



THE COMMITTEE ON ENERGY AND COMMERCE

INTERNAL MEMORANDUM

March 26, 2012

TO: Members, Subcommittee on Energy and Power

FROM: Committee Staff

RE: Hearing on “The American Energy Initiative”

On Wednesday, March 28, 2012, at 9:45 a.m. in room 2123 of the Rayburn House Office Building, the Subcommittee on Energy and Power will hold the eighteenth day of its hearing on “The American Energy Initiative.” This day of the hearing will focus on discussion drafts of H.R. __, the “Gasoline Regulations Act of 2012,” and H.R. __, the “Strategic Energy Production Act of 2012.”

I. WITNESSES

Panel 1

The Honorable Gina McCarthy
Assistant Administrator for Air and Radiation
U.S. Environmental Protection Agency

Robert Abbey
Director
Bureau of Land Management
U.S. Department of the Interior

Christopher A. Smith
Deputy Assistant Secretary of Oil and Natural Gas
Office of Fossil Energy
U.S. Department of Energy

Panel 2

James Burkhard
Managing Director – Global Oil Group
IHS Cambridge Energy Research Associates

Jackson Coleman
Managing Partner and General Counsel
EnergyNorthAmerica, LLC

Matthew L. Smorch
Vice President - Strategy
CountryMark Cooperative, LLC

Robert Meyers
Senior Counsel
Crowell & Moring

Niger Innis
Co-Chairman of Affordable Power Alliance and
National Spokesman for Congress on Racial Equality

Additional witnesses may be invited to testify.

II. GASOLINE REGULATIONS ACT OF 2012

A. Background

Under the Clean Air Act (CAA), the Environmental Protection Agency (EPA) has issued or has announced that it plans to issue a number of regulations impacting gasoline and diesel fuel. These rules include the following.

Tier 3 Standards: Under the CAA, EPA has authority to revise motor vehicle emissions and fuel standards. Tier 2 motor vehicle emissions standards and gasoline sulfur control requirements were promulgated in 2000 and phased in beginning in 2004.¹ EPA projects that new Tier 3 motor vehicle emissions and fuel standards will be proposed in March 2012.²

New Source Performance Standards: In December 2010, EPA announced a settlement agreement requiring the agency propose new source performance standards (NSPS) to address greenhouse gas (GHG) emissions from petroleum refineries and announced a schedule to issue proposed standards in December 2011 and final standards in November 2012.³ These standards have been delayed and EPA has not yet announced a revised schedule.

Renewable Fuel Program: Under the CAA, EPA has established a Renewable Fuel Standard Program, and is required to determine and publish applicable annual percentage standards for each compliance year by November 30 of the previous year. EPA last revised those standards on January 9, 2012, and is required to issue standards for 2013 in November 2012.⁴

Ozone Standards: Under the CAA, EPA has established National Ambient Air Quality Standards (NAAQS) for ground-level ozone. EPA last revised these standards in 2008, and EPA is currently scheduled to propose new standards in 2013.⁵

¹ See [Final Rule](#) (relating to Tier 2 Motor Vehicle Emissions Standards and Gasoline Sulfur Control Requirements) and links to [Tier 2 Vehicle & Gasoline Sulfur Program](#).

² See EPA link relating to [Tier 3 Motor Vehicle Emission and Fuel Standards](#).

³ See [Settlement Agreements to Address Greenhouse Gas Emissions from Electric Generating Units and Refineries](#). In June 2008, EPA published standards of performance for petroleum refineries (see [Final Rule](#)), but EPA subsequently stayed the effective date and granted reconsideration with respect to aspects of the rule (see [Final Rule: reconsideration and state of effective date](#)).

⁴ See [Final Rule](#) and [Fact Sheet](#).

⁵ In 2010, EPA proposed more stringent standards estimated by the agency to impose new costs by 2020 of \$19 to \$90 billion annually. See [Proposed Rule](#); [Fact Sheet](#). In September 2011, these proposed standards were withdrawn at the direction of the President and the Office of Management and Budget. See [Summary of EPA Regulatory Actions Relating to Ozone Standards](#). EPA is currently implementing the 2008 ozone standards and also conducting an on-going review of those standards which is scheduled to be completed in 2013. *Id.*; see also

Greenhouse Gas Permitting: Under the CAA, EPA issued regulations requiring GHG permitting of stationary sources under the CAA's Prevention of Significant Deterioration (PSD) preconstruction permit program and the CAA's Title V operating permit program.⁶

B. Summary of the Legislation

A discussion draft of the "Gasoline Regulation Act of 2012" was released on March 21, 2012.

Section 1: Section 1 provides the short title of "Gasoline Regulations Act of 2012."

Section 2: Section 2 establishes an interagency committee (the "Committee") for the cumulative analysis of rules that impact gasoline and diesel fuel prices. Section 2(b) provides that the Committee will be chaired by the Secretary of Energy, and will include the Secretaries of Transportation, Commerce, Labor, and Treasury, and the Administrator of the Environmental Protection Agency, the Chairman of the United States International Trade Commission, and the Administrator of the Energy Information Administration. The Committee will terminate 60 days after submitting a final report.

Section 3: Section 3 describes the analyses that the Committee will conduct for the years 2016 and 2020, including estimates of changes in gasoline and diesel fuel prices, capital investments, global economic competitiveness, other cumulative cost and cumulative benefit impacts, and jobs. The Committee will also provide a discussion of the cumulative impact of the covered rules and actions on consumers, small businesses, regional economies, State, local, and tribal governments, low-income communities, public health, and local and industry-specific labor markets.

Section 3 also provides the covered rules and actions that are to be analyzed. These covered rules and actions are EPA's Tier 3 Motor Vehicle Emission and Fuel Standards, New Source Performance Standards for Petroleum Refineries, new Renewable Fuels Program rules, National Ambient Air Quality Standards for Ozone, and Greenhouse Gas permitting under the Prevention of Significant Deterioration and Title V programs.

Section 4: Section 4 requires a preliminary report be made public and submitted to Congress within 90 days of enactment. Public comments are to be accepted on the preliminary report for 60 days. The final report is then due by 60 days after the close of the public comment period.

Section 5: Section 5 defers until at least 6 months after submission of the final report the following new rules: EPA's Tier 3 Motor Vehicle Emission and Fuel Standards, New Source

[Proposed Rule](#) and [Fact Sheet](#) (relating to implementation of the 2008 standards). EPA Administrator Jackson testified on February 28, 2012 that EPA plans to propose a new ozone rule in 2013.

⁶ In 2010, EPA issued its [Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring Rule](#). See also [Fact Sheet](#); [Permitting Timeline \(2011-2016\)](#).

Performance Standards for Petroleum Refineries, and any subsequent rule revising or supplementing National Ambient Air Quality Standards for Ozone issued in 2008.

Section 6: Section 6 requires that revisions to any National Ambient Air Quality Standards for Ozone shall take into account feasibility and cost.

III. STRATEGIC ENERGY PRODUCTION ACT OF 2012

A. Background

Congress authorized the Strategic Petroleum Reserve (SPR) in the Energy Policy and Conservation Act (EPCA) to help prevent a repetition of the economic dislocation caused by the 1973-1974 Arab oil embargo.⁷ EPCA authorized a drawdown from the SPR upon a finding by the President that there is a “severe supply disruption.” This is deemed to exist if all three of the following conditions are met: (1) an emergency situation exists and there is a significant reduction in supply which is of significant scope and duration; (b) a severe increase in price of petroleum products has resulted from such emergency situation; and (c) such price increase is likely to cause major adverse impact on the national economy. Congress enacted additional authority in 1990 to provide for a limited SPR drawdown under a less rigorous finding than that mandated by EPCA.⁸

The SPR is managed by the Department of Energy, but releases from the SPR can only be authorized by the President. The SPR is currently comprised of five oil storage facilities along the Gulf Coast of Texas and Louisiana, with a total capacity of 727 million barrels. The Energy Policy Act of 2005 authorized SPR expansion to a capacity of 1 billion barrels, but physical expansion of the SPR has not proceeded beyond 727 million barrels.

The current SPR inventory is 696 million barrels.⁹ According to the Department of Energy, at the current level, the SPR holds the equivalent of 80 days of import protection (based on 2012 EIA data of net petroleum imports of 8.72 million barrels per day).

Sales from the SPR have occurred on four separate occasions:

1990-91: 21 million barrels in response to Operations Desert Storm and Desert Shield.

1996-97: 28 million barrels in non-emergency sales.

2005: 11 million barrels in response to Hurricane Katrina.

2011: 31 million barrels in response to supply disruptions in Libya and other countries.

⁷ P.L. 93-163.

⁸ P.L. 101-383.

⁹ <http://www.spr.doe.gov/dir/dir.html>

The Obama Administration is currently considering releasing SPR oil to help ease soaring oil prices and consumer fears over rising gasoline prices.¹⁰

B. Summary of the Legislation

A discussion draft of the “Strategic Energy Production Act of 2012” was released on March 23, 2012.

Section 1: Section 1 provides the short title of “Strategic Energy Production Act of 2012.”

Section 2: Section 2 amends the Energy Policy and Conservation Act to require the Secretary of Energy upon the first drawdown from the SPR to develop a plan to increase the percentage of Federal lands under the jurisdiction of the Secretary of Agriculture, Secretary of Energy, Secretary of the Interior and the Secretary of Defense leased for oil and gas exploration, development and production.

Section 2 also requires that the plan developed by the Secretary: (1) be consistent with a national energy policy to meet present and future energy needs of the U.S., consistent with economic goals, and (2) promote the interests of consumers through the provision of an adequate and reliable supply of domestic transportation fuels at the lowest reasonable cost.

Section 2 also provides that the plan shall not result in the percentage of Federal lands leased to exceed 10 percent or include lands managed under the National Park System or National Wilderness Preservation System.

Section 2 requires the Secretary of Energy to consult with the Secretary of Agriculture, Secretary of Energy, Secretary of the Interior and the Secretary of Defense in development of the plan and requires these Secretaries to comply with the plan.

IV. ISSUES

The following issues are expected to be examined at the hearing:

- EPA’s current regulations affecting gasoline and diesel fuel prices;
- EPA’s anticipated rulemaking schedules for pending rules affecting petroleum refineries;
- Use of the SPR under current oil supply/demand conditions; and,
- The current status of Federal lands leased.

¹⁰ DOE Secretary Chu testified on March 8, 2012, that a release of SPR is under consideration to respond to gas prices.

V. STAFF CONTACT

If you have any questions regarding the “Gasoline Regulations Act of 2012,” please contact Ben Lieberman or Mary Neumayr at (202) 225-2927, and if you have any questions regarding the “Strategic Energy Production Act of 2012,” please contact Garrett Golding at (202) 225-2927.