concerns about the oxygenate mandate in the RFG program, and concerns about the use of MTBE, an oxygenated gasoline additive which has been found to contaminate water supplies in some areas.

Despite the number of state and local fuel programs, EPA has also found that the current gasoline production and distribution system is able to provide adequate quantities of boutique fuels, as long as there are no disruptions in the supply chain. If there is a disruption, such as a pipeline break or refinery fire, it can be difficult to provide gasoline supplies of the required quality because of constraints created by these boutique fuel requirements. In addition, actions taken by a growing number of states to ban the use of MTBE as a gasoline additive are a major factor that would increase the number of boutique fuel programs around the country.

In responding to the directive from the President's Energy Policy Report, EPA has identified several actions it can take in the near term to facilitate an orderly transition from winter to summer grade reformulated gasoline. EPA is prepared to act quickly on this set of administrative and regulatory actions to provide new flexibility to refiners in advance of next year's spring transition season.

In summary, EPA will:

- Propose to establish an alternative requirement of April 15 for receipt of summer fuel at terminals to ensure that terminals blend down their RFG stocks more

gradually. This action should reduce the practice of draining tanks containing winter grade RFG to extremely low levels shortly before May 1.

- Allow 2 percent testing tolerance for the initial transition to summer specifications. This action would benefit all refiners by providing additional flexibility.
- Allow previously certified fuel to be reclassified under certain conditions. This would help alleviate limited inventory in tight RFG markets.
- Propose to simplify blendstock accounting requirements to eliminate significant additional reporting for blendstock transfers. This action will allow refiners more flexibility to sell gasoline blendstocks.

As noted above, the second issue is the number of state and local boutique fuel programs. In response to this issue EPA staff is preparing a White Paper to address boutique fuels in the longer term. This White Paper, which we will release for public review and comment, will lay the groundwork for needed future study. The guiding principles for our analyses are: 1) improve the fungibility and movement of gasoline across the country; 2) maintain or improve emission performance for each area of the country currently covered by federal, state, or local fuel programs; 3) maintain or improve the ability of fuel producers to produce sufficient gasoline to meet demand, and 4) minimize the net cost when considering both production and distribution.

### **Conclusion**

Mr. Chairman and Members of the Subcommittee, we have learned a great deal about cleaner burning fuels since 1990. We have learned that the clean fuel programs I have talked about today are critical to our nation's efforts to reduce the harmful effects of air pollution. We have learned that MTBE, if leaked or spilled, can contaminate water supplies more readily than other components of gasoline. We know that a number of states have exercised the authority granted them by the Clean Air Act to establish different fuel formulations that are now referred to as boutique fuels. And we also believe that increasing the number of boutique fuels may create additional challenges for fuel distribution.

We are committed to working with Congress to explore ways to maintain or enhance environmental benefits of clean fuels programs while exploring ways to increase the flexibility of the fuels distribution infrastructure and minimize costs.

This concludes my prepared statement. I would be pleased to answer any questions that you may have.