



**WRITTEN STATEMENT OF**  
**AMERICAN FUEL & PETROCHEMICAL MANUFACTURERS**  
**AS SUBMITTED TO THE**  
**SUBCOMMITTEE ON ENVIRONMENT AND THE ECONOMY**  
**Committee on Energy and Commerce**  
**United States House of Representatives**

**on**

**“H.R. 4345, The Domestic Fuels Protection Act of 2012”**

**April 19, 2012**

**Summary of Major Points by the American Fuel & Petrochemical Manufacturers (AFPM)  
to the House Subcommittee on Environment and the Economy – April 19, 2012**

- 1) The American Fuel & Petrochemical Manufacturers supports the Domestic Fuels Protection Act. We oppose subsidies and mandates and we have serious questions about the workability, structure, and unintended consequences of the existing Renewable Fuel Standard. However, as long as the RFS remains the law, our members must work to comply with its requirements.
- 2) The Domestic Fuels Protection Act would provide legal certainty for all parties in the transportation fuel supply chain. This is important as EPA approves and registers new fuels and fuel additives needed to comply with the RFS.
- 3) Under the RFS, 36 billion gallons of renewable fuels must be available in the U.S. marketplace by 2022. That's a dramatic increase from the 13.7 billion gallons of renewable fuels available in our nation last year. With rising mandates and falling demand, refiners must increase ethanol content in a shrinking volume of gasoline.
- 4) The refining industry is only one of several domestic industries that will have to address these challenges. Engine manufacturers as well as transportation fuels providers – including ethanol producers – all face challenges posed by the need for alternative fuels under the RFS. Our challenge is to integrate these new fuels into the fuel supply.
- 5) All parties in the transportation fuel supply chain need to know they will not face a blizzard of unwarranted litigation simply for complying with the law. The Domestic Fuels Protection Act provides such certainty.

## **I. Introduction**

Chairman Shimkus, Ranking Member Green and Members of the Subcommittee, thank you for giving me the opportunity to testify at this hearing on the Domestic Fuels Protection Act of 2012. I'm Charlie Drevna and I serve as president of AFPM, the American Fuel & Petrochemical Manufacturers.

AFPM is a 110-year old trade association, formerly known as the National Petrochemical & Refiners Association until earlier this year. AFPM represents high-tech American manufacturers that use oil and natural gas liquids as raw materials to make virtually the entire U.S. supply of gasoline, diesel, jet fuel, other fuels and home heating oil, as well as the petrochemicals used as building blocks for thousands of vital products in daily life.

AFPM members make modern life possible while keeping America moving and growing as we meet the needs of our nation and local communities, strengthen economic and national security, and support 2 million American jobs. The entire oil and natural gas sector – including the producers of oil and natural gas – supports more than 9 million American jobs and pays more than \$31 billion a year in taxes to the U.S. government, plus additional funds to state and local governments.

Our members have stayed in business for more than a century because our top priority has always been to serve American consumers by manufacturing products that meet the highest standards of quality, safety, efficiency and reliability.

## **II. The Domestic Fuels Protection Act**

AFPM supports the Domestic Fuels Protection Act. As we have stated for years, we oppose subsidies and mandates and have serious questions about the workability, structure, and unintended consequences of the existing Renewable Fuel Standard (RFS). However, the RFS remains the law of the land and our members must comply with its requirements. The Domestic

Fuels Protection Act would provide necessary legal certainty for all parties in the transportation fuel supply chain as the Environmental Protection Agency (EPA) approves and registers new fuels and fuel additives that will be needed to comply with government mandates.

In particular, under the RFS, 36 billion gallons of renewable fuels must be available in the U.S. marketplace by 2022. That is a dramatic increase from the 13.7 billion gallons of renewable fuels available in the U.S. in 2011. With rising mandates and falling demand, refiners are placed in a situation of being required to increase renewable content in gasoline.

The refining industry is only one of several domestic industries that will have to address these challenges. Engine manufacturers (auto and non-road) as well as transportation fuels providers (retailers, marketers, and fuels manufacturers) – including ethanol producers – all face challenges posed by the need for alternative fuels to be integrated into the fuel supply in a manner that will not lead to unintended negative consequences for consumers.

Given this reality, all parties in the transportation fuel supply chain need to know they will not face a blizzard of unwarranted litigation simply for complying with the law. The Domestic Fuels Production Act provides such certainty. The legislation simply states that if the government approves and registers a fuel or fuel additive for sale in interstate commerce and the parties in the transportation fuels supply chain introduce such fuels in accordance with relevant government requirements, these same parties will not be liable for any unintended consequences associated with the use of those products.

It is equally important for Members of this Subcommittee to appreciate what this bill does and does not do. It does not presuppose a judgment on the merits (or lack thereof) of E15 or other alternative fuels. The bill is essentially fuel-neutral in that it only extends liability protection to manufacturers and producers once the government has taken several affirmative

steps to approve and then register these new fuels or additives for sale based on testing the government believes reliable enough to safeguard against unintended harm to consumers. If the government is later proven incorrect in its assessment of harm, yet all parties in the transportation fuels universe have complied with relevant specifications for manufacture and use of these fuels, then liability should not attach to those same parties. The legislation does not confer any liability protection for the negligent manufacture of these fuels nor the handling of them throughout the supply chain. In this regard, this legislation mirrors the protection afforded to pharmaceutical manufacturers of certain vaccines required by the government to be developed and sold to the population at large to address health concerns.

The protections in the Domestic Fuels Act are particularly important given the interaction of federal fuel economy standards with the RFS. If the RFS and corporate average fuel economy (CAFE) standards are fully achieved, our industry is facing the prospect of blending upwards of 35 percent ethanol per gallon of fuel, presenting significant new technical and marketplace challenges associated with RFS compliance. Moreover, and as additional alternative fuels find their way onto the market after being tested, approved, and registered for sale by the government, the parties in the transportation fuels universe should not have to keep coming before Congress seeking liability protection for actions they are required to take to comply with the RFS. The subcommittee should, however, be aware of the responsibility that the Clean Air Act places on the government to perform adequate testing to ensure that these fuels will operate in engines and infrastructure without harm to those engines or consumers.

The Domestic Fuels Protection Act is an important tool that allows our members to comply with the law and achieve higher ethanol volumes in fuels without facing meritless multiyear, multimillion-dollar lawsuits.

### **III. Conclusion**

In order to better enable the EPA-approved introduction of new fuels into commerce, Congress should act to remove the threat of unwarranted and frivolous litigation. Companies that use, manufacture and sell transportation fuels that meet government-approved specifications in accordance with appropriate government standards should not be punished for doing so. The Domestic Fuels Protection Act accomplishes that goal and we urge Congress to act on this important legislation.