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**ORAL STATEMENT OF  
GREGORY M. SCOTT  
NATIONAL PETROCHEMICAL AND REFINERS ASSOCIATION  
FOR THE PUBLIC HEARING ON  
PROPOSED REVISED RENEWABLE FUEL STANDARD RULE  
WASHINGTON, DC  
June 9, 2009**

Good afternoon. I am Greg Scott, Executive Vice President and General Counsel of the National Petrochemical and Refiners Association. NPRA is a national trade association comprising more than 450 companies, including virtually all U.S. refiners and petrochemical manufacturers that supply consumers with a wide variety of products and services used daily in homes and businesses. These products include gasoline, diesel fuel, home heating oil, jet fuel, asphalt products, and the chemicals that are “building blocks” in making everything from plastics to clothing to medicine to computers.

We would like to take this opportunity to commend the Agency on its outreach efforts regarding this rulemaking. The Agency has made every effort to solicit appropriate stakeholder input regarding key matters. We anticipate that these early discussions and the ensuing open and transparent rulemaking process will lead to a less controversial and perhaps more workable final RFS2 rule.



## **Rulemaking and Implementation Timetable**

As an initial matter, NPRA would like to comment on several issues with respect to the timetable for the completion of this rulemaking and its implementation by stakeholders.

This rulemaking should not be rushed. As noted, the Agency took considerable care in drafting the proposal. Stakeholders such as NPRA need to take similar care in examining the proposal, analyzing its potential impacts on our industry, consumers and the economy as a whole, and then drafting meaningful, informed and responsive comments to the Agency. We do not believe that we can accomplish these tasks within the 60 days EPA currently has set for the public comment period on the proposal. As a result, we have joined with the American Petroleum Institute in formally asking EPA to extend the public comment period for a period of not less than 60 additional days. We again ask that EPA act favorably and soon on this request.

Whether EPA ultimately adheres to the short public comment period or grants our request for an extension, we are concerned that the Agency expects to issue an RFS2 final rule late this year that will be effective January 1, 2010. It took the Agency almost 18 months to develop this proposal, and there are sure to be thousands if not tens of thousands of public comments on the proposal. It is hard to believe that the Agency can give adequate and fair consideration to these public comments and meet this ambitious schedule. We strongly suggest that it is far preferable for all stakeholders, consumers and the economy that EPA get this rule done right than it is for EPA to get this rule done quickly.

In addition, stakeholders will need sufficient time to digest the final RFS2 rule and plan for compliance. The RFS1 rule was informally released mid-April 2007 and became effective September 1, 2007 – four and a half months of lead time for industry to gear up for compliance. Clearly, the RFS2 regulations, when finalized, will be far more complex than the RFS1 rule and will require more lead time for compliance.

January 1, 2011 may be a far more practical and feasible effective date for the RFS2 final rule given the following complexities: (1) the statutory mandates are calendar year standards; (2)



there are four biofuel submandates under RFS2 when there was only one RFS1 mandate; (3) there are complicated and controversial issues with respect to indirect land use which may change between the proposal and the final RFS2 rule; (4) there are complicated lifecycle greenhouse gas emissions to be calculated and certified before an RFS2 responsible party will use a specific biofuel for compliance; and, (5) biomass feedstocks must be monitored carefully to demonstrate that they qualify as renewable biomass. None of these compliance complexities can be resolved quickly. Nor, perhaps even more importantly, should a responsible party be forced to resolve them quickly.

### **Initial Comments on Specific Issues**

In the limited time NPRA and its members have had to review the proposed RFS2 rule, we have identified the following issues on which we believe it is appropriate for NPRA to comment at this public hearing.

NPRA strongly supports the Agency's proposal not to change the number of digits, 38, in a Renewable Identification Number. Making changes to the D code without adding another digit is an appropriate revision.

Our members are very interested in the potential of the RFS2 RIN EPA Moderated Transaction System (EMTS). We commend your foresight. This new system could eliminate many errors and problems with RFS1 RIN processing. In our written comments on the proposal, we will have detailed comments on this proposed system.

NPRA has consistently sought application of sound scientific and accounting principles, among others, in the development of regulations. These principles must be incorporated when addressing the issues of lifecycle GHG emissions and indirect land use changes. It is too soon in our analysis to determine whether the proposal adheres closely to NPRA's stated policy, but we plan to offer detailed written comments on this portion of the proposal.

NPRA adamantly opposes "breaching the blendwall" on E10 for conventional vehicles at this time and will file comments urging EPA to reject Growth Energy's Section 211(f)(4) petition. In the preamble to this proposal, EPA seeks comments on a partial 211(f)(4) waiver or



a bifurcation of the retail motor fuel distribution system. NPRA strongly opposes any partial waiver and will provide detailed written comments on why EPA lacks the legal authority to grant such a partial waiver and why such a partial waiver would be disastrous for consumers and industry.

Finally, NPRA believes that the Agency should know that there are developments outside of the confines of Washington, D.C. which may well impact the ability of responsible parties to comply with the RFS2 in the future. Two states have passed, and several other states are considering, legislation that would prevent RFS responsible parties from deciding whether and when to blend renewable fuels into gasoline and diesel fuel. While NPRA and others are challenging these state statutes as pre-empted by the federal RFS statute, no federal court has ruled on this issue to date. If one or more courts rule against federal pre-emption on this issue, the ability of refiners and importers to comply with either the existing RFS1 or the proposed RFS2 mandates will be in question as never before.

Thank you for giving me the opportunity to appear today. NPRA will be providing you with more detailed comments on the proposal by what we hope will be an extended comment deadline. I would be happy to answer any questions you may have about NPRA's statement.