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ONE HUNDRED NINTH CONGRESS

**U.S. House of Representatives**  
**Committee on Energy and Commerce**  
**Washington, DC 20515-6115**

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May 8, 2006

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BUD ALBRIGHT, STAFF DIRECTOR

The Honorable Stephen L. Johnson  
Administrator  
Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W.  
Washington, D.C. 20460-0001

Dear Administrator Johnson:

I was surprised to read the Environmental Protection Agency's (EPA) May 4, 2006, press release that states you "launched a task force today to review the boutique fuels used across the country." You are also quoted in the press release as stating, "This is the first step in addressing the President's goal to streamline America's fuel supply and distribution system."

On August 8, 2005, the Energy Policy Act of 2005 (EPACT) was signed into law. That Act has an entire subtitle devoted to the issue of boutique fuels. Section 1541(c) requires you along with the Secretary of Energy to "undertake a study of the effects on air quality, on the number of fuel blends, on fuel availability, on fuel fungibility, and on fuel costs of the State plan provisions adopted pursuant to section 211(c)(4)(C) of the Clean Air Act." The Act requires you to obtain comments from affected parties interested in the air quality impact assessment portion of the study.

I am curious why you are just now taking this "first step" to address the issue of boutique fuels, nine months after the law required you take this step. The law requires your report no later than August 8, 2006. Your press release states, "EPA is setting an ambitious schedule to provide the President with a final report within six to eight weeks. In order to meet this timeline, EPA will hold a series of meetings to provide states the opportunity to present their views and recommendations. EPA also will involve industry experts, public health organizations and other interested parties."

I agree that the schedule may be ambitious, but it appears that the reason it is ambitious is that you are taking this "first step" nine months after the law was passed.

That law also requires you no later than 90 days after enactment to determine the “total number of fuels approved under this paragraph as of September 1, 2004, in all State implementation plans,” and to publish a list of such fuels in the *Federal Register* for public review and comment. My understanding is that you have not published this list in the *Federal Register*.

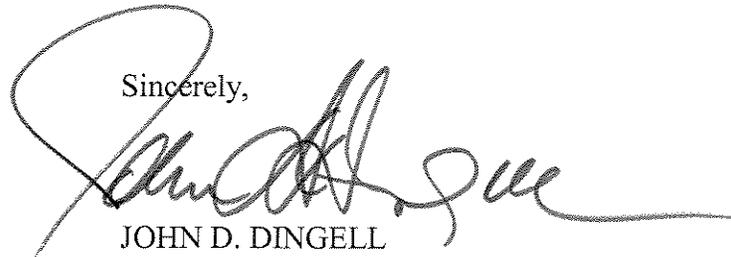
EPACT Section 1541(a)(iv) also requires that, no later than 180 days after enactment, EPA promulgate regulations governing the issuance of temporary fuel waivers during supply emergencies. My understanding is that, although you have issued fuel waivers, you have neither proposed nor promulgated regulations to govern the issuance of temporary fuel waivers.

A representative from EPA will be testifying on energy matters before our Committee on May 10, 2006. Please include in that representative’s testimony the answers to the following questions:

1. Why are you taking this “first step” to assess the issue of boutique fuels, when EPACT required you to begin this assessment nine months ago?
2. Please describe in detail all activities taken by EPA to carry out the study described in section 1541(c) and the amount of funds expended on this study.
3. Will this study be completed, as required, by August 8, 2006? If not, please provide an explanation.
4. The press release states that you will be providing the President with a report in the next six to eight weeks. The law requires you to provide the Congress what appears to be the same or similar report.
  - (a) Please explain whether or not the two reports are the same. If they are not, please explain why the report to the President, for which no funds are authorized in the law, is taking precedence over your statutory responsibility.
  - (b) How much will the preparation of this report to the President cost?
  - (c) The statute authorized \$500,000 for the study. How much have you budgeted for your report to Congress?
  - (d) Did you request specific funds for this study from Congress? If so, how much? Did you receive the appropriation?

5. (a) Am I correct that you have not carried out your responsibility to determine the total number of boutique fuels approved, nor published the list in the *Federal Register* by December 6, 2005?
  - (b) How many full-time employees are working on this matter?
  - (c) How much have you expended to date to fulfill this responsibility?
  - (d) When will the list be published?
  - (e) What is your explanation for failing to meet this deadline?
6. (a) Am I correct that you have not yet carried out your responsibility to promulgate regulations governing temporary fuel waivers no later than 180 days after enactment of EPACT, as required by Section 1541(a)?
  - (b) How many full-time employees are working on this matter?
  - (c) How much have you expended to date to fulfill this responsibility?
  - (d) When will proposed regulations be published?
  - (e) When will finalized regulations be published?
  - (f) What is your explanation for failing to meet this deadline?
7. Section 392 of EPACT allows the Administrator to enter into a refinery permitting cooperative agreement with a State at the request of the Governor of a State.
  - (a) Has EPA entered into any such agreements? If so, for each agreement, please provide a copy of the agreement.
  - (b) Have any Governors requested that EPA enter into such an agreement? If so, please identify which Governors and describe the status of the request and EPA's response thereto.

Sincerely,



JOHN D. DINGELL  
RANKING MEMBER

The Honorable Stephen L. Johnson  
Page 4

cc: The Honorable Joe Barton, Chairman  
Committee on Energy and Commerce

The Honorable Ralph M. Hall, Chairman  
Subcommittee on Energy and Air Quality

The Honorable Rick Boucher, Ranking Member  
Subcommittee on Energy and Air Quality