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6 DISCUSSION DRAFT: THE 21ST CENTURY

7 TRANSPORTATION FUELS ACT

8 TUESDAY, DECEMBER 11, 2018

9 House of Representatives

10 Subcommittee on Environment

11 Committee on Energy and Commerce

12 Washington, D.C.

13

14

15

16 The subcommittee met, pursuant to call, at 10:00 a.m., in

17 Room 2123 Rayburn House Office Building, Hon. John Shimkus

18 [chairman of the subcommittee] presiding.

19 Members present: Representatives Shimkus, McKinley, Barton,

20 Olson, Johnson, Flores, Hudson, Walberg, Carter, Duncan, Walden

21 (ex officio), Tonko, Ruiz, Peters, Green, McNerney, Mr. Loeb sack.

22 Staff present: Jerry Couri, Chief Environmental Advisor;

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23 Wyatt Ellertson, Research Associate, Energy/Environment; Adam  
24 Fromm, Director of Outreach and Coalitions; Ali Fulling,  
25 Legislative Clerk, Oversight & Investigations, Digital Commerce  
26 and Consumer Protection; Jordan Haverly, Policy Coordinator,  
27 Environment; Mary Martin, Deputy Chief Counsel, Energy &  
28 Environment; Sarah Matthews, Press Secretary, Energy &  
29 Environment; Brandon Mooney, Deputy Chief Energy Advisor;  
30 Caitlin Haberman, Minority Professional Staff Member; Rick  
31 Kessler, Minority Senior Advisor and Staff Director, Energy and  
32 Environment; Alexander Ratner, Minority Policy Analyst; Tim  
33 Robinson, Minority Chief Counsel; Andrew Souvall, Minority  
34 Director of Communications, Outreach and Member Services; Teresa  
35 Williams, AAAS Fellow.

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36 Mr. Shimkus. The Subcommittee on the Environment will now  
37 come to order.

38 Before I do my opening statement, I want to -- my last chance  
39 to be in the chair I want to thank the loyal opposition and the  
40 minority.

41 I think the subcommittee has had a pretty good record of  
42 moving some very contentious pieces of legislation from TSCA to  
43 the Safe Drinking Water Act to Brownfields to the nuclear waste  
44 reauthorization language that passed 340 to 72.

45 In all honesty, couldn't do it without your help and so I  
46 want to publicly say that and thank you.

47 I'll now recognize myself for five minutes for an opening  
48 statement.

49 Good morning, and thank you all for being here. Given the  
50 large number of witnesses and in the interest of maximizing time  
51 for questions and discussions, I will keep my opening as brief  
52 as possible and welcome others to do the same.

53 Over the last two years, many of you have heard me say  
54 transportation fuels legislation was one of my "reach goals" for  
55 this Congress.

56 To that end, interested members participated in three  
57 stakeholder roundtables to get this conversation started and the

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58 Environment Subcommittee held five hearings to further explore  
59 the future of transportation fuels.

60 I want to thank Chairman Walden for not just allowing but  
61 encouraging this effort. I also want to thank the witnesses  
62 before us today who actively engaged in those roundtables and  
63 hearings, and I especially want to thank Congressman Flores who  
64 co-authored the resulting Discussion Draft with me.

65 Rather than looking at individual federal transportation  
66 fuel policies on their own, the draft 21st Century Transportation  
67 Fuels Act takes a wider view of those  
68 policies and considers how they might work together to bring more  
69 value to consumers and more certainty to stakeholders.

70 The draft would transition from blend-specific mandates to  
71 performance-based standards for future fuels and vehicles, remove  
72 long-standing barriers to the availability and usability of  
73 higher ethanol blends, provide an additional decade of certainty  
74 for advanced biofuels, and harmonize EPA and DOT vehicle  
75 efficiency programs.

76 The need for this type of comprehensive reform is timely.  
77 Stakeholders on all sides of this debate have been whipsawed  
78 by months, by rumors and actual administration actions, and that  
79 uncertainty will only increase after 2022 when EPA receives even

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80 broader discretion to set biofuel blending requirements.

81 In fact, given EIA projections of declining liquid  
82 transportation fuel demand, it's difficult to envision a  
83 post-2022 scenario in which biofuel volumes would not actually  
84 be lower than they are today.

85 I look forward to a constructive dialogue about what the  
86 future holds as well as what the Discussion Draft would mean for  
87 the various stakeholders.

88 And with that, I yield the remainder of my time to Mr. Flores.  
89 Mr. Flores. Thank you, Mr. Chairman.

90 I appreciate you calling this hearing on today's Discussion  
91 Draft. I'd also like to extend a warm welcome to one of the folks  
92 that grew up in the same little town I did up in the Texas  
93 Panhandle, Mr. Wesley Spurlock. Great to have you here as a  
94 witness.

95 Since the RFS was first established in 2005 and expanded  
96 in 2007, much has changed in the market for transportation fuels.

97 If federal policies are not routinely evaluated and updated to  
98 reflect market conditions, consumers end up having less than  
99 optimal choices.

100 Let me give you a few examples of the concerns that have  
101 been raised before this committee about the current status quo

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102 of American fuels policy.

103           Number one, biofuels producers raise concerns on the annual  
104 implementation of the RFS and other regulatory barriers to the  
105 market.

106           Two, refiners face increasing cost of complying with the  
107 RFS.

108           Three, automakers face challenges in complying with  
109 efficiency programs under two different agencies inside the EPA  
110 and the DOT.

111           As Chairman Shimkus -- number four, some environmental  
112 communities believe that the current generation ethanol or gen  
113 1 ethanol is an environment -- creates environmental problems.

114           As Chairman Shimkus stated, the 21st Century Transportation  
115 Fuel Act Discussion Draft takes a larger view of federal  
116 transportation fuel policies.

117           This draft incorporates into legislative text many of the  
118 ideas from three bipartisan roundtables and five subcommittee  
119 hearings.

120           For consumers, higher octane fuels can bring increased  
121 economy and performance for the next generation of engines for  
122 stakeholders transitioning to the RFS.

123           Transitioning RFS to national octane standards creates a

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124 new market opportunity for biofuels producers and gives  
125 compliance certainty to refiners and automakers.

126 And before the panel starts, I have a few reflections on  
127 the testimony that I read today. One is we have to put the  
128 consumers and the environment first, not our self-interest.

129 Number two, the choice is clear. We can either go with the  
130 status quo, which almost everybody has said is broken, or we can  
131 have a compromise solution because I can guarantee you there is  
132 not going to be a perfect solution that's going to make each of  
133 you 100 percent happy.

134 These organizations spent valuable time giving feedback on  
135 this and that constructive feedback was appreciated. Some  
136 organizations spent their time bashing other stakeholders. That  
137 was not productive.

138 And so the thing I would ask you is to stay engaged and  
139 remember that we don't all get 100 percent of what we want. We  
140 are trying to come up with an optimal solution for the consumers  
141 and the environment.

142 Thank you, and I yield back the balance of my time.

143 Mr. Shimkus. The gentleman yields back his time.

144 The chair now recognizes the ranking member of the  
145 subcommittee, Mr. Tonko, for five minutes.

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146 Mr. Tonko. Thank you, Chair Shimkus.

147 And Mr. Chair, I do want to thank you for your leadership  
148 of the subcommittee and your cooperative spirit that has moved  
149 us along in the right direction.

150 I agree with your assessment. We have been productive and  
151 very successful as a subcommittee. And I thank our witnesses,  
152 not just for joining us this morning but also for your input in  
153 this process over the course of the 115th Congress.

154 Before we go any further, I do want to recognize Chair Shimkus  
155 and Mr. Flores for all the work that went into producing this  
156 Discussion Draft. For the past two years, the subcommittee has  
157 hosted three stakeholder roundtables and five hearings on  
158 transportation fuels policy.

159 As we heard at previous hearings, this is a complicated  
160 problem with no easy solution. So I appreciate the effort that  
161 went into developing the proposal.

162 These members were given an incredibly difficult assignment,  
163 trying to find common ground on an issue where many stakeholders  
164 say it does not exist.

165 While I have some serious concerns with the draft as it is  
166 currently written, I do think that the chair and Mr. Flores have  
167 done an admirable job and conducted a process in good faith to

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168 try to create that common ground.

169 For the past two years, we have heard about issues with the  
170 implementation of the Renewable Fuel Standard program, which has  
171 existed under administrations from both parties.

172 In my mind, the program can certainly be improved. We will  
173 hear about the use of small refinery waivers and the challenges  
174 with pathway approvals this morning and, despite some flaws, I  
175 believe it is critical, whether through RFS or another program,  
176 that the benefits of our nation's clean energy transition are  
177 shared throughout the country including rural communities.

178 Unfortunately, this administration's actions indicate that  
179 they do not share this belief. We have seen it through  
180 unnecessary trade disputes that hit farmers hardest. We have  
181 seen it when the president continues to deny the threat of climate  
182 change, despite the National Climate Assessment's finding that  
183 changes in precipitation coupled with rising extreme temperatures  
184 could reduce Midwest agricultural productivity to levels of the  
185 1980s before mid-century.

186 These types of actions are harming and will continue to harm  
187 rural economies and undermine the goals of the RFS. We should  
188 be working on legislation that meets our collective need for a  
189 cleaner energy future while directly benefitting and creating

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190 opportunities in rural communities.

191 From the start of this process I have told stakeholders that  
192 I support the RFS or its potential replacement to the extent that  
193 it results in fewer greenhouse gas emissions.

194 I am not certain that would be the outcome under the proposal  
195 before us. So while I look forward to hearing everyone's  
196 feedback, I do have concerns in its current form.

197 I specifically want to mention the proposal's changes to  
198 the CAFE program in Title 3 of the draft. Perhaps all of today's  
199 witnesses will acknowledge the potential for high octane fuels  
200 as a method to achieve fuel economy standards.

201 If CAFE compliance will become easier through a high octane  
202 performance standard on top of the administration's freeze of  
203 previously announced standards, I do not think we should also  
204 provide additional credits to achieve compliance as would occur  
205 under Title 3.

206 If we really want to drive efficiency and innovation while  
207 creating certainty, this Discussion Draft should drop the  
208 so-called harmonization language and include legislation written  
209 by our colleague, Ms. Matsui, to preserve the  
210 previously-announced CAFE standards.

211 Finally, I want to say perhaps the only thing that will unite

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212 today's witnesses -- granted, it is unity through opposition.

213 It is my belief that the federal government should be  
214 advancing policies that reduce demand and reliance on liquid  
215 fuels. I am not naive enough to think this will happen overnight.

216 But we know that the transportation sector is now the greatest  
217 source of greenhouse gas emissions in the United States and that  
218 our climate policy must address it.

219 Earlier this year, we held a hearing that focused on  
220 electrification. But, sadly, none of the ideas discussed are  
221 reflected in the 21st Century Transportation Fuels Act.

222 If we are going to do a major overhaul of federal fuel and  
223 vehicle programs, we must look at how to further promote EVs as  
224 well.

225 For the time being, while liquid fuels continue to be the  
226 predominant energy source in transportation, these fuels should  
227 be as clean and used as efficiently as possible.

228 I thank you again, Mr. Chair, for your hard work on developing  
229 this proposal and with that, yield back.

230 Mr. Shimkus. The gentleman yields back his time.

231 The chair now recognizes the chairman of the full committee,  
232 Chairman Walden, for five minutes.

233 The Chairman. Thank you, Mr. Chairman.

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234 I appreciate that, and I want to thank you and Mr. Flores  
235 and others for their work on this recent release of your Discussion  
236 Draft on the topic of our hearing today.

237 You have done an amazing job on this and it is tough work,  
238 and I appreciate the seriousness that you have brought to this  
239 matter and I am glad you have followed through on your promise  
240 to push toward a legislative solution rather than let the  
241 traditional parties on this issue comfortably sit in their  
242 foxholes in perpetuity.

243 It is one of the reasons why this hearing today is so  
244 important. This draft did not happen overnight.

245 We all know that, and I want to acknowledge and commend the  
246 countless hours both you and Mr. Flores and our staffs and your  
247 staffs have spent trying to figure out what makes sense for our  
248 nation's transportation fuel mix.

249 As you have already said, Mr. Chairman, over the past two  
250 years, this subcommittee has held three roundtable discussions  
251 to educate members and another five hearings -- today marking  
252 the sixth -- to fine tune the committee's understanding of a range  
253 of issues related to liquid fuels and the motor vehicles powered  
254 by them.

255 Throughout this process, I have been struck by the

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256 acknowledgment that liquid-fuel-powered motor vehicles are  
257 expected to be the dominant type of vehicle used by Americans  
258 for decades to come and no one knows what is going to happen  
259 regarding our nation's renewable fuel mix beginning in 2023, which  
260 is why this draft is so important.

261 By transitioning to higher octane fuel blends and vehicles  
262 whose engines are designed to maximize fuel efficiency, we can  
263 both incorporate more renewable liquid fuels into the fuel supply  
264 while also increasing miles per gallon for consumers.

265 I am pleased the Discussion Draft includes provisions I  
266 strongly support, especially the one which removes the gross  
267 inequity in federal fuel policy regarding wood and forest  
268 management, so that woody biomass can play a larger role in the  
269 RFS program.

270 But as the chairman stated, this draft is not a final  
271 product. We all know that. Getting this policy right is not  
272 easy, especially with complex and sometimes contentious issues  
273 like the Renewable Fuel Standard and vehicle fuel economy  
274 standards.

275 Like any major legislation just starting out, it needs  
276 additional refinement. I am interested in learning from  
277 stakeholder expertise about what necessary refinements are needed

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278 for this bill and to hear about any important items that are not  
279 contained in it but that you believe should be.

280 I am also concerned about what makes sense for the interests  
281 of consumers, especially as it relates to access to and pricing  
282 for and the availability and quantity of the engines and fuels  
283 that consumers demand or that federal legislation requires.

284 These are issues that were tangentially discussed in our  
285 hearings, but I feel can only be appropriately honed when people  
286 are evaluating a concrete proposal and providing real feedback  
287 about the best way to accomplish these goals.

288 So to me, the bottom line is that new fuels and vehicles  
289 must first and foremost deliver benefits to consumers while  
290 improving our environment.

291 I know some folks will want to discuss electric vehicles  
292 in conjunction with this bill and, frankly, as a hybrid driver  
293 on both coasts, I am certainly interested in hearing more on this  
294 subject. But liquid fuels for motor vehicles and the looming  
295 question arising in 2023 make the most sense to tackle right now.

296 As I said at our third hearing, as things stand right now  
297 I have great concerns about the viability of EVs in meeting the  
298 needs of rural America, not to mention range and price issues  
299 that make EVs unrealistic for many Americans today, even as new

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300 innovations make their use more and more reasonable for many in  
301 our urban and suburban areas.

302 I want to welcome our witnesses and those who chose to send  
303 the committee their comments to be included in the record. I  
304 look forward to learning from stakeholder expertise and really  
305 appreciate you all being here today.

306 I know some interests have chosen either to be hypercritical  
307 or not to offer suggestions. But recognizing time is short for  
308 addressing this issue in a timely manner, I think they do so at  
309 the peril of their members.

310 With that, Mr. Chairman, I thank you and Mr. Flores and others  
311 for your work and I yield back the balance of my time.

312 Mr. Shimkus. The gentleman yields back the balance of his  
313 time.

314 The ranking member of the full committee is not able to be  
315 here. So we will now conclude with members' opening statements.

316 The chair would like to remind members that pursuant to committee  
317 rules all members' opening statements will be made part of the  
318 record.

319 We want to thank our witnesses for being here today and to  
320 testify to the subcommittee. Today's witnesses will have the  
321 opportunity to give opening statements followed by a round of

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322 questions from members.

323           And our first witness panel is seated. I will introduce  
324 you as you're asked to speak and we would like to start with Mr.  
325 Steve Zimmer, executive director, United States Council for  
326 Automotive Research, USCAR.

327           Sir, you are welcome and you're recognized for five minutes.



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328 STATEMENTS OF STEVE ZIMMER, EXECUTIVE DIRECTOR, UNITED STATES  
329 COUNCIL FOR AUTOMOTIVE RESEARCH; R. TIMOTHY COLUMBUS, SENIOR  
330 COUNSEL, STEPTOE AND JOHNSON LLP, ON BEHALF OF NATIONAL  
331 ASSOCIATION OF CONVENIENCE STORES AND SOCIETY OF GASOLINE  
332 MANUFACTURERS; WESLEY SPURLOCK, PAST PRESIDENT AND CHAIRMAN,  
333 NATIONAL CORN GROWERS ASSOCIATION; EMILY SKOR, CEO, GROWTH  
334 ENERGY; GEOFF COOPER, PRESIDENT AND CEO, RENEWABLE FUELS  
335 ASSOCIATION; CHET THOMPSON, PRESIDENT, AMERICAN FUEL AND  
336 PETROCHEMICAL MANUFACTURERS

337

338 STATEMENT OF MR. ZIMMER

339 Mr. Zimmer. Thank you.

340 Chairman Walden, Chairman Shimkus, Ranking Member Tonko,  
341 and members of the committee, my name is Steve Zimmer, executive  
342 director of the United States Council for Automotive Research,  
343 LLC, also known as USCAR.

344 It's a collaborative automotive technology research  
345 organization of FCA US, Ford Motor Company and General Motors.

346 USCAR provides a legal framework for its three members to  
347 conduct non-competitive research supporting a broad technical  
348 research portfolio in eight broad areas: power trains,  
349 electrification, electronics, batteries, hydrogen and fuel

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350 cells, manufacturing safety and materials.

351 The research conducted at USCAR results in a shared knowledge  
352 base that enables development of new automotive technologies that  
353 solve industry-wide challenges and strengthens the U.S. auto  
354 industry.

355 This approach supports multiple pathways to continually  
356 improve or evolve new automotive propulsion systems that meet  
357 current and future fuel efficiency, emissions and safety  
358 requirements, and creates innovative and environmentally  
359 responsible solutions for customers.

360 Each USCAR member has its own independent research  
361 organization and portfolio, but at USCAR they work together.  
362 These research tasks would be impossible to achieve as quickly,  
363 if at all, as individual companies.

364 I appreciate the committee's invitation to appear today to  
365 address the Discussion Draft for the 21st Century Transportation  
366 Fuels Act. As you know, personal mobility is changing at an  
367 unprecedented pace.

368 The automobile industry has and will deliver mobility  
369 options that balance many technical, safety, and society  
370 requirements for the driving public.

371 However, now more than ever all major mobility stakeholders

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372 must better coordinate and develop integrated energy and mobility  
373 strategies together.

374 This committee's Discussion Draft is a great milestone and  
375 excellent example of such an integrated approach. Setting a  
376 national minimum octane standard is a necessary step towards the  
377 continuing development of the next generation of high-efficiency  
378 vehicles.

379 We commend the committee and the industry stakeholders  
380 involved and for their collaboration in this effort. We believe  
381 the proposed increase to 95 research octane number, or RON, as  
382 the new U.S. standard for regular gasoline for year 2023 and beyond  
383 will be a win for consumers, the auto industry, fuel producers,  
384 agriculture, retailers, and society.

385 USCAR and its member companies are encouraged by the proposed  
386 21st Century Transportation Fuels Act, the Discussion Draft that  
387 provides an excellent starting point for national octane standard  
388 legislation, higher octane-rated gasoline facilities and the  
389 development of more efficient spark ignition engines.

390 It is estimated that an increase in RON to 95 enables an  
391 average 3 percent improvement in fuel economy of newer vehicles.

392 Increasing octane is beneficial for virtually all spark ignition  
393 engines regardless of the manufacturer, engine size, or

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394 architecture and does include both hybrid, electric, and plug-in  
395 hybrid electric vehicles.

396 While establishing a new 95 RON grade is the critical piece  
397 of this proposed approach, it doesn't preclude the availability  
398 of a higher RON octane grades for use in high-performance  
399 vehicles.

400 In Europe, 95 RON is regular while performance grade is 98  
401 RON or higher. While we view the Discussion Draft as a  
402 significant step in the right direction, we have some concerns  
403 and questions regarding several provisions.

404 These include the provisions relating to a waiver for fuels  
405 containing up to 20 percent ethanol, vehicle design requirements  
406 and NIST fueling provisions.

407 USCAR and its member companies look forward to working with  
408 the committee to address our concerns in other areas of the  
409 legislation.

410 Ultimately, we believe the Discussion Draft led by this  
411 committee is the only viable near-term pathway for implementation  
412 of a 95 RON minimum and the benefits it can deliver.

413 USCAR members are ready to move forward and implement this  
414 initiative. Thank you again for the opportunity to be here with  
415 you today and to provide testimony in support of this Discussion

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21

416 Draft proposing a high octane fuel that will enable higher  
417 efficiency vehicles.

418 Thank you very much.

419 [The prepared statement of Mr. Zimmer follows:]

420

421 \*\*\*\*\*INSERT 1\*\*\*\*\*

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22

422 Mr. Shimkus. Thank you.

423 The chair now recognizes Mr. Timothy Columbus, general  
424 counsel, Steptoe & Johnson, on behalf of the National Association  
425 of Convenience Stores and Society of Gasoline Marketers.

426 You are recognized for five minutes, sir.

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23

427 STATEMENT OF MR. COLUMBUS

428

429 Mr. Columbus. Here we are again, Mr. Chairman.

430

431 Mr. Chairman, Ranking Member Tonko, members of the  
432 committee, my name is Tim Columbus. I am with the law firm of  
433 Steptoe & Johnson. I appear today on behalf of our clients, the  
434 National Association of Convenience Stores and the Society of  
Independent Gasoline Marketers of America.

435

436 These associations represent something over 80 percent of  
the retail fuel sales in the United States.

437

438 It's important that you understand that neither association  
today has a position on the Discussion Draft we are talking about.

439

We do not support it. We do not oppose it.

440

441 We commend the committee and the staff who have put a lot  
442 of time into this and we think it's an excellent start. There's  
443 still questions you have to answer and we have to answer before  
we know where we'll end up on this.

444

445 In my written statement I touch on a number of issues and  
446 suggestions. I am going to touch on only five of those today.

447

448 Specifically, we would suggest the draft language be  
modified to, one, make clear that any technological solution  
adopted to prevent misfueling must be cost effective with the

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449 auto makers but also for retailers.

450 It is important to the retailing community that we don't  
451 end up carrying the costs of implementation on this ourselves.

452 These are mostly small businesses and they're very cost  
453 sensitive. They will be happy to do their part, but this is going  
454 to have to be everybody doing their part.

455 Number two, make clear that a retailer who complies with  
456 the misfueling prevention requirements is protected from  
457 liability resulting from any consumer activity, i.e., behaviour  
458 over which it has no control.

459 Number three, make clear that existing dispensing equipment  
460 need not be hardened to ethanol blends above E10 unless those  
461 higher blends are in fact dispensed through that pump or  
462 dispensing equipment.

463 Require EPA and FTC to harmonize their labelling regimes  
464 and those required labels must be clear regarding the octane and  
465 content levels being dispensed from any particular pump.

466 That is not -- they don't have to say exactly what it is  
467 but there should be some this would be up to E15, this could be  
468 up to E20.

469 The fact is that the legacy fleet is not ready. I am an  
470 old man. The chairman knows this. I drive a very old car. It's

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471 very happy on E10. It is not prepared to drink E15 and it will  
472 spit up E20.

473 So I have to know when I take that car to fuel what I am  
474 buying and that's really what we are looking for here.

475 Finally, make clear that any price posting requirements that  
476 you set forth be compatible with relevant state and local laws  
477 and, crucially, not impair a retailer's ability to communicate  
478 cost-saving offers to consumers.

479 Let me give you an example here. Most state laws require  
480 that the highest price for anyone to come in and buy a particular  
481 commodity be posted and we are fine with that.

482 However, many retailers offer multiple prices at a pump.  
483 For example, if you come in and buy a carwash you may get \$0.08  
484 a gallon off. Or if you are a member of an affinity program you  
485 may have a bargain.

486 The key here is to make sure that we can comply with state  
487 law but also not interfere with retailers' ability to offer  
488 consumers via the price signs a means of saving money.

489 With that, I am going to wind up. I am not going to use  
490 all my time.

491 Again, we don't have a position on this today. We look  
492 forward to working with all of you, going forward, on this project

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26

493 and commend you for what you have done so far.

494 I will be happy to respond to any questions my testimony  
495 may have raised. Thank you.

496 [The prepared statement of Mr. Columbus follows:]

497

498 \*\*\*\*\*INSERT 2\*\*\*\*\*

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27

499

Mr. Shimkus. The chair thanks the gentleman.

500

The chair now recognizes Mr. Wesley Spurlock, past president and chairman of the National Corn Growers Association.

501

502

Sir, you're recognized for five minutes, and welcome.

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28

503 STATEMENT OF MR. SPURLOCK

504

505 Mr. Spurlock. Thank you, Chairman Shimkus, Ranking Member  
506 Tonko, and subcommittee members. I appreciate the opportunity  
507 to be here for the National Corn Growers Association.

508 I am Wesley Spurlock and our family raises corn, cotton,  
509 and cattle in the Texas Panhandle. As producers of the primary  
510 feedstock used in ethanol, corn farmers have a strong vested  
511 interest in the future of transportation fuels.

512 The Renewable Fuel Standard has created significant  
513 opportunity for the farmers. The RFS is one of the most ambitious  
514 and successful energy, environmental, and economic policies  
515 Congress has enacted not only for farmers and rural communities  
516 but also for our drivers, our air quality, and our nation's energy  
517 security.

518 As use of homegrown renewable fuels has grown and has farmers  
519 have become more productive using fewer resources, the benefit  
520 of the RFS has exceeded the congressional projected.

521 Agriculture met the challenge to help fuel America, not by  
522 putting more land into production but by becoming more productive  
523 with existing resources.

524 Farmers today produce more corn with less land because the

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525 average has increased on corn by more than 25 bushels since 2007.

526           Ethanol production creates value-added co-products such as  
527 distiller's grain for feed, corn oil for biodiesel, and some corn  
528 provides -- the same corn provides food and fuel. The value added  
529 by ethanol and increased farmer productivity has had a positive  
530 impact on rural America, helping the next generation return to  
531 their family farms.

532           But it's not only the farmers who benefit from the renewable  
533 fuels. Renewable fuels save drivers money. Environmental  
534 advocates backed enactment of the RFS. The RFS is the only  
535 federal law that requires greenhouse gas emission reductions.

536           Based on actual corn and ethanol production, the  
537 sustainability improvements in both today's corn ethanol results  
538 in 43 percent lower greenhouse gas emissions than gasoline.  
539 Clean burning ethanol is the fuel that displaces the more harmful  
540 compounds in gasoline, reducing tailpipe emissions and improving  
541 air quality.

542           Chairman Shimkus' and Congressman Flores' Discussion Draft  
543 includes provisions corn growers do support. In addition to the  
544 RVP parity that allows higher ethanol blends and lower evaporative  
545 to be sold year round, we also support more regulatory certainty  
546 when it comes to approval of the higher blends such as E20.

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547 We support a high octane vehicle test fuel so automakers  
548 can expedite new optimized vehicles. However, NCGA believes this  
549 Discussion Draft would undo successful renewable fuel policy.

550 The net impact of this proposal would not maintain the market  
551 access renewable fuels currently have with the RFS and offer  
552 opportunity to expand ethanol as an octane source.

553 Corn growers support high octane fuels such as mid-level  
554 ethanol blends. We know high-octane fuels would give automakers  
555 the ability to design optimized engines with greater fuel  
556 efficiencies and with fewer greenhouse gas emissions.

557 Ethanol is the lowest cost, lowest carbon octane source.

558 Today's corn production practices are increasing soil carbon  
559 sequestration and ethanol's carbon footprint is shrinking.

560 NCGA recently submitted comments on the administration's  
561 safe vehicle rule outlining the fuel economy of emissions benefits  
562 from a high-octane low-carbon mid-level blend.

563 We recommend regulatory steps that would remove barriers  
564 to fuel competition and high-octane fuel. An octane standard  
565 such as 95 RON that refiners can easily meet with current premium  
566 fuels cannot replace the market access for renewable fuels  
567 provided by the RFS.

568 We cannot continue to reduce emissions with an octane

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31

569 standard that could be met by using octane from hydrocarbons.

570 Chairman Shimkus, corn growers are grateful for your  
571 advocacy for farmers and the renewable fuels. We appreciate the  
572 time you have spent considering future transportation fuel needs.

573 We also appreciate being asked to contribute to today's  
574 discussion. Should the committee undertakes future legislative  
575 discussion we ask that incoming Chairman Pallone and Tonko  
576 consider NCGA a source on renewable fuels policy and allow us  
577 to continue to work with the committee.

578 Thank you.

579 [The prepared statement of Mr. Spurlock follows:]

580

581 \*\*\*\*\*INSERT 3\*\*\*\*\*

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582 Mr. Shimkus. Thank you.

583 The chair now recognizes Ms. Emily Skor, chief executive  
584 officer of Growth Energy. You're recognized for five minutes,  
585 and welcome.

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33

586 STATEMENT OF MS. SKOR

587

588 Ms. Skor. Thank you.

589 Chairman Shimkus, Ranking Member Tonko, members of the  
590 subcommittee, thank you for the opportunity to provide our  
591 perspective on the Discussion Draft being discussed today.

592 My name is Emily Skor and I am the CEO Of Growth Energy,  
593 the leading ethanol industry association representing 100  
594 producer plants, more than half of the industry's total  
595 production.

596 A transportation fuel mixed with more ethanol lowers costs  
597 for consumers, revitalizes our country's rural economy, and  
598 improves our environment. Our members thank you for attending  
599 to our 21st century transportation needs and recognizing the  
600 important of high-octane and continuing to advance these national  
601 interests.

602 We have thoroughly reviewed the Discussion Draft and applaud  
603 the authors for, first, recognizing that octane plays a critical  
604 role in helping automakers meet fuel economy and greenhouse gas  
605 standards; second, allowing the year-round sale of higher ethanol  
606 blends like E15; and, third, granting federal approval for fuel  
607 beyond E15, demonstrably supporting the research that affirms

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608 ethanol blends above 10 percent do not harm passenger vehicles.

609           However, where we believe this draft falls short is in the  
610 assumption that the Renewable Fuel Standard, the RFS, is broken  
611 and needs to be fixed. We wholeheartedly disagree with that  
612 perspective.

613           In fact, despite years of mismanagement, the RFS has  
614 fulfilled its congressional intent to increase domestic energy  
615 supplies, improve farm incomes and reduce carbon emissions with  
616 the added benefit of lowering the price at the pump.

617           By any objective measurements, the RFS has been an  
618 overwhelming success. Repealing the RFS is unnecessary and will  
619 further destabilize a struggling farm economy and ethanol sector.

620           Moreover, the draft does nothing to stop EPA's continued  
621 misuse of the small refinery exemption authority or even  
622 acknowledge the agency's unprecedented and possibly illegal use  
623 of this authority.

624           EPA has already waived up to 2.25 billion gallons of biofuel  
625 blending, undermining demand by failing to reallocate those  
626 gallons in line with congressional intent and we face additional  
627 exemptions for 2018 and in the recently released 2019 RFS rule.

628           We applaud the examination of an octane standard. But the  
629 draft's proposed 95 RON is easily met with today's premium

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630 gasoline, which costs consumers about 50 cents more per gallon  
631 than regular fuel.

632 A recent report from the Energy Information Administration  
633 cites that refiners would only need to make minor operational  
634 adjustments to supply the increased octane requirement of a 95  
635 RON baseline fuel.

636 And in previous congressional testimony refiners stated that  
637 they planned to meet the 95 RON fuel standard with a current 10  
638 percent ethanol blend.

639 Today, ethanol is \$0.25 less per gallon than gasoline and  
640 was as much as \$0.90 earlier this year. As I previously  
641 testified, the past decade has shown oil companies will actively  
642 ignore economic incentives to prevent market entry of higher  
643 ethanol blends.

644 Only by coupling a stable RFS to maintain market access with  
645 a significant boost in octane from a mid-level ethanol blend can  
646 consumers realize significant cost savings, increased engine  
647 efficiency, and substantial environmental benefits.

648 Unfortunately, this draft as proposed will lead to reduced  
649 blending of cleaner biofuel and it will raise fuel costs for  
650 American drivers.

651 We commend the authors for following sound science in

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652 approving E20. But the draft provides minimal guidance on  
653 approving ethanol blends beyond E20.

654 E15 was approved nearly a decade ago and we are still working  
655 through hurdles erected to keep this legal fuel out of the market.

656 This draft should recognize and seek to eliminate the myriad  
657 challenges to approving ethanol blended fuels to enable a  
658 reasonable pathway for their entry into the marketplace.

659 While one of the draft's primary goals is to make the U.S.  
660 fuel supply uniform, it does not unify the availability of  
661 ethanol-blended fuels above 10 percent. Simply preventing  
662 future actions does nothing to break down state-level hurdles  
663 that exist today.

664 This draft may even block the state from moving forward with  
665 higher blends. We must avoid backsliding on the progress of the  
666 RFS which has helped launch a more affordable low-carbon  
667 alternative to traditional petroleum fuels.

668 While we do support certain aspects of this Discussion Draft,  
669 we believe it misses an opportunity to lay out a bold vision for  
670 the future of affordable liquid fuels and to make a significant  
671 impact restoring growth in America's rural communities and  
672 decarbonizing our nation's fuel supply.

673 Thank you, and I look forward to your questions.

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674

[The prepared statement of Ms. Skor follows:]

675

676

\*\*\*\*\*INSERT 4\*\*\*\*\*

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38

677 Mr. Shimkus. The chair thanks the gentlelady.

678 The chair now recognizes Mr. Geoff Cooper, president and  
679 CEO of the Renewable Fuels Association.

680 You're recognized for five minutes.

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681 STATEMENT OF MR. COOPER

682

683 Mr. Cooper. Thank you.

684 Good morning, Chairman Shimkus, Ranking Member Tonko, and  
685 members of the subcommittee.

686 My name is Geoff Cooper and I am the new president and CEO  
687 of Renewable Fuels Association, the national trade group  
688 representing the U.S. ethanol industry.

689 I want to thank the chairman and the members of the  
690 subcommittee for your thoughtful consideration of our nation's  
691 future energy policy needs and objectives.

692 RFA has been an active participant throughout this process  
693 and we have appreciated the opportunity to share our perspectives  
694 on the vital role that biofuels can play in our energy future.

695 The draft legislation we are here to discuss today represents  
696 an important first step forward in the debate about future fuels  
697 policy and specifically the role of high-octane fuels.

698 Because ethanol is by far the most economical and cleanest  
699 source of octane available on the market today, it would seem  
700 on the surface that any effort to establish a high-octane fuel  
701 standard would benefit ethanol producers and the farmers who  
702 supply them.

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703 But it's not quite that simple. As currently drafted, RFA  
704 cannot support the proposal because it falls short of providing  
705 the future market certainty and the clear path to growth that  
706 our industry needs.

707 By eliminating the Renewable Fuel Standard requirements for  
708 conventional biofuels in 2022 and adopting a no-growth  
709 methodology for advanced biofuel requirements through 2032, the  
710 draft bill would destabilize the considerable progress our nation  
711 has made for greater energy security, economic vitality, and  
712 environmental health.

713 We simply cannot support eliminating the RFS program as the  
714 draft envisions without a much stronger signal to the market that  
715 ethanol's role in our fuel supply will continue to grow.

716 Even though ethanol is far superior to other octane boosters  
717 in terms of cost and environmental performance, a 95 RON standard,  
718 when paired with elimination of the RFS, would not result in  
719 increased market opportunities for ethanol.

720 To the contrary, we believe the 95 RON standard in the absence  
721 of the RFS or other environmental performance requirements could  
722 reduce demand for ethanol.

723 Refiners and blenders would simply meet demand for more  
724 octane by increasing reformer severity and producing greater

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41

725 volumes of higher octane hydrocarbons like aromatics, which are  
726 often toxic in nature, worsen air quality, and are typically two  
727 times the cost of ethanol.

728 Thus, consumers would just end up paying more for dirtier  
729 gasoline.

730 In fact, a new EIA Commission Study concludes that oil  
731 refiners would have, quote, "no problem," quote, meeting a  
732 requirement to produce 95 RON gasoline beginning in 2022 and  
733 assumes that refiners would meet that standard with E10 gasoline.

734 The study found that, quote, "no significant changes in  
735 refinery configuration our through put would be required to meet  
736 the minimum 95 RON gasoline requirement," end quote.

737 And contrary to testimony previously offered to this  
738 subcommittee, the EIA study finds, quote, "no industry wide  
739 capital intensive projects would be needed to meet the  
740 requirements," end quote.

741 There are elements of the Discussion Draft that we do find  
742 very encouraging. We appreciate the provision requiring  
743 automakers to warrant vehicles built in 2023 and later for E20  
744 and we welcome the requirement that EPA approve an E20 fuel waiver.

745 However, we believe ethanol blends above E20 like E25 and  
746 E30 will be necessary to deliver the octane levels that best

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747 facilitate greater fuel economy and emissions reductions.

748 We also very much appreciate that the Discussion Draft again  
749 demonstrates this subcommittee's support for addressing the  
750 antiquated RVP barrier that is currently keeping E15 out of the  
751 marketplace on a broader scale.

752 In closing, RFA strongly believes a high-octane fuel  
753 standard can work in concert with, not in conflict with, the RFS.

754 The measures would be complementary and the RFS would assure  
755 that clean renewable octane sources like ethanol are able to  
756 access a high-octane fuel market that might otherwise be closed  
757 to competition.

758 With proper oversight and implementation, the RFS can  
759 continue to work in tandem with a high-octane fuel standard to  
760 continue to drive innovation, support rural economies, and  
761 provide cleaner fuel choices at the pump well beyond 2022.

762 We thank you again for starting this very important  
763 conversation and look forward to its continuation.

764 Thank you, and I look forward to your questions.

765 [The prepared statement of Mr. Cooper follows:]

766

767 \*\*\*\*\*INSERT 5\*\*\*\*\*

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43

768

Mr. Shimkus. The chair thanks the gentleman.

769

And last but not least on the first panel we have Mr. Chet

770

Thompson, president of American Fuel and Petrochemical

771

Manufacturers.

772

Sir, you're recognized for five minutes, and welcome.

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44

773 STATEMENT OF MR. THOMPSON

774

775 Mr. Thompson. Thank you, Mr. Chairman, Ranking Member  
776 Tonko, other members of the subcommittee. I really appreciate  
777 the opportunity to be here this morning and share the views of  
778 the U.S. refining industry on this Discussion Draft.

779 Let me start by thanking you, Mr. Chairman, Mr. Flores, and  
780 your committee staff for the incredible work you have done over  
781 the last year on this really critical topic.

782 No doubt the easy thing for you to have done was to run quickly  
783 away from this issue a year ago. You didn't. You chose to stick  
784 it out and we appreciate it.

785 We also appreciate the release of this Discussion Draft.

786 Mr. Chairman, when you told us a few months ago this was  
787 coming you promised us it would be far from perfect. You also  
788 promised us that all of us stakeholders would find something in  
789 it that we loved and something in it that we hate.

790 Rest assured, your premonition was spot on. Well,  
791 unfortunately, we are not in a position to support the draft in  
792 its current form. But we do think it moves the ball.

793 We think and hope it will generate momentum for further  
794 discussion and eventually statutory reform -- reform that most

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795 of the stakeholders believe is so critical.

796 As I have testified before this subcommittee on multiple  
797 occasions, most recently last April, the RFS in its current form  
798 is unsustainable. It's bad for consumers and it's only destined  
799 to get worse if reform does not happen before EPA takes over this  
800 program in 2022.

801 I also testified that a proper transition from the RFS to  
802 a fuel-neutral 95 RON octane standard would be better for all  
803 stakeholders and could better harmonize our country's fuel and  
804 transportation policies.

805 A 95 RON standard would help our auto companies improve the  
806 efficiency and reduce the emissions of the existing fleet and  
807 future fleets and comply with CAFE.

808 It would provide retailers with optionality, to quote Mr.  
809 Columbus. It would provide farmers and ethanol producers with  
810 the potential for greater market share, contrary to what you have  
811 heard already this morning, and it would certainly provide relief  
812 for my members from the broken RFS.

813 But most importantly, it would provide relief to consumers  
814 -- relief in the form of lower prices.

815 Against this backdrop, there are aspects of this Discussion  
816 Draft that we support and those that we don't. So let me start

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817 with the positive -- what we can support.

818 We certainly support the sunseting of the RFS in exchange  
819 for 95 RON standard, you know, presuming or assuming it's done  
820 correctly.

821 After years of study with the autos, a 95 RON performance  
822 standard has been demonstrated to be the most cost effective  
823 option for consumers for improving the efficiency of the  
824 transportation fleet, at least in the near term.

825 Indeed, there's no other fuel option that is realistic I  
826 in the time frame we are talking about this morning. We support  
827 requiring all light-duty vehicles starting in 2023 to be designed  
828 specifically to run on this fuel, on at least a 95 octane rating  
829 and potentially higher.

830 Finally, we support the comprehensive misfueling  
831 requirements and liability protections afforded in the -- in the  
832 draft. However, we do believe those protections need to be  
833 expanded to include the U.S. refining industry.

834 Unfortunately, and, again, as highlighted much more  
835 extensively in my testimony, there are a few provisions, Mr.  
836 Chairman, as you might imagine, we can't support. So let me just  
837 highlight a few.

838 First, we absolutely can't support a new \$15 billion gallon

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839 per year mandate for a conventional ethanol. Such a mandate is  
840 unfeasible.

841 Let me put this in a perspective. To hit this mark by 2020,  
842 which the draft would require, ethanol blending in our country  
843 would have to increase by 700 million gallons. Seven hundred  
844 million.

845 Because of the blend wall, which is real, this would require  
846 E15 sales to increase by 3,000 percent -- 3,000 percent in a mere  
847 12, 13 months. This is simply not possible.

848 Nor can we support extending the RFS program until 2032.  
849 The program must end when a new 95 RON standard takes effect  
850 in 2023.

851 Nor can we support the draft's various E20 mandates. Autos  
852 should decide how to harden their vehicles to run on a new 95  
853 RON fuel, not the government, and environmental and technical  
854 analysis that supports subsim (phonetic) determinations that  
855 can't be short circuited through legislation.

856 E20 should not be authorized to be released and used in the  
857 market until we have a full understanding of what the impact of  
858 E20 would be on existing automobiles.

859 Finally, we do not support establishing 98 RON as a  
860 certification fuel. There is simply no nexus between a 98 RON

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861 cert fuel and a 95 RON that the draft would develop and create.

862 There's already a pathway for EPA and for the autos to pursue  
863 to get a new cert fuel and there's absolutely no reason that this  
864 legislation needs to address this issue.

865 So, again, in closing, let me say we appreciate your  
866 leadership over the past years, Mr. Chairman. Again, Mr. Flores  
867 and staff, we appreciate everything you have done.

868 There are real opportunities here. The folks at this table  
869 have been at this for many years and we believe we are really  
870 starting to advance and there's lots of opportunities around a  
871 95 RON standard. We hope this remains a priority for this  
872 subcommittee next year.

873 So I look forward to answering any of your questions.

874 Thank you.

875 [The prepared statement of Mr. Thompson follows:]

876

877 \*\*\*\*\*INSERT 6\*\*\*\*\*



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878 Mr. Shimkus. The chair thanks the gentleman.

879 We appreciate you all being here today and now I will  
880 recognize myself for five minutes to open up the round of questions  
881 for this panel.

882 2022 is a real date. We've asked the EPA about what could  
883 happen and EPA has told us that they have, quote, unquote, "broad  
884 authority" they will have in 2023 and beyond, which could result  
885 in biofuel volumes lower than those provided in the statutory  
886 tables.

887 Given that EIA projects a 31 percent decrease in motor fuel  
888 consumption between 2017 and 2025, do you expect RVOs to be higher  
889 or lower post-2022 than they are today?

890 Mr. Zimmer, do you have any input? No.

891 Mr. Columbus?

892 Mr. Columbus. I will take pass on that.

893 Mr. Shimkus. Mr. Spurlock.

894 Mr. Spurlock. As the --

895 Mr. Shimkus. You heard how I laid out the question. 2022  
896 liquid transportation fuels are projected to decline. EPA has  
897 broad authority to reset the tables.

898 Will they be higher or will they be lower post-2023?

899 Mr. Spurlock. I think we will show that we have done such

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900 a great job with the ethanol and where it's at as a additive in  
901 the fuel system that we'll be -- we will come through fine on  
902 the reset.

903 Mr. Shimkus. You say higher?

904 Mr. Spurlock. Yes, sir.

905 Mr. Shimkus. Ms. Skor.

906 Ms. Skor. We would anticipate that the RVOs -- if the  
907 blending is -- the actual blending is consistent with the numbers,  
908 you'd be at 15 billion gallons of conventional corn-based ethanol.

909 Mr. Shimkus. Mr. Cooper.

910 Mr. Cooper. Well, we certainly see no rationale for  
911 reducing the volumes post-2022 and EPA is --

912 Mr. Shimkus. Do you accept the premise that the EIA  
913 information -- that there will be less liquid transportation fuel  
914 on our market?

915 Mr. Cooper. I do.

916 Mr. Shimkus. Okay.

917 Mr. Cooper. Yes, I agree that we are going to see a decline  
918 in gasoline consumption long term.

919 Mr. Shimkus. Do you think EPA will then raise the blending  
920 limit?

921 Mr. Cooper. Again, I think there's no rationale for going

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922 below the 15 billion for conventional biofuels.

923 Mr. Shimkus. Okay. Mr. Thompson.

924 Mr. Thompson. There's absolutely a rationale for doing it  
925 and if EPA follows the data they must do it. If transportation  
926 fuel demand goes down, E15 blending by definition goes down and  
927 the E15 market is still so nascent as not to pick up the slack.  
928 It has to go down.

929 Mr. Shimkus. Thank you.

930 Let me go to Mr. Spurlock. First of all, I want to thank  
931 the Corn Growers for being very involved in this work and I want  
932 to recognize that.

933 In your testimony, you state that without the mandates in  
934 the RFS refiners would immediately default to petroleum-based  
935 octane enhancers to rise from their own feedstocks.

936 Given that ethanol is such an overwhelmingly cheap octane  
937 enhancer in addition to your noted environmental benefits,  
938 wouldn't some refineries be more competitive if they were to opt  
939 for this lower cost source of octane?

940 Mr. Spurlock. Yes, I feel that they would.

941 Mr. Shimkus. Okay. Let me go to Mr. Columbus.

942 Would your retailers like lower prices for the exact same  
943 fuel or higher prices for the exact same fuel?

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944 Mr. Columbus. Now, that I will not pass on. Retailers want  
945 lower prices. We interface with the consumer every day and the  
946 simple reality is that the competition drives the price to the  
947 lowest plausible level and that includes the use of feedstocks  
948 by mid-level blenders as well as refineries to generate the lowest  
949 cost of product for the consumer.

950 Mr. Shimkus. Let me go back to Mr. Thompson. I would like  
951 for you to comment on Mr. Cooper's quote of the EIA study on  
952 renewable fuel. Can you comment on that?

953 Mr. Thompson. Is that for me, Mr. Chairman?

954 Mr. Shimkus. Yes, sir.

955 Mr. Thompson. Yes, I can. I mean, it's a -- unfortunately,  
956 it's a mischaracterization of the analysis. Look, and it's  
957 consistent with what we've been saying.

958 The EIA is a nothing burger. They said if we look in 2023  
959 would there have to be substantial new investment assuming E10  
960 in order to make a 95 RON fuel. No, of course it wouldn't.

961 At that point the new fleet of autos that require 95 would  
962 just be taking off. It also assumes E10, which contrary to what  
963 we said, assumes that the status quo remains -- that the ethanol  
964 is using at baseline.

965 Then the EIA analysis only went out to 2023, I believe.

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966 So it's five years of implementation. So all it says is that  
967 the U.S. refining industry, based on E10, has enough octane  
968 capacity if it wants to meet the needs.

969 It doesn't speak to what happens when the program is fully  
970 implemented and at that point we think there are 19 billion gallons  
971 of octane up for grabs and we think that that octane could be  
972 met through lots of sources including ethanol.

973 Ethanol has a \$0.04 advantage over other sources of octane.  
974 This is -- it's inaccurate to suggest this is not potentially  
975 good market share for the ethanol industry.

976 Mr. Shimkus. Thank you. My time has expired.

977 The chair now recognizes the ranking member of the  
978 subcommittee, Mr. Tonko, for five minutes.

979 Mr. Tonko. Thank you, Mr. Chair.

980 I would like to get witnesses' views on the preemption  
981 language that's included in the Discussion Draft. While  
982 California's low California fuel standard is not strictly in  
983 ethanol law, ethanol is certainly one potential pathway to  
984 compliance with the law.

985 Based on your reading, do you have any thoughts as to whether  
986 Section 204 would prohibit another state from adopting a  
987 low-carbon fuel standard similar to that of California's program?

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988 Mr. Zimmer, can we start with you?

989 Mr. Zimmer. Excuse me. I don't have a comment on this  
990 specific question.

991 Mr. Tonko. Mr. Columbus.

992 Mr. Columbus. The fewer people defining different fuels  
993 in the United States, the more efficient the overall system is  
994 going to be. So, historically, our clients have supported  
995 preemption of state fuel standards and state mandates.

996 Mr. Tonko. And Mr. Spurlock.

997 Mr. Spurlock. I will take a pass on that. I am not sure  
998 what our standing would basically be on the question and I do  
999 understand what you're asking.

1000 Mr. Tonko. Okay.

1001 Ms. Skor.

1002 Ms. Skor. We believe that the preemption language doesn't  
1003 go far enough. It's looking at future actions but it isn't  
1004 looking at eliminating many of the legitimate roadblocks that  
1005 exist in several states today.

1006 So what we would be looking for is to make sure that what  
1007 happens at the federal level is also followed through in all 50  
1008 states.

1009 Mr. Tonko. Mr. Cooper.

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1010 Mr. Cooper. We did not take a position on the preemption  
1011 provisions in the draft. However, our read of it, I guess, would  
1012 be that yes, future policies like a low-carbon fuel standard  
1013 potentially would be preempted.

1014 But, again, we did not take a position.

1015 Mr. Tonko. And Mr. Thompson.

1016 Mr. Thompson. I would certainly interpret 204 to  
1017 potentially prohibit other states from adopting a low-carbon fuel  
1018 standard if they actually specify how much ethanol can and cannot  
1019 be in a gallon of gasoline.

1020 So I would interpret it that way and we would support that.

1021 You know, there's a lot of resources by all the stakeholders  
1022 that would go into establishing a new 95 RON standard and a  
1023 patchwork system does not work.

1024 Mr. Tonko. Do you believe this language might impact  
1025 California's ability to expand or make changes to its existing  
1026 program?

1027 Let me start with you, Mr. Thompson, and work back.

1028 Mr. Thompson. I don't think it would. It's my  
1029 understanding that the draft says expressly that this doesn't  
1030 impact existing prohibitions and to the extent California has  
1031 prohibitions already on the books, by definition this provision

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1032 wouldn't touch it.

1033 Mr. Tonko. And Mr. Cooper.

1034 Mr. Cooper. I would agree with that response with the one  
1035 caveat being if California did at some point in the future decide  
1036 to increase the level of ethanol that's permitted in the state  
1037 this provision could potentially keep them from doing that.

1038 Mr. Tonko. Ms. Skor.

1039 Ms. Skor. I would agree that if California wants to go  
1040 further in terms of blending more renewable biofuel it might be  
1041 prohibited, based on the language that we see in the Discussion  
1042 Draft.

1043 Mr. Tonko. And Mr. Spurlock.

1044 Mr. Spurlock. Yes, I would agree with Emily and Geoff.

1045 Mr. Tonko. And Mr. Columbus.

1046 Mr. Columbus. I think they're all right about this. So  
1047 the reality is yes, it can get in the way of California doing  
1048 something.

1049 Mr. Tonko. And finally, Mr. Zimmer.

1050 Mr. Zimmer. [No audible response.]

1051 Mr. Tonko. It's my understanding that while ethanol may  
1052 be the cheapest source of octane, at the moment there's no  
1053 guarantee in this Discussion Draft that it will be used in a future

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1054 high-octane fuel.

1055           Would anyone like to comment on why or why not the source  
1056 octane should be left open?

1057           Mr. Cooper.

1058           Mr. Cooper. Well, thanks, and I would like to use my time  
1059 responding to that question to really respond to what Mr. Thompson  
1060 said about the EIA report.

1061           I mean, I do think it's a very good study that underscores  
1062 exactly that point, that refiners would not likely choose ethanol  
1063 as the source of octane for a 95 RON fuel.

1064           You know, there's a number of refinery modelling studies  
1065 out there that show refiners could get to 95 RON with just an  
1066 extra \$0.02 or \$0.03 per gallon in incremental costs. They could  
1067 happily pass that along to the consumer and, you know, the other  
1068 thing the EIA study pointed out, and it did look longer term than  
1069 just 2023. They did look further into the future and analyse  
1070 whether the refining sector could meet an incrementally larger  
1071 demand of high-octane in the future and came to the same  
1072 conclusion.

1073           The study also found that there is a significant amount of  
1074 underutilized reforming and alkylation capacity today in the  
1075 refining sector that could easily be switched on to provide that

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1076 extra octane.

1077 Mr. Tonko. Ms. Skor.

1078 Ms. Skor. You're absolutely right. By taking away the  
1079 guardrails provided by the RFS that enable market access you're  
1080 essentially closing the market from competition.

1081 The transportation fuel marketplace it is not a free market.  
1082 If it were a free market, right now the better quality better  
1083 priced octane enhancer would be in much higher demand than it  
1084 is today.

1085 So a high octane standard coupled with guardrails to ensure  
1086 that we are using renewable octane would be the path forward.

1087 Mr. Tonko. Thank you.

1088 And Mr. Columbus.

1089 Mr. Columbus. With respect, I disagree with Ms. Skor. I  
1090 think the most important thing is refiners are not the only source  
1091 of motor fuel in the United States.

1092 People who don't own refineries manufacture motor fuel via  
1093 blending of components which are available from domestic  
1094 refineries as well as foreign sources.

1095 Mr. Tonko, you and I have had this conversation before.  
1096 What drives the costs to manufacture is the big stupid price sign  
1097 at retail. The lowest cost wins. If a refiner wanted to forget

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1098 about the lowest cost octane source in the country, I don't believe  
1099 his competitors would permit that in a commercial sense.  
1100 Competition actually works.

1101 Mr. Shimkus. The gentleman's time has expired.

1102 The chair now recognizes the chairman emeritus, Joe Barton,  
1103 for five minutes.

1104 Mr. Barton. Well, thank you, Mr. Chairman.

1105 The former senator from the great state of Texas, Phil Gramm,  
1106 which many of you know, had a saying: "Truth is a powerful drug.  
1107 Use it sparingly."

1108 And as a retiring member this may be my last hearing after  
1109 32 years on this committee. So I am going to tell us what I think  
1110 are some bargain truths. Now, they may not be truth but I think  
1111 they're truth.

1112 First of all, I think that Mr. Flores and Mr. Shimkus have  
1113 done a very good job in trying to patch together a compromise  
1114 bill that's good politics and I think it would also work.

1115 I don't think it would work perfectly but I think it'd work  
1116 and I think the politics of it, potentially, work.

1117 Now, having said that, let me give you the Barton bill and  
1118 just raise the hackles on everybody's hair in this room. I would  
1119 repeal every existing regulation and law on oxygen and CAFE

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1120 standards. Repeal them all except for a few and maintain the  
1121 oxygen requirement in the Clean Air Act. I think that makes  
1122 sense.

1123 I would require that any money put into the leaking  
1124 underground trust fund, which the acronym is LUST, actually be  
1125 used to clean up leaking underground storage tanks.

1126 And I might -- and I would listen to my corn growers on this  
1127 one -- I might keep the quotas on imported ethanol. I might not.

1128 But I would repeal everything else.

1129 If we did that and went to a pure market for ethanol, it  
1130 would work. It would work. Back in 2005 when I was chairman,  
1131 we passed the Energy Policy Act of 2005 and at the request of  
1132 then Speaker Denny Hastert we put in mandates to use ethanol,  
1133 or renewable fuels.

1134 We also created a lot of research programs for renewable  
1135 fuels and alternative energy, and if you look at the energy markets  
1136 in the United States today, solar is doing very well.

1137 Wind is doing very well, and I -- although the ethanol market  
1138 has been up and down, I think you could argue that at least it's  
1139 a mature market. It's not a struggling start-up market.

1140 But then in 2007 we came back and increased these mandates  
1141 and we also increased the fuel -- the CAFE standards. And the

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1142 current law, folks, is unworkable. It's not going to work, and  
1143 come 2020 don't kid yourself. If we throw all this to whoever's  
1144 running EPA, they don't have any magic wands over there. They're  
1145 not going to be able to bring order out of chaos.

1146 So, again, I want to go back to Mr. Shimkus and Mr. Flores.  
1147 They have tried to look at the politics of it, I think, and they've  
1148 tried to come up with something that works.

1149 Now, having said that, it's not going to -- we are certainly  
1150 not going to mark this bill up tomorrow and put it on the floor  
1151 next week and go to the Senate and the Senate miraculously pass  
1152 it.

1153 But you might -- you have got a fighting chance to do  
1154 something in the next Congress. So this is a good -- this is  
1155 a good place to start.

1156 So my question, you know, since this is the question period,  
1157 Mr. Chairman, I got to ask at least one question. I can't just  
1158 vent here.

1159 Mr. Shimkus. You haven't done that before, though, so --  
1160 [Laughter.]

1161 Mr. Barton. I have. So I am going to ask Mr. Thompson.  
1162 You won the lottery here. If we did what I said -- pass the  
1163 Barton Bill and don't -- the politics of that are terrible so

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62

1164 I know that's not a starter but it is true -- would ethanol be  
1165 used? Would there be a market that ethanol would compete for  
1166 and be successful competing -- corn-grown ethanol from the United  
1167 States?

1168 Mr. Thompson. Thank you for the question, and we would  
1169 support the Barton Bill. But absolutely ethanol would continue  
1170 to compete. The RFS could go away tomorrow and the E10 would  
1171 be the dominant fuel in this country.

1172 It is the cheapest source of octane and, as you know, when  
1173 you go to the pump we are trying to put octane into the fuel from  
1174 regular grade up to premium grade. It is the cheapest source  
1175 of octane.

1176 It has a \$0.04 advantage over anything else. You know, E0  
1177 is \$0.22 more expensive to make than E15 and it's, like, \$0.15  
1178 more expensive than E10.

1179 My guys are a lot of things, but wasteful of money is not  
1180 one of them. The refiners own 20 percent of the ethanol market.  
1181 Ethanol is here to stay. The notion that it won't be is just  
1182 -- it's inconsistent with reality.

1183 Mr. Shimkus. The gentleman's time has --

1184 Mr. Barton. The last thing I will say, Mr. Chairman, I ought  
1185 to be commended because the Barton Bill did not bring back MTBE

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1186 and if I really wanted to be competitive I would make it legal  
1187 to --

1188 Mr. Shimkus. The gentleman's time definitely has expired.

1189 [Laughter.]

1190 The chair recognizes the gentleman from California, Mr.  
1191 Peters, for five minutes.

1192 Mr. Peters. Thank you. I want to thank Mr. Barton for his  
1193 service but I also want to say I endorse the Barton Bill with  
1194 a couple of amendments. I would also repeal all the tax credits  
1195 that we have for energy and I would send a market signal that's  
1196 technology neutral through a carbon tax.

1197 And we could -- I know, so maybe the amendment -- you know,  
1198 I won't get your vote in the next Congress either, I know. But  
1199 I think that would be the appropriate way to push these incentives.

1200

1201 But for the time being, I wanted to talk to Ms. Skor. We  
1202 have another witness who I think is on the next panel, Brooke  
1203 Coleman, who is the executive director of the Advanced Biofuels  
1204 Business Council.

1205 Her testimony includes the following and I would like you  
1206 to react to this because you talk about backsliding. She says,  
1207 quote, "The RFS is indirectly to date a renewable octane cetane

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1208 requirement. The 21st Century Transportation Fuels Act would  
1209 phase out the renewability requirement and the greenhouse gas  
1210 requirement contained in the RFS and, as discussed, all companies  
1211 will use more petroleum additives instead of biofuels because  
1212 it's in their economic self-interest." She goes on to explain  
1213 how that's backsliding.

1214 Is that the concern you expressed and can you maybe flesh  
1215 out a reaction to that?

1216 Ms. Skor. That's absolutely our concern.

1217 If you look at the price of ethanol today, if we are talking  
1218 about price competitiveness today wholesale it sells \$0.25 lower  
1219 per gallon than gasoline. But what you see is absent a mechanism  
1220 to force competition and give the ethanol producer access to the  
1221 end user, the consumer, we don't have a way to compete in this  
1222 marketplace.

1223 The RFS provides important guardrails and not only for market  
1224 access but for environmental impact. As Mr. Spurlock said, 43  
1225 percent reduction in greenhouse gas emission -- that's with  
1226 conventional biofuel. Advanced biofuel is up to 100 percent.

1227 So we are cleaning the air because we've got fewer -- and  
1228 it's good for not only environmental health but human health as  
1229 well.

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1230 Mr. Peters. You recognize the bind the government is in  
1231 with the bill the way it is. What would be your suggestions about  
1232 how to move?

1233 Ms. Skor. I mean, you know, our overall suggestion is that  
1234 you couple -- we absolutely applaud seeking a high-octane  
1235 low-carbon national standard. But that's got to be coupled with  
1236 the guardrails that we see in the Renewable Fuel Standard that  
1237 provide for market access.

1238 That would be the path forward for the most significant cost  
1239 savings, the greatest fuel economy, and the greatest  
1240 environmental benefit.

1241 Mr. Peters. Okay. Well, again, I think we are sort of  
1242 in this contortion to respond to these markets and I think that,  
1243 again, a market -- a market incentive that's technology neutral  
1244 is preferable to this. It could save us a lot of time and meetings  
1245 next year.

1246 But I do appreciate you taking it up. I think there's more  
1247 work to do on this. I know it's not easy, and I look forward  
1248 to working with you in the next Congress.

1249 And I yield back.

1250 Mr. Shimkus. The chair thanks the gentleman.

1251 The chair now recognizes the gentleman from West Virginia,

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1252 Mr. McKinley, for five minutes.

1253 Mr. McKinley. Thank you, Mr. Chairman.

1254 Over the last number of years, we've talked a lot about and  
1255 I've heard a lot of folks talk about the greenhouse gas emissions  
1256 and how we need to address it through a variety of standards,  
1257 regulations, or whatever.

1258 But this is a summary from the MIT study that says if you  
1259 want to reduce greenhouse gas emissions it's six to fourteen times  
1260 more effective if you put a gasoline tax on than worried about  
1261 efficiencies.

1262 I've never heard any -- here anyone ever, if they're really  
1263 serious on the other side, talking about reducing greenhouse gases  
1264 why they have not proposed raising the gasoline tax.

1265 Secondly, we've also talked around this table a lot about  
1266 uncertainty. I am concerned about, for example, a small refinery  
1267 trying to make the change, going to spending millions to convert  
1268 to 95 or some other level of octane standards. But yet there's  
1269 a movement coming from the other side of the aisle that within  
1270 the next 10 years we are going to decarbonize our transportation  
1271 fuels.

1272 I don't know whether to take them seriously or not. But  
1273 I see it in the media as beating the drum every day that over

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1274 the next 10 years the green new deal should be sweeping through  
1275 Congress.

1276 It should be taken very seriously. So the uncertainty is  
1277 that why would a small refinery or any refinery go out and spend  
1278 billions of dollars -- billions of dollars to make a change in  
1279 carbon fuels when in 10 years we are going to do away with them  
1280 anyway?

1281 So I just -- my question to you, to any of you, essentially  
1282 is is it realistic to be thinking about this green new deal and  
1283 all the effort that's been made in crafting this legislation that  
1284 goes out the window if we are going to pass something within the  
1285 next 10 years that does away with fuel?

1286 Starting with you -- starting with you, how realistic is  
1287 this? Is this some crackpot idea?

1288 Mr. Zimmer. Well, thank you.

1289 And, first of all, we think that going to a 95 RON regular  
1290 is extremely important and very doable for the stakeholders as  
1291 well as -- and a value proposition to the consumer.

1292 So we think it is the only -- the low-cost solution to  
1293 improving the fuel efficiency of vehicles and it's broadly applied  
1294 and it will impact a lot of --

1295 Mr. McKinley. If we are trying to eliminate greenhouse

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1296 gases, why isn't someone promoting a gasoline tax because it's  
1297 proven time and time again that that's going to be the quickest  
1298 way to eliminate greenhouse gases? No one's doing that.

1299 So we are talking about a -- I want to know more about what  
1300 effect -- we are going to see a lot of debate over the next two  
1301 years over this green new deal.

1302 Is it realistic to do away with fossil fuels in  
1303 transportation as they're calling for? I would like to hear from  
1304 any one of you. I only have a minute left.

1305 Mr. Columbus. In the short term, sir, no. It's not going  
1306 to happen in the short term, and I certainly commend Mr. Tonko  
1307 and his colleagues for starting that conversation.

1308 There are a lot of things about EVs that have to be sorted  
1309 out. There are a lot of things about EV recharging structures  
1310 that have to be sorted out.

1311 I can remember many years ago people talking about we are  
1312 going to have --

1313 Mr. McKinley. Could we have the other people answer as well,  
1314 just -- so yours is -- it's not realistic.

1315 Mr. Spurlock.

1316 Mr. Spurlock. As we look at the news recently and we are  
1317 talking about putting a high fuel tax on in order to improve

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1318 greenhouse gas and cut the fuel down, I think if we look at what's  
1319 happening in France that's what they tried to do in France. That  
1320 is not working very well publicly right now.

1321 Ms. Skor. Liquid fuels will remain the dominant fuel source  
1322 for many years to come and so what is realistic is to look for  
1323 ways to provide automakers with greater fuel economy, consumers  
1324 with cost savings, and cleaner air.

1325 So there is an important conversation to be had and a path  
1326 forward in that regard.

1327 Mr. Cooper. It takes, roughly, 17, 18 years for the fleet  
1328 to turn over, right. So every new vehicle being sold today, the  
1329 overwhelming majority of which are internal combustion engine  
1330 liquid fuel vehicles are going to be around on the roads driving  
1331 on liquid fuel for, you know, the better part of the next 20 years.

1332 It is going to take a long time to get to the electric vehicles  
1333 and some of the ideas that are contemplated in a green new deal.

1334 So, you know, we think there's an immediate opportunity to  
1335 help decarbonize that liquid fuel that's going to be used in that  
1336 intervening period.

1337 Mr. Thompson. Yes. We firmly believe that fossil fuels  
1338 and the internal combustion engine will be here for many decades  
1339 to come.

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1340 Mr. McKinley. Thank you.

1341 I guess what I am -- my point is --

1342 Mr. Shimkus. Gentleman's time has --

1343 Mr. McKinley. -- that I am worried about, Mr. Chairman,  
1344 and as we close out on this is small refineries are going to be  
1345 challenged under this. I just hope there's some language --  
1346 something can be worked into your bill that takes care of the  
1347 small refineries that gives them some protection as compared to  
1348 the larger -- the Marathons and the Mobils.

1349 Mr. Shimkus. We'll talk about that. The gentleman's time  
1350 has expired.

1351 Mr. McKinley. Yield back.

1352 Mr. Shimkus. The chair now recognizes the gentleman from  
1353 Texas, Mr. Olson.

1354 Mr. Olson. I thank the chair.

1355 I would like to open my questions by saying congratulations  
1356 to Chairman Shimkus, not only for this bill but this past Saturday  
1357 his Army squeaked by my Navy in a football game in Philadelphia.

1358 Mr. Shimkus. I was being kind and didn't dig anything into  
1359 you. So it's your mouth to God's ears, right?

1360 Mr. Olson. I said congratulations. Congratulations.

1361 Also congratulations to my Texas colleague, Bill Flores.

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1362 You guys have done a lot of hard work to get this bill where  
1363 it is right now -- this Discussion Draft.

1364 It's too late for this to become law in this Congress. But  
1365 the table has been set for real action in the 116th Congress,  
1366 and thank you all for that.

1367 My first question is for you, Mr. Zimmer. In your testimony  
1368 you mentioned that 95 RON is a, quote, "fundamental enabler,"  
1369 end quote, for lower emissions. As someone who represents an  
1370 area that's made great emissions progress -- Houston, Texas area  
1371 -- and is making every effort right now to reduce emissions but  
1372 are still in noncompliance.

1373 I know that vehicle emissions are critical to continuing  
1374 this trend we see. My question is can you talk about what sort  
1375 of environmental benefits we've seen from moving to 95 RON?

1376 Mr. Zimmer. Thank you for the question.

1377 We believe that 95 RON with engines that are designed to  
1378 use it effectively, and it's that system that's very important,  
1379 can achieve on average 3 percent fuel efficiency across the board  
1380 and it's, you know, a broad spectrum of products. Doesn't matter  
1381 who the manufacturer is or the architecture -- we'll see that  
1382 benefit.

1383 So we think it's -- we think RON 95 is doable right now --

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1384 it's the only thing that's really doable -- and deliver that type  
1385 of result.

1386 It also -- you will find a lot of internal combustion engines  
1387 are used in hybrids and plug-in hybrids. Those vehicles will  
1388 also benefit from that efficiency improvement.

1389 Mr. Olson. Good point.

1390 Question for you, Mr. Columbus, and I want to first off thank  
1391 you. You hosted me at a Stripes store at the Westpark Tollway  
1392 in Texas 22 a couple weeks ago, or a couple years ago, actually.

1393 I worked the cash register. I rolled out the worst tortillas  
1394 ever in American history -- terrible, terrible, terrible -- and  
1395 I also pumped E10 gasoline.

1396 And so most Americans have no idea at the pump what we are  
1397 talking about today. They just hear the word ethanol and see  
1398 it on the gas tank but have no implications -- no idea what implies  
1399 -- happens to their whole vehicle system with this in the product.

1400 They know what ethanol is but all they want is for their  
1401 car to work and their fuel to be affordable prices. So I am always  
1402 concerned about issues with misfueling and our policies can make  
1403 the lives of average Americans easier.

1404 Can you talk -- in your opening statement you had some  
1405 comments about issues with misfueling. How about more details

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1406 on what you see at your stores with misfueling challenges with  
1407 E15 today and how these new challenges, going forward, may impact  
1408 the price at the pump and also just the perception of people that  
1409 are paying for the gasoline?

1410 Mr. Columbus. Okay. With respect to E15, as you're aware,  
1411 in many areas of the country we can only sell it eight months  
1412 a year because of the ozone season. So in that sense, the products  
1413 had a very hard time catching on, going forward.

1414 There are many retailers who do not have the facilities at  
1415 their retail outlets to sell anything more than E10. The  
1416 Environmental Protection Agency requires a retailer to be able  
1417 to demonstrate on an affirmative basis that his dispensing and  
1418 storage equipment is compatible with whatever's in the ground  
1419 with the product.

1420 So having said that, our experience is that, very simply,  
1421 consumers want the lowest cost motor fuel they can put their hands  
1422 on on which their cars will run.

1423 In my comments, I said as long as people are aware this car  
1424 is warranted up to E15 -- this car is warranted up to E20, whatever  
1425 -- as long as those levels are posted at the retail outlet, the  
1426 overwhelming preponderance of consumers take their own  
1427 self-interest into account and fuel properly.

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1428           There are those for whom I have no help. I cannot help people  
1429 who put gasoline in a diesel engine. I cannot help people who  
1430 see a big sign that says, this car has to be used for something  
1431 -- don't use this fuel for anything before 2001 model year and  
1432 pump it into my 1987 car.

1433           If I do that, it's my fault. It's not the retailer's. But  
1434 I believe that low-cost provider still wins in the retail market.  
1435 I think it would --

1436           Mr. Olson. Time to yield back?

1437           Mr. Shimkus. The gentleman's time has expired.

1438           Mr. Olson. Congratulations, Mr. Chairman.

1439           Mr. Shimkus. Thank you very much.

1440           Mr. Olson. Three years in a row.

1441           Mr. Shimkus. A little streak.

1442           The chair now recognizes the gentleman -- the other gentleman  
1443 from Texas, Mr. Flores, for five minutes.

1444           Mr. Flores. Thank you, Chairman. I appreciate -- again,  
1445 I appreciate all of you participating in this hearing today.

1446           So I have -- let me start with one question for each of you  
1447 and that is you got two options. One is keep the status quo the  
1448 way it is today. Make no changes. Let the regulatory agencies  
1449 sort out how CAFE is going to work, how the emissions requirements

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1450 are going to work, and how the RFS is going to work.

1451 So that's option A. Option B is let's come up with a  
1452 statutory solution to fix this. So which do you prefer, Mr.  
1453 Zimmer? Option A or option B?

1454 Mr. Zimmer. B.

1455 Mr. Flores. Mr. Columbus.

1456 Mr. Columbus. There are things in this bill that my clients  
1457 support. There are things in this bill that my clients do not  
1458 support. So I can't really choose today. I got to see that final  
1459 product.

1460 Mr. Flores. I understand that. But do you -- in the absence  
1461 of --

1462 Mr. Columbus. There are things -- there are things in the  
1463 fuel system that are broken, Mr. Flores. So if you say is  
1464 improvement possible, the answer is yes.

1465 Mr. Flores. Okay. Good. That's close enough.

1466 Mr. Spurlock.

1467 Mr. Spurlock. I would agree with Mr. Columbus. There are  
1468 things that can be improved and need to be improved and look  
1469 through all levels as we go with that direction.

1470 Mr. Flores. Okay.

1471 Ms. Skor.

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1472 Ms. Skor. I would say that improvements need to be made  
1473 on the administration side -- the implementation of the Renewable  
1474 Fuel Standard currently on the books.

1475 Mr. Flores. Okay. Do you believe that the EPA has  
1476 sufficient statutory authority to do the things that you'd like  
1477 to do without litigation?

1478 Ms. Skor. We do, and reed vapor pressure is a very good  
1479 example of something that's within the EPA's ability to make it  
1480 happen.

1481 Mr. Flores. Mr. Cooper.

1482 Mr. Cooper. I would agree that certainly there are things  
1483 that could be improved with the current program but we agree that  
1484 EPA does have the administrative authority to make those fixes.

1485  
1486 In fact, they have the administrative authority to adopt  
1487 an octane --

1488 Mr. Flores. So are you and Ms. Skor saying that no statutory  
1489 solution is the preferred outcome? Is that what I am hearing  
1490 from you?

1491 Mr. Cooper. If the -- if option B is the draft currently  
1492 --

1493 Mr. Flores. That's not what I asked. I mean, option B is

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1494 does a -- is a statutory solution going to be a better solution  
1495 than relying on the uncertainty that currently exists with the  
1496 law and the administrative structure of that?

1497 Mr. Cooper. I think it depends on what that statutory  
1498 solution is.

1499 Mr. Flores. Okay. All right.

1500 Mr. Thompson.

1501 Mr. Thompson. Yes. We support legislative reform of the  
1502 RFS.

1503 Mr. Flores. Okay. Well, every roundtable we've had and  
1504 almost in every hearing we've had virtually every one of you has  
1505 always said the statutory solution is better.

1506 And so that's the reason we need to stay engaged on this  
1507 rather than trying to run to -- as you heard earlier, run to our  
1508 respective foxholes and not get anything done.

1509 Mr. Columbus, one of the things that has been claimed is  
1510 that the consumer doesn't really control the cost of gasoline.

1511 I mean, can you -- can you address that?

1512 For instance, if the cost of gasoline -- if the cost of liquid  
1513 fuel is artificially raised doesn't the consumer have a say on  
1514 what the price is going to be by lowering their demand for that  
1515 product?

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1516 Mr. Columbus. I think the short answer to that is  
1517 absolutely.

1518 First of all, I don't know how you artificially raise the  
1519 motor fuel price. If we knew how to do that, I am telling you  
1520 we would have done it a long time ago.

1521 I always laugh about the prices signs. But this is the most  
1522 transparent commodities market on the face of the earth.

1523 Mr. Flores. So at the end of the day, the committee --

1524 Mr. Columbus. So it drives price down every day to the  
1525 lowest level, to the level the low-cost provider is prepared to  
1526 sell it.

1527 Mr. Flores. So if we are talking about increasing octane,  
1528 the consumer is going to revolt if the refining -- if the suppliers  
1529 elect anything other than the lowest cost solution. Would you  
1530 agree with that?

1531 Mr. Columbus. Totally. I promise you they will vote with  
1532 their feet.

1533 Mr. Flores. Okay. So there's no incentive for Mr. Thompson  
1534 or his constituents to suddenly come up with a nonoptimum solution  
1535 that the consumers are going to revolt against.

1536 Mr. Columbus. I believe that's true and, more importantly,  
1537 as those consumers vote with their feet those companies'

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1538 shareholders will vote with their lawyers. So, I mean, they have  
1539 an obligation to maximize profit and don't do that by selling  
1540 a high-cost product in a low-price market.

1541 Mr. Flores. Okay.

1542 Ms. Skor, I am going to go over a few provisions of the draft  
1543 legislation. Would you please answer two questions on each of  
1544 these?

1545 Number one, the ethanol industry has asked the EPA to take  
1546 administrative action on and, number two, which of these  
1547 provisions do you anticipate the EPA can accomplish through  
1548 rulemaking without legal challenge?

1549 The first one is can the EPA require all vehicles beginning  
1550 in 2023 to use high-octane fuels. Have you -- have you asked  
1551 the EPA to do that?

1552 Ms. Skor. We have asked the EPA to certify and approve  
1553 higher level ethanol blends with a specific date in mind, no,  
1554 we have done that.

1555 Mr. Flores. And can they accomplish that without legal  
1556 challenge?

1557 Ms. Skor. Yes. We believe EPA has the ability to set --  
1558 EPA has the ability to put in place a 95 RON national standard  
1559 fuel.

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1560 Mr. Flores. I would assert that that's probably not going  
1561 to be the case.

1562 That said, I have other questions for you. I will  
1563 supplementally provide those to you and ask you to supplementally  
1564 answer those.

1565 Thank you. I yield back.

1566 Ms. Skor. Thank you.

1567 Mr. Shimkus. The gentleman yields back his time. The chair  
1568 now recognizes the gentleman from Michigan for five minutes.

1569 Mr. Walberg. Thank you, Mr. Chairman, and thank you for  
1570 holding this subcommittee hearing today and for working  
1571 continuously to address the issues with the RFS.

1572 I know it's something that you and Mr. Flores have worked  
1573 on for some time and you have held numerous round tables and  
1574 hearings on this issue and heard from all parties involved  
1575 numerous times and I, for one, would like to see this issue is  
1576 finally resolved but in ways that I and my constituents would  
1577 like them to be resolved.

1578 It's no secret that I am an avid Harley rider and any vehicle  
1579 with an engine between two wheels. I am also the co-chair of  
1580 the Congressional Motorcycle Caucus and I have concerns there  
1581 as well.

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1582 I also have the pleasure of representing the Great Lakes  
1583 State of Michigan, which is surrounded by most of the 20 percent  
1584 of the world's fresh water resources and filled with boating  
1585 enthusiasts all around that state and connected to other states  
1586 as well.

1587 So they have obvious reasons to be concerned about fuel in  
1588 their engines and motors as well. Michigan is also the birthplace  
1589 of the modern auto industry and continues to be very much concerned  
1590 in that area with a lot of research and development.

1591 It's also the place that is very much given to antique and  
1592 classic vehicles, one being my own, which has great concerns about  
1593 continuing and not just being put on a shelf somewhere and looked  
1594 at but, rather, driven, used, continue to be used.

1595 And so, Mr. Zimmer, with those statements I would like to  
1596 ask you a question and then open it up to any others who would  
1597 address it, though maybe out of your purview.

1598 This question -- how will this current draft legislation  
1599 impact small engine manufacturers like Harley Davidson and the  
1600 boating industry -- Evinrude, Mercury, et cetera -- and the  
1601 classic and antique vehicles as well?

1602 Mr. Zimmer. I can't speak to those specific industries but  
1603 I do think and I think our members believe that, you know, in

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1604 this collaborative approach they should be -- come to the table  
1605 in here and have those inputs because, you know, I understand  
1606 that there are different issues in those engines and those markets  
1607 than we might have in the automobile industry.

1608 But just to reiterate, we believe the 95 RON is extremely  
1609 important to the automakers will enable -- improve fuel efficiency  
1610 in a broad range of products.

1611 Mr. Walberg. Anyone else want to --

1612 Mr. Thompson. Let me add that -- just to be clear that under  
1613 this draft legislation the 95 RON fuel would be developed, you  
1614 know, to be used with a new automobile fleet.

1615 It would add -- either replace premium or add another grade  
1616 of fuel to the mix. It would not impact our ability to deliver  
1617 regular grade gasoline. Hopefully, you know, E0 for boaters and  
1618 motorcyclists.

1619 So we will continue to supply that very important market.

1620 Mr. Walberg. Certainly -- certainly at a higher cost but  
1621 it needs to be there.

1622 Mr. Zimmer, you mentioned that misfueling devices beyond  
1623 nozzle size are available. What are those and should they be  
1624 required?

1625 Mr. Zimmer. It's a very, very important topic to the car

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1626 makers -- misfueling in this area, and historically we've  
1627 addressed -- when we went to unleaded we addressed misfueling  
1628 with nozzle sizes and that's in the current proposal.

1629           This is -- this can be -- I think it's quite complex because  
1630 of the -- in the retail market and I think the retailers could  
1631 talk about the multi-use pumps and stuff like that. But we think  
1632 there is technology out there that might be, you know, very robust  
1633 in this area and we would encourage, you know, an in-depth  
1634 discussion there and that's basically communications between  
1635 fueling pump and the vehicle and we think that's probably  
1636 something that's doable. We think it's probably a good option  
1637 and we would encourage people to look at them. We'd be very happy  
1638 to work with --

1639           Mr. Walberg. Require a lot of flexibility and then  
1640 consideration of defeat devices also?

1641           Mr. Zimmer. Excuse me?

1642           Mr. Walberg. I would assume it would require a lot of  
1643 flexibility and then syncing up an understanding with the defeat  
1644 devices that could be a part of the problem.

1645           Mr. Columbus. Yes, sir, and the Discussion Draft addresses  
1646 that and we would endorse that. In fact, a group of us have been  
1647 working on misfueling prevention for a while and that includes

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1648 the autos, retailers, to jobbers.

1649 I think there's probably a way through this. The question  
1650 is cost. The equipment manufacturers have indicated to us a cost  
1651 of something under \$300 per pump for a multi-product dispenser  
1652 that dispenses all three products or four products, whatever,  
1653 through a single hose. That's it.

1654 But this is addressable, I believe, and one of the things  
1655 we are holding off on is -- I know what Gilbarco has told us.

1656 I want to actually see it. I want to see an invoice.

1657 Mr. Walberg. Thank you. I yield back.

1658 Mr. Shimkus. Gentleman's time has expired.

1659 The chair now recognizes the gentleman from Georgia, Mr.  
1660 Carter, for five minutes.

1661 Mr. Carter. Thank you, Mr. Chairman, and thank all of you  
1662 for being here. This is certainly an important subject,  
1663 something that we've talked about before. Some of you have been  
1664 here before.

1665 Mr. Cooper, I haven't heard much from you so I wanted to  
1666 start with you today and ask you a question.

1667 First of all, full disclosure. I represent the entire coast  
1668 of Georgia, over a hundred miles of coastline. Therefore, marine  
1669 engines are extremely important to us and the impact that some

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1670 of these fuels have on -- the negative impact that some of them  
1671 can have on marine engines are certainly of interest and certainly  
1672 of concern.

1673 Biobutanol -- as I understand it, it has properties that  
1674 more closely align with gasoline than ethanol does and it has  
1675 much less -- I am sure much less of a negative impact on engines.

1676 And, in fact, the National Marine Manufacturers Association  
1677 and the American Boat and Yacht Council did a five-year study  
1678 with the Department of Energy and found out that -- they studied  
1679 the properties of isobutanol fuels on engines and that was very  
1680 helpful for all of us.

1681 Just wanted to ask you, if biobutanol were widely available  
1682 in the market, how would it fit into the current supply? How  
1683 would we be able to incorporate it?

1684 Mr. Cooper. Well, thank you for the question, and I guess  
1685 the first thing I would say is, you know, first of all, E10 --  
1686 10 percent ethanol blends -- are approved and warrantied for all  
1687 off-road engines today including outboard marine engines and  
1688 motorcycles. So the fuel that is most common in the marketplace  
1689 today is absolutely fine for use in outboard engines and marine  
1690 applications.

1691 In terms of biobutanol, you know, certainly, we do see some

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1692 promise there. We have some member companies who are either  
1693 producing or very interested in producing biobutanol along with  
1694 ethanol.

1695 So yeah, I mean, I think there are other molecules, other  
1696 applications, other biofuels that at higher blend levels could  
1697 be suitable for today's --

1698 Mr. Carter. Are there any obstacles for the companies that  
1699 want to market this? Are they having any barriers they're having  
1700 to overcome?

1701 Mr. Cooper. Primarily cost, today.

1702 Mr. Carter. Is that right?

1703 Mr. Cooper. I mean, you can't -- biobutanol just can't  
1704 compete with ethanol and other components in terms of production  
1705 costs.

1706 Mr. Carter. How much of a difference are we talking about?

1707 Mr. Cooper. I would have to get back to you on that.

1708 Mr. Carter. Is it significant enough to where it's --

1709 Mr. Cooper. I think it's significant enough that we are  
1710 not seeing widespread adoption of biobutanol today.

1711 Mr. Carter. Okay.

1712 Mr. Thompson, I will go to you. As I understand it, 95 octane  
1713 is the correct octane level. In fact, you mentioned in your

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1714 testimony that the ideal level was 95 for maximizing output of  
1715 vehicles.

1716 How did you arrive at that? How did you arrive at the 95  
1717 octane being the maximum level?

1718 Mr. Thompson. Thank you for the question.

1719 You know, this is the conclusion we reached with working  
1720 with several stakeholders but with -- really, with USCAR and  
1721 others where we got technical expertise from the refineries and  
1722 from the autos and, frankly, they worked for almost two years  
1723 exploring a lot of things and looking at the whole system cost.

1724 If you were looking to get a three to four improvement --  
1725 efficiency improvement out of the autos, what would be the  
1726 cheapest way for consumers to get there, either all the  
1727 improvements from the auto side or all the improvements coming  
1728 from fuel, and this is documented in my testimony before this  
1729 committee in April, but we did simply a cost analysis and what  
1730 we found is that the cheapest way to get that 3 to 4 percent  
1731 efficiency improvement came from 95 RON.

1732 The other part of this was one of the big factors was making  
1733 sure whatever we selected, according to the autos and rightfully  
1734 so, the fuel had to be available on day one and had to be available  
1735 nationwide.

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1736           Anything other than 95 RON is not available nationwide.  
1737 California and nine other states, you know, prohibit higher levels  
1738 of octane.

1739           Mr. Carter. So you couldn't go to 97 in California?

1740           Mr. Thompson. Under their predictive model our conclusion  
1741 was no.

1742           Mr. Carter. Okay. Okay. Well, thank you for that.

1743           One other question just to follow up. Does your  
1744 organization have any specific numbers on how gas mileage would  
1745 improve for customers across the U.S.?

1746           Mr. Thompson. Well, again, a couple things. One, it would  
1747 be a 3 to 4 percent improvement -- efficiency improvement -- and  
1748 that translates into gas miles.

1749           And the other thing it's for those who -- it's equivalent  
1750 to putting 720,000 electric vehicles on the road year after year  
1751 after year. So there's a substantial improvement -- efficiency  
1752 improvement by doing this.

1753           Mr. Carter. I suspect that would -- that would be hard to  
1754 sell to a consumer who just concentrates on price?

1755           Mr. Thompson. I would hope -- I would hope we would have  
1756 a good story to tell. This is -- would be a high-efficiency fuel  
1757 that helps make their cars more efficient, it keeps optionality.

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1758 It allows them to choose an internal combustion engine that's  
1759 more efficient over, say, electrified vehicle they may not want.

1760 I mean, I think the consumer, when they fully understand  
1761 the offering, will be supportive.

1762 Mr. Carter. Great. My time has ended and I yield.

1763 Mr. Shimkus. The gentleman yields back.

1764 Waiving on to the committee as he has in the past, Mr.  
1765 Loeb sack from Iowa, for five minutes.

1766 Mr. Loeb sack. Thank you, Mr. Chair. I really do appreciate  
1767 you allowing me to waive on. You have been very generous, and  
1768 especially knowing that we don't necessarily agree on these  
1769 issues.

1770 So I really appreciate that a lot. We don't agree on the  
1771 outcome of the football game either, since I have a stepson and  
1772 his wife who are Naval Academy grads. But for me -- for me, the  
1773 only surprise was the margin -- that it wasn't greater.

1774 But at any rate, to the panel I do appreciate your being  
1775 here. In some ways, it's déjà vu all over again because many  
1776 of you have been here before.

1777 Mr. Cooper, welcome. I know Bob did a great job but you're  
1778 going to do a fantastic job as well. Thank you for taking over  
1779 that position.

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1780           Look, folks, we know that the RFS was created to diversify  
1781 America's liquid fuel market, grow our world economy, and cut  
1782 harmful emissions and it has succeeded in those efforts.

1783           I don't think there's any question about that at all. The  
1784 RFS has helped America achieve greater energy security. It's  
1785 decreased our reliance on foreign oil.

1786           My Marine kids perhaps don't have to go fight wars because  
1787 of that in the future, hopefully, and that has, in turn, protected  
1788 our national security.

1789           Fuels have lower cost at the pump and in Iowa and other parts  
1790 of the Midwest the RFS has clearly been an economic driver --  
1791 that's indisputable -- creating thousands of good-paying jobs  
1792 at biofuels plants and establishing a significant market for our  
1793 farmers. Very important now, especially given our trade issues  
1794 that we see happening to our farmers.

1795           We need to be looking toward growth in the future instead  
1796 of taking steps backwards. This has been a very tumultuous year  
1797 for biofuels producers and farmers.

1798           We know that the EPA has granted waivers to 48 refiners that  
1799 have cut more than 2 billion gallons of biofuels out of the market  
1800 with no plan to reinstate those gallons, and that's unfortunate,  
1801 to say the least.

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1802           This sort of action destabilizes the agricultural economy  
1803 and that has implications for years to come and, again, we have  
1804 to be thinking about the trade disputes, too, when we talked about  
1805 these issues because that just complicates it for these farmers  
1806 and others in the Midwest.

1807           Instability has led to biofuels plants across the country  
1808 being idled, in at least one case closed permanently. The USDA  
1809 reported net farm income is down again over 12 percent this year  
1810 and the ag economy is suffering, and we cannot afford, I believe,  
1811 to take a step in the wrong direction.

1812           And so respectfully, Mr. Chair, I do believe that this draft  
1813 legislation is a step in the wrong direction for rural America  
1814 and for the RFS.

1815           It was already mentioned the EIA released a study last month  
1816 that a nationwide 95 RON fuel can be achieved through petroleum  
1817 products and would not guarantee the use of more biofuels.

1818           I would like you to respond to that. You already did a little  
1819 bit. Maybe expand a little bit on your answer to Mr. Thompson  
1820 on that.

1821           The fact of the matter is we have to be very thoughtful about  
1822 this, going forward. We have to make sure that whatever we do  
1823 does not harm the biofuels market I think here in this country.

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1824 I appreciate everyone's responses to the questions here.  
1825 But I do want to start out with Ms. Skor by just basically  
1826 answering the question would a 95 RON standard increase or  
1827 decrease the use of biofuels.

1828 Ms. Skor. Made with a 10 percent ethanol blend it would  
1829 most assuredly increase the price of fuel for American drivers.

1830 Mr. Loeb sack. Right.

1831 And Mr. Cooper, would you like to elaborate a little bit?

1832 I don't know if you have more to say about your response to Mr.  
1833 Thompson about the --

1834 Mr. Cooper. Well, you know, I think, again, some of the  
1835 key points that came out of that study for us and it was  
1836 commissioned by EIA but it was conducted by Baker & O'Brien, which  
1837 is a well-known consulting firm that does lots of work for the  
1838 oil industry. So these guys know what they're talking about.

1839 And a few of the key points that really rose to the surface  
1840 for us was that, you know, there wouldn't be hardly any incremental  
1841 increase in the cost of producing 95 RON at the existing fleet  
1842 of refineries to meet a 95 RON requirement in the first year of  
1843 the program, 2023, but also longer term.

1844 You know, it just said there wouldn't really be a need to  
1845 increase ethanol blending at all to meet that requirement.

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1846 Mr. Loeb sack. Did you want to respond to the Barton Bill?

1847 Because it looked like you had some issues with that.

1848 Mr. Cooper. Well, I mean, we supported the first Barton  
1849 Bill, right -- the original RFS -- and I just -- you know, I don't  
1850 remember exactly all the points that he was making.

1851 But, you know, we certainly see the RFS as a tremendous  
1852 success, both the original program, the RFS2. We see absolutely  
1853 no reason to walk away from that progress. And again, we think  
1854 a high-octane fuel standard can layer very well on top of the  
1855 RFS and those two programs could work in harmony.

1856 Mr. Loeb sack. And I do want to make sure that, you know,  
1857 we hold this administration's feet to the fire too on its promise  
1858 to have the EPA go ahead and write rules, obviously, that allow  
1859 the 15-year round.

1860 I think it's really important. I hope it wasn't just a  
1861 campaign stop, if you will, on the part of the president at Council  
1862 Bluffs, you know, for a Republican congressional candidate and  
1863 a Republican gubernatorial candidate.

1864 We've got to make sure that we -- you know, that we do hold  
1865 their feet to the fire on that.

1866 So thanks, everybody, for being here. I really appreciate  
1867 it, and I have lots more questions but I am sure I will have more

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1868 opportunities in the future.

1869 Thank you, Mr. Chair.

1870 Mr. Shimkus. The gentleman returns the time and the chair  
1871 wants to thank the panel. You did not disappoint. Obviously,  
1872 there's much more work to do and I gladly will turn this over,  
1873 hopefully, to Mr. Tonko in the next Congress to accept the  
1874 challenge of moving forward.

1875 I will just say certainty is better than uncertainty.  
1876 Marrying engineering technologies of engines and fuels for the  
1877 greatest efficiencies is the way to go.

1878 So I hope that that would be at least a base by which people  
1879 would move forward.

1880 With that, I want to dismiss this panel and sit the second  
1881 panel.

1882 [Pause.]

1883 Mr. Shimkus. Okay, folks. Let's move out of the room so  
1884 we can get started.

1885 We want to thank our witnesses for being here today and taking  
1886 the time to testify before the subcommittee. As you observed,  
1887 it's still a very energetic discussion, questions and answers,  
1888 and we would expect no less from this panel either.

1889 Today's witnesses will have the opportunity to give opening

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1890 statements followed by a round of questions from members and I  
1891 will introduce you as I call you to testify.

1892 And we would like to start with Mr. Brooke Coleman, executive  
1893 director at Advanced Biofuels Business Council.

1894 Brooke, you're recognized for five minutes. Welcome.

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1895 STATEMENTS OF BROOKE COLEMAN, EXECUTIVE DIRECTOR, ADVANCED  
1896 BIOFUELS BUSINESS COUNCIL; MICHAEL MCADAMS, PRESIDENT, ADVANCED  
1897 BIOFUELS ASSOCIATION; MANNING FERACI, DIRECTOR, FEDERAL  
1898 GOVERNMENT AFFAIRS, THE COALITION FOR RENEWABLE NATURAL GAS;  
1899 DAVID FIALKOV, VICE PRESIDENT, GOVERNMENT RELATIONS, NATIONAL  
1900 ASSOCIATION OF TRUCK STOP OWNERS; KURT KOVARIK, VICE PRESIDENT,  
1901 FEDERAL AFFAIRS, NATIONAL BIODIESEL BOARD

1902

1903 STATEMENT OF MR. COLEMAN

1904 Mr. Coleman. Thank you. Thank you. Still good morning,  
1905 I think.

1906 Chairman Shimkus, Ranking Member Tonko, members of the  
1907 subcommittee, my name is Brooke Coleman. I am the executive  
1908 director of the Advanced biofuel Business Council.

1909 We represent worldwide leaders in the effort to develop and  
1910 commercialize cellulosic biofuel ranging from cellulosic ethanol  
1911 made from agricultural residues to advanced biofuel made from  
1912 sustainable energy crops and municipal solid waste.

1913 Let me start by thanking the committee and staff for  
1914 deliberating what we know is a tough issue -- the Renewable Fuels  
1915 Standard -- and more generally, the need to curb or at least bring  
1916 competition to the pump with regard to fossil fuels.

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1917           The RFS is a political lightning rod not because it is flawed.  
1918           Rather, because it is creating competition that incumbents do  
1919 not want to see and drives the growth of now the largest renewable  
1920 energy sector in the country.

1921           The RFS pertains to the industry I represent, the cellulosic  
1922 biofuels industry. An underpinning of the political case against  
1923 the RFS is the allegation that we have failed to deliver on the  
1924 promise of cellulosic biofuels.

1925           What has actually happened over the last 10 years as our  
1926 industry has gone from the technological development phase to  
1927 the commercial deployment phase, as promised.

1928           But in order to build plants and scale the RFS must be  
1929 enforced and in many recent years the RFS was not enforced at  
1930 all. In other years, billions of gallons were unlawfully waived  
1931 in reaching oil refiners large and small at the expense of rural  
1932 America.

1933           This level of unpredictability pushes innovators outside  
1934 of the country and that's what has happened as we watch China,  
1935 Brazil, Canada, even Romania and other countries now beat us to  
1936 the punch on cellulosic biofuel development.

1937           So what's the solution? I think it's a fair question.  
1938 While we appreciate the committee's work in trying to find one,

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1939 we cannot support this particular one as constructed.

1940           There are two primary pieces to successful biofuels  
1941 deployment. The impetus to produce the fuel on the front end  
1942 and the ability for consumers to access it on the back end. The  
1943 RFS does both at the same time.

1944           It encourages production by requiring blending and it  
1945 enforces a RIN system on the back that rewards those who make  
1946 investment to deliver more biofuel to the consumer. It's a very  
1947 simple system.

1948           The Discussion Draft more explicitly requires market  
1949 readiness for biofuels as it relates to vehicles, fuel dispensers,  
1950 and important regulatory updates like RVP.

1951           That's a good thing. But it offers explicit market  
1952 readiness at the expense of the upstream policy that would allow  
1953 more biofuels to flow through updated hoses and regulations and  
1954 into vehicles.

1955           Ideally, a free market provides the impetus to produce  
1956 biofuels. But as we have seen for decades with ethanol, beating  
1957 the incumbent on price does not guarantee demand because motor  
1958 fuel markets are not free markets.

1959           Replacing the cure for this problem in the RFS with an octane  
1960 standard is the equivalent of an open invitation for the oil

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1961 industry to use less biofuel and increase carbon emissions in  
1962 the process.

1963 Earlier this month, the EIA on a report that we have talked  
1964 about already, confirmed what the oil industry has previously  
1965 admitted -- that a 95 RON standard could be easily met with minimal  
1966 refinery upgrades.

1967 The truth is -- and we haven't talked about this -- we have  
1968 done this before. The oxygen standard enacted in 1990 was a  
1969 so-called performance based fuel quality standard. It was  
1970 supposed to drive demand for ethanol based on its superior fuel  
1971 characteristics including price.

1972 It didn't, because the oil industry prefers to control the  
1973 entire motor fuel gallon by purchasing octane from themselves.

1974 So instead of ethanol we got MTB, a fuel additive that  
1975 polluted America's drinking water and had some small towns  
1976 trucking drinking water into local schools.

1977 Unfortunately, the Discussion Draft offers a similar dynamic  
1978 as it pertains to advanced biofuels. The act would establish  
1979 a more automated system when it comes to setting and enforcing  
1980 advanced biofuels standards.

1981 In theory, this system would provide more predictability  
1982 for innovators. That is a good thing.

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1983           But it offers predictability by tying the volume standard  
1984 to the actual production in the prior year. The problem with  
1985 setting the cellulosic biofuel standard based on prior year  
1986 production is it puts the growth trajectory of cellulosic biofuels  
1987 into the hands of our competitors in the oil industry.

1988           This is true, because in order to secure investment to build  
1989 capacity our industry has to be able to show likelihood of demand.

1990           In the absence of a free market and within RFS phase out, we  
1991 would have to show some sort of commitment from the oil industry  
1992 to buy cellulosic biofuel. If the oil industry knows it can  
1993 control the cellulosic biofuel to secure financing, the oil  
1994 industry knows it can control cellulosic biofuel development by  
1995 avoiding those commitments and that federal law now rewards that  
1996 behavior with greater market control. That's what they will do.

1997           We continue to believe that the solution here is not  
1998 legislative. There is already an administrative effort underway  
1999 to address RVP. We can do many of the things to create certainty  
2000 from a forecasting perspective inside of existing law.

2001           We appreciate the opportunity to be here today.

2002           [The prepared statement of Mr. Coleman follows:]

2003

2004           \*\*\*\*\*INSERT 7\*\*\*\*\*

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2005

Mr. Flores. [Presiding.] Mr. McAdams, you're recognized

2006

for five minutes.

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2007 STATEMENT OF MR. MCADAMS

2008

2009 Mr. McAdams. Chairman Flores, Ranking Member Tonko,  
2010 Congressman Olson, Chairman Shimkus, I am delighted to once again  
2011 appear before you to testify on the importance of federal policy  
2012 in furthering the development of next generation sustainable  
2013 renewable fuels.

2014 On behalf of the membership of the Advanced Biofuels  
2015 Association, I want to personally thank Chairman Shimkus and  
2016 Congressman Flores for your courage and leadership in providing  
2017 an RFS draft reform package.

2018 The countless hours that members on both sides of the aisle  
2019 have spent attempting to craft a middle ground to update and revise  
2020 the focus of the delivery of second generation advanced fuels  
2021 is long overdue.

2022 In spite of the best intentions, it is clear that the current  
2023 statute needs updating if we are to enable the technologies to  
2024 move forward and produce the volume of fuels which were envisioned  
2025 by the original authors of the law.

2026 That renewed focus is particularly relevant, given the  
2027 recent release by the administration's warning on the impacts  
2028 of climate change and the containment of the most destructive

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2029 wildfire in California's history.

2030 In addition to continued growth in aviation, which is  
2031 currently doubling every 15 years, along with the new global  
2032 carbon targets for international airlines, will drive the need  
2033 for these fuels, moving forward.

2034 These advanced fuels will provide an alternative to higher  
2035 carbon fuels in our future, as noted by the government's recent  
2036 climate report. However, as I've testified before, there are  
2037 numerous barriers to entry under the current RFS program that  
2038 specifically disadvantage advanced biofuels.

2039 My written testimony goes into specific recommendations in  
2040 more detail. Previously, I provided you 21 of them. But I would  
2041 like to highlight a few potential reforms as well as some -- offer  
2042 some comments on the recent draft bill introduced by Congressman  
2043 Shimkus and Congressman Flores.

2044 First and foremost, if you consider making changes to the  
2045 RFS, we would urge Congress to take the politics out of the  
2046 equation as much as possible by making the RFS a rules-based  
2047 system.

2048 Therefore, we support the provision in this bill that would  
2049 base the annual RVO on the previous year's actual production,  
2050 queuing up mid-year and end-year volumes, which would set the

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2051 RVO for the future and that would thereby set a mandate for the  
2052 obligated parties.

2053 This would reduce volatility in the RIN market, diminish  
2054 the need for cellulosic waivers for fuels which do not exist,  
2055 and encourage obligated parties to buy available produced gallons  
2056 for the RINs.

2057 Any reform to the RFS should also expand the definition for  
2058 what constitutes renewable biomass and allow feedstocks to comply  
2059 on a mass balance basis rather than imposing burdensome mapping  
2060 restrictions on those feedstocks.

2061 Naturally regenerative trees under sustainable forest  
2062 management practices should be available for use under this  
2063 program. Currently, they are not.

2064 We are long past due to have a plant-a-tree pathway promised  
2065 by EPA years ago. The Shimkus-Flores bill takes an important  
2066 step in this direction by redefining renewable biomass to include  
2067 trees and tree residues, paving the way for increased deployment  
2068 of pyrolysis and other technologies.

2069 By the way, the three current cellulosic plants being in  
2070 the United States, which we represent, are all pyrolysis  
2071 technologies.

2072 We support the bill's efforts to pivot the focus on the

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2073 development of fuels of the future by providing some regulatory  
2074 certainty for the advanced and cellulosic biofuels and biodiesel  
2075 through 2032 or longer. We recommend you look at the length of  
2076 the average debt financing, which is 20 years, in lieu of 2032.

2077 This time frame is consistent with the standard of the debt  
2078 term. The steps which you have taken in your draft bill at a  
2079 minimum will send a strong signal to the financial institutions  
2080 that the federal government supports the development of these  
2081 fuels in the future by guaranteeing the rent over a longer time  
2082 frame.

2083 We also suggest you encourage EPA to address the  
2084 biointermediate issue in the upcoming reset rules proposed this  
2085 year. Currently, three of our members who are building plants  
2086 would not get a rent unless this problem is resolved.

2087 I attached a list of other specific recommendations for your  
2088 consideration, which I believe would all fall under the title  
2089 of common sense, which will require statutory changes in order  
2090 to allow EPA to make this program more economically and  
2091 administratively efficient.

2092 Again, on behalf of all of our members, we want to thank  
2093 you for your leadership and urge the members of this committee  
2094 to seriously consider making the reform of this program a priority

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2095 in the coming year.

2096 Thank you, and I look forward to answering your questions.

2097 [The prepared statement of Mr. McAdams follows:]

2098

2099 \*\*\*\*\*INSERT 8\*\*\*\*\*

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2100           Mr. Flores. Thank you, Mr. McAdams. I think we can all  
2101 agree on having common sense titles in our bills. It's a good  
2102 start.

2103           Mr. Feraci, you're recognized for five minutes for your  
2104 opening comments.

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2105 STATEMENT OF MR. FERACI

2106

2107 Mr. Feraci. Thank you, Mr. Chairman.

2108 Chairman Shimkus, Ranking Member Tonko, members of the  
2109 subcommittee, I appreciate having the opportunity to testify  
2110 today on behalf of the Coalition for Renewable Natural Gas.

2111 Renewable natural gas, or RNG, is derived from biogas  
2112 captured from organic waste streams at landfills, wastewater  
2113 treatment facilities, and from anaerobic digestion of  
2114 agricultural waste.

2115 The captured biogas is refined to meet fuel quality standards  
2116 that make RNG indistinguishable from natural gas. The fuel is  
2117 fully fungible in our nation's existing infrastructure and can  
2118 be readily used in natural gas vehicles.

2119 More than 25 percent of the nation's medium and heavy duty  
2120 natural gas vehicles are fuelled by RNG. RNG qualifies as a  
2121 cellulosic biofuel under the Renewable Fuels Standard. It  
2122 reduces life cycle greenhouse gas emissions by 80 percent or more  
2123 compared to the conventional diesel fuel.

2124 In fact, the RNG industry provides more than 95 percent of  
2125 the fuel used to meet the program's cellulosic biofuel  
2126 requirements today.

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2127           The production and use of RNG has grown significantly since  
2128 it was included in 2014 as a cellulosic biofuel. The industry  
2129 has developed over 45 production facilities and there are over  
2130 50 projects currently under construction or consideration.

2131           RNG production for transportation fuel grew from  
2132 approximately 33 million ethanol equivalent gallons in 2014 to  
2133 240 million gallons in 2017. That's more than a 620 percent  
2134 increase in the three-year period.

2135           This growth has put the industry on track to exceed EPA's  
2136 production estimate from 2018. Each RNG project averages -- on  
2137 average creates 173 direct or indirect jobs and attracts between  
2138 \$10 million and \$70 million in capital investment.

2139           In sum, the RFS has resulted in a growing vibrant domestic  
2140 RNG industry that is converting waste into growing volumes of  
2141 domestically produced cellulosic biofuel that is good for the  
2142 environment, and that sounds like a winning policy to us.

2143           As I mentioned earlier, the RNG Coalition is pleased to  
2144 provide initial feedback on the Discussion Draft. The RFS is  
2145 a complicated multi-faceted program and statutory changes should  
2146 be carefully vetted, given the impact they can have on  
2147 stakeholders who have made significant capital investments.

2148           The RNG Coalition recognizes the subcommittee's diligence

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2149 in looking at this issue. The RNG industry supports the RFS  
2150 program as a way to increase domestic production and use of  
2151 advanced biofuels and, in turn, address the nation's energy and  
2152 environmental policy objectives.

2153 This methodology used to set volume obligations under the  
2154 RFS program should be consistent with this approach. Volume  
2155 targets, going forward, should be realistic and attainable. They  
2156 should also be structured in a way to encourage steady growth  
2157 of advanced biofuel production.

2158 Under current law, the RFS program does not lapse. Beyond  
2159 2022, the EPA administrator sets the program's volumes based on  
2160 six statutory factors. The Discussion Draft would sunset the  
2161 RFS program for advanced biofuels after 2032.

2162 RNG projects require significant capital investment and  
2163 deployment in new infrastructure. They often involve a 20-year  
2164 off take agreement with feedstock providers.

2165 A long-term RFS program provides a policy framework that  
2166 attracts that capital needed to develop new RNG projects.  
2167 Conversely, a premature sunset of the RFS program's advanced  
2168 biofuels requirements could chill investment in new RNG projects,  
2169 which could undermine the overall policy objectives of the RFS  
2170 program.

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2171           The Discussion Draft would also modify how the volume targets  
2172 for advanced biofuels are set. It would use the previous year's  
2173 production levels -- production data to set annual use  
2174 requirements for advanced biofuels.

2175           While the RNG Coalition recognizes the desire to provide  
2176 certainty in the volume setting process, this approach could have  
2177 the unintended consequence of causing advanced biofuel production  
2178 to stagnate or potentially contract.

2179           The RNG Coalition wants the RFS program structured in a way  
2180 that promotes steady sustainable growth in the advanced biofuels  
2181 marketplace.

2182           Mr. Chairman, Chairman Shimkus, Ranking Member Tonko, again,  
2183 I appreciate the opportunity to testify. The RNG Coalition  
2184 recognizes the hard work and effort that this subcommittee had  
2185 made to tackle what is admittedly a very, very difficult issue.

2186           There are significant benefits associated with the expanded  
2187 domestic production and use of RNG, and we remain willing to work  
2188 constructively with you going forward to achieve the RFS program's  
2189 worthwhile policy goals, and I would be happy to answer any  
2190 questions you may have.

2191           [The prepared statement of Mr. Feraci follows:]

2192

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2193

\*\*\*\*\*INSERT 9\*\*\*\*\*



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2194 Mr. Flores. Thank you.

2195 Mr. Fialkov, you're recognized for five minutes for your  
2196 opening comments.

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2197 STATEMENT OF MR. FIALKOV

2198

2199 Mr. Fialkov. Good morning, Mr. Chairman.

2200 Chairman Shimkus, Ranking Member Tonko, thank you very much  
2201 for inviting me to testify today. It's really a privilege to  
2202 be here with you.

2203 My name is David Fialkov. I am the VP of government  
2204 relations at NATSO, which is a national trade association  
2205 representing really off-highway fuel retailers from large  
2206 multibillion-dollar travel center and truck stop chains to  
2207 smaller independent single-store mom and pop type operators.

2208 Most of our members sell gasoline. Many of them blend  
2209 ethanol. My testimony this morning, however, will focus  
2210 primarily on diesel markets and opportunities for Congress to  
2211 incentivize diesel retailers to incorporate increasing amounts  
2212 of advanced biofuels such as biodiesel into the nation's diesel  
2213 fuel supply.

2214 The RFS, which this bill would reform, has largely been  
2215 successful in doing this. Over the last decade, for example,  
2216 biodiesel and grown tremendously and the reason for that is that  
2217 the RFS creates a mechanism whereby diesel retailers can offer  
2218 fuel to truck drivers for less money the more biodiesel that they

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2219 incorporate into the their fuel supply and that's really a  
2220 fundamental component to understand throughout all of this.

2221           Retailers are not obligated to blend biofuels under the RFS.  
2222           They choose to do it, and they only choose to do it if doing  
2223 so allows them to sell fuel for less money.

2224           So in this respect, retailers really function as surrogate  
2225 for consumers in assessing advanced biofuels' value proposition  
2226 and my views on the legislation today, which I will share, are  
2227 simply designed to help you enhance advanced biofuels value  
2228 proposition. In many ways the bill moves the RFS in the right  
2229 direction in this respect. In other areas, it could be improved.

2230           Taking a step back, the RFS is really an extraordinary  
2231 example of Congress and the executive branch sharing authority  
2232 to implement the program.

2233           Mandating such a substantial shift in the composition of  
2234 motor fuel in the United States is not an insignificant assertion  
2235 of legislative authority and, obviously, to avoid unintended  
2236 consequences associated with future market developments that  
2237 Congress cannot be expected to predict or know, EPA has to have  
2238 some flexibility to make adjustments along the way.

2239           In my view at this time, however, EPA has too much discretion  
2240 and it has led to volatility and uncertainty that undermines the

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2241 program's objectives.

2242 In reforming the RFS, the main lesson that you should have  
2243 learned over the last decade is that Congress needs to reassert  
2244 itself and limit the degree to which the ideological and political  
2245 preferences of the executive branch can alter the program's  
2246 trajectory.

2247 Overall, I think that the bill threads this needle quite  
2248 nicely. A rules-based RVO process, extending the advanced  
2249 biofuels categories an extra 10 years while also allowing for  
2250 mid-year adjustments will undoubtedly incentivize more fuel  
2251 retailers to buy and blend more advanced biofuels while baking  
2252 in enough flexibility with the mid-year adjustments to avoid the  
2253 unintended consequences.

2254 That being said, it was very disappointing to see that the  
2255 bill was silent on the issue of small refinery exemptions. Over  
2256 the past year, the EPA has been handing out small refinery  
2257 exemptions like Halloween candy and they have been doing it  
2258 oftentimes to some of the most successful profitable refining  
2259 companies in the country.

2260 And the fact that those agencies are doing that in this way  
2261 is undermining the demand for advanced biofuels. That agency  
2262 officials can say with a straight face that they're doing it

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2263 consistent with the law should operate as a bright shiny red flag  
2264 to you that it's time to reexamine that provision either by  
2265 eliminating it entirely or by altering it so that waivers are  
2266 issued far less frequently and they're issued in a way that does  
2267 not so dramatically undercut demand for advanced biofuels.

2268 I've heard Chairman Shimkus say before that in giving advice  
2269 to people who testify that you're not going to hurt anyone's  
2270 feelings if you don't use your full allotted five minutes.

2271 So in that vein, I hope to hurt none of your feelings and  
2272 I am happy to answer any questions that you have.

2273 Thank you again for inviting me.

2274 [The prepared statement of Mr. Fialkov follows:]

2275

2276 \*\*\*\*\*INSERT 10\*\*\*\*\*

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2277 Mr. Flores. Thank you.

2278 Mr. Kovarik, you're recognized for five minutes for your  
2279 opening statement.

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2280 STATEMENT OF MR. KOVARIK

2281

2282 Mr. Kovarik. Good morning.

2283 Thank you, Mr. Chairman, Chairman Shimkus, Ranking Member  
2284 Tonko, and members of the committee. Thank you for inviting me  
2285 to testify today.

2286 My name is Kurt Kovarik and I am vice president of federal  
2287 affairs for the National Biodiesel Board. My trade association  
2288 represents 130 members with biodiesel production facilities in  
2289 nearly all 50 states.

2290 The produce clean-burning biodiesel from a variety of  
2291 feedstocks including vegetable oils, animal fats, and recycled  
2292 oils such as used cooking oil.

2293 I appreciate the subcommittee's inclusion of biodiesel in  
2294 today's discussion and throughout this process. I look forward  
2295 to contributing to the development of any proposals to improve  
2296 the Renewable Fuel Standard.

2297 The Discussion Draft highlights one of our frustrations with  
2298 the RFS. The biodiesel industry has proven over and over again  
2299 its ability to produce higher volumes. Yet, EPA continually sets  
2300 biomass based diesel volumes in the annual RFS rules well below  
2301 our demonstrated capacity.

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2302           The agency continues, as demonstrated in November's final  
2303 rule, to limit growth for our advanced biofuel volumes.  
2304 Biodiesel achieves considerable carbon reductions, up to 86  
2305 percent compared to petroleum fuels. Higher volumes for biomass  
2306 based diesel would better achieve the environmental goals of the  
2307 original RFS program.

2308           Biodiesel is the success story of the RFS. The program has  
2309 been the foundation for biodiesel industry's growth over the past  
2310 decade. Our industry has grown from about 400 million gallons  
2311 in 2007 at the start of the program to more than 2.6 billion gallons  
2312 today.

2313           We expect the program will continue incentivizing investment  
2314 and supporting our industry's growth over the decade and more.

2315           We are pleased that the Discussion Draft recognizes that  
2316 the biodiesel industry would not benefit from the proposed changes  
2317 to the octane standard or other regulatory changes in the  
2318 Discussion Draft.

2319           We appreciate the committee's recognition that the biodiesel  
2320 market is different from the ethanol market and that the  
2321 Discussion Draft includes provisions to provide additional  
2322 certainty for advanced biofuels.

2323           Unfortunately, these provisions fall short. We are concerned

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2324 that the Discussion Draft does not incentivize ongoing  
2325 investments and support predictable year over year growth for  
2326 our industry.

2327 The Discussion Draft would direct EPA to set backward looking  
2328 volume requirements. While this may protect existing assets in  
2329 the near term, it would not drive further investments or growth.

2330 One necessary improvement to the draft would be to add  
2331 achievable predictable growth for our industry over time. With  
2332 consistent and predictable growth, the biodiesel industry would  
2333 have the necessary incentive to make capital investments, develop  
2334 additional feedstocks, and improve efficiencies.

2335 Stagnant or decreasing volumes do not provide any of those  
2336 incentives. For the biodiesel industry there is no pressing need  
2337 to significantly reform or replace the RFS.

2338 The program does not end or change drastically in 2022,  
2339 despite what some have said. The EPA is required to set future  
2340 volumes for all fuel categories under the same process that has  
2341 been in place for biomass-based diesel since 2013.

2342 The RFS, therefore, has the potential to support our  
2343 industry's growth beyond 2032 to where the Discussion Draft's  
2344 support would end.

2345 The biodiesel industry continues to grow and to invest under

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2346 the current RFS because the program, when stable, promises the  
2347 opportunity for additional growth.

2348 We appreciate that the Discussion Draft would direct EPA  
2349 to set volumes according to our proven ability to produce, that  
2350 the draft would be significantly improved if it provided long-term  
2351 certainty and predictable growth over time.

2352 Thank you for the opportunity to testify today on behalf  
2353 of America's biodiesel renewable diesel industry.

2354 I am happy to answer any questions.

2355 [The prepared statement of Mr. Kovarik follows:]

2356

2357 \*\*\*\*\*INSERT 11\*\*\*\*\*

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2358 Mr. Flores. Thank you for your opening comments. We  
2359 appreciate each of your testimony. We are now going to move into  
2360 the Q&A portion of our hearing. I want to recognize myself five  
2361 minutes -- for five minutes for my questions.

2362 Mr. Coleman, your testimony claims that the Discussion Draft  
2363 will increase gasoline prices because ethanol will not be used  
2364 by refiners. That's somewhat in conflict with what we heard in  
2365 the last panel.

2366 I think there were some folks that want to argue about the  
2367 readily available octane enhancers today versus what was  
2368 available 15 years ago.

2369 But I am interested in developing a current solution. So  
2370 what's your proposed legislative solution for keeping gasoline  
2371 prices lower using a high-octane performance standard?

2372 Mr. Coleman. So the reason that I made that allegation is  
2373 that here is no alternative octane to ethanol that is even close  
2374 to as cheap as ethanol is.

2375 And so you're either creating a status quo environment or  
2376 are you putting something in the fuel that is more expensive?

2377 You don't have to look very far. If you look at zero percent  
2378 ethanol blends in the market today they're \$0.40 to \$0.50 per  
2379 gallon more expensive.

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2380 In terms of -- and I am not going to dodge your question  
2381 on what the legislative proposal is -- I think the RFS should  
2382 be bedrock baseline in this country because it's produced such  
2383 outstanding outcomes, particularly for the middle of the country.

2384 And if you want to get to a cleaner environment with -- give  
2385 the auto industry what they want, which is cleaner fuel so they  
2386 can improve emissions, then you do it on top of the RFS.

2387 Can you make tweaks to the RFS that makes sure dumping the  
2388 RFS for higher octane will just remove the incentive to use  
2389 renewability --

2390 Mr. Flores. So how do you set those levels and in a declining  
2391 liquid fuels market how do you set them or you get them right  
2392 and you don't somehow create disturbances in the market that harm  
2393 consumers?

2394 Mr. Coleman. I am not sure if I agree with the idea that  
2395 it harms consumers. So if you use -- if you keep -- maintain  
2396 certainty with the RFS and what the signal that sends to the  
2397 marketplace is that we are going to keep ethanol in the fuel,  
2398 which right now is not -- Mr. Thompson said it was \$0.04 cheaper.  
2399 It's closer to \$0.20 cheaper.

2400 It says don't replace ethanol with more expensive octane  
2401 enhancers and then ramp your RON the way you want to go. You

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2402 don't lose ethanol, and if the oil industry wants to alkylate  
2403 fuel or add more aromatics on top of that, then they can get there.

2404 They're not going to tell you they can do that, but they  
2405 can do that.

2406 Mr. Flores. Let's continue.

2407 I think we heard in the last panel that the consumers  
2408 ultimately are going to make the decisions as far as what the  
2409 costs are, not the refiners. Not any other party.

2410 Mr. Kovarik, your testimony states, we appreciate that the  
2411 21st Century Fuels Act would direct the EPA to set volumes  
2412 according to our proven capacity to produce.

2413 You went on to say you would prefer that it provided long-term  
2414 certainty and predictable growth over time.

2415 What does that mean from a legislative language perspective?

2416 If we wanted to incorporate your concepts in our legislation  
2417 what would that look like?

2418 Mr. Kovarik. Thank you for the question. I appreciate the  
2419 opportunity to answer that.

2420 One of the things that has harmed our industry and really  
2421 prohibited our industry from achieving its full potential is the  
2422 fact that all of our federal policies that affect our industry  
2423 have been terribly uncertain since the creation of the RFS --

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2424 the original RFS in 2005.

2425 One way to improve this legislation might be to not only  
2426 provide longer term period for advanced biofuels but also include  
2427 some degree of statutory certainty that volumes will increase  
2428 year over year to allow the industry to make the capital  
2429 investments, developing additional feedstocks, and grow to an  
2430 economy of scale where they may no longer need certain areas of  
2431 federal policy support.

2432 Mr. Flores. So you're in the weeds a little bit. How would  
2433 you set those volumes? How would that be done? When you don't  
2434 know what the market is going to be like, you don't know where  
2435 the technology is going, how would you set the volumes?

2436 Mr. Kovarik. I think you could start by looking at the  
2437 domestic -- the market, what is currently produced, and then  
2438 include a reasonable achievable levels of growth whether that  
2439 be -- 5 percent year over year might be an example. But what  
2440 would be achievable and certain for the industry so that they  
2441 could respond to it.

2442 Mr. Flores. Okay. If you have positive tax treatment for  
2443 biodiesel blending if you assume that that's assured, would you  
2444 need the RFS to compete?

2445 Mr. Kovarik. The two policies are very complementary. The

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2446 RFS essentially guarantees producers that there will be a market  
2447 for certain volume of product.

2448 The tax incentive works in very different way in that is  
2449 provides the incentive for our downstream partners to put in the  
2450 infrastructure, the blending facilities, and the retail  
2451 facilities to sell additional product to consumers.

2452 The reason our downstream partners want to sell more of the  
2453 product is because of the value proposition because of the  
2454 combination of the RFS and the tax credit, and I would like to  
2455 see a time and place where we no longer need those policies.

2456 But the fact of the matter is neither have been certain enough  
2457 with the longevity required to provide the industry with the  
2458 certainty to grown and flourish.

2459 Mr. Flores. Thank you. My time has expired.

2460 I recognize Mr. Tonko for five minutes for his questions.

2461 Mr. Tonko. Thank you, Mr. Chair, and I think many members  
2462 support the RFS due to its envisioned role in promoting the  
2463 development of and market for advanced biofuels.

2464 Even the program's most ardent supporters would have to admit  
2465 that the expected growth of these fuels has not come to fruition.

2466 I know there are many reasons that that is the case. But  
2467 I want to use this time to look forward.

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2468           So would anyone like to comment on why or why not this  
2469 Discussion Draft would remedy those issues and actually result  
2470 in the growth of a domestic advanced biofuels industry?

2471           Anyone? Mr. Coleman.

2472           Mr. Coleman. I am sure I will have a couple people who want  
2473 to help answer this question. But we do not believe that it's  
2474 going to create growth in the advanced biofuels industry because  
2475 we have to partner with the oil industry one way or the other  
2476 to get the job done in the advanced biofuels industry.

2477           Sometimes it's on the front end with actual strategic  
2478 investment. Valero, BP -- they've been investors historically  
2479 in this industry.

2480           But inevitably it's also on the back end. You have to be  
2481 able to show investors that an oil industry is interested in not  
2482 taking your fuel in order to build that plant and if we have a  
2483 system that automatically predicts incoming gallons based on last  
2484 year's volumes, the oil industry is simply not going to  
2485 participate in that process and you're going to have incremental,  
2486 if any, growth, basically only when the oil industry is completely  
2487 uninvolved.

2488           And the issue that we have had with deployment over the last  
2489 10 years -- and I think this is a point of agreement for all of

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2490 the advanced biofuels advocacy -- is not one of commercial  
2491 technological development.

2492 We are there. It's an issue of scale. And when the program  
2493 is not enforced for two or three years in the wake of a 100-year  
2494 recession and then we have waivers, we have nothing to look to.

2495 So that is where our issues are and we would ask that we  
2496 keep pushing on EPA to enforce the law.

2497 Mr. Tonko. Anyone else? Mr. McAdams.

2498 Mr. McAdams. I would say that the right question is, since  
2499 you guys are working with the Discussion Draft here, what can  
2500 you do to bring those fuels.

2501 And what I gave you after the last hearing was 21 examples  
2502 of specific barriers to entry, definitions in other regulatory  
2503 regimes that block the future of advanced undesignated fuels and  
2504 block cellulosic fuels.

2505 What this draft does do is it speaks specifically to the  
2506 wood piece in a way that has never been addressed before and that  
2507 is a very positive thing.

2508 Let me give you an example. If you, under the current  
2509 biointermediate regs at EPA, if I am trying to take a pyrolysis  
2510 plant which I am either Ensign, which building a plant in Georgia  
2511 or I am Fulcrum, I am building a plant in Nevada or I am Red Rock,

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2512 I am building a plant in Oregon, and I use the woody biomass and  
2513 I make a pyrolysis oil, under the current biointermediate standard  
2514 I can't co-locate that to co-process into a jet fuel or into a  
2515 diesel.

2516 And one of the things this hearing has done is it's focused  
2517 way too much on gasoline and not enough on the fact that we use  
2518 55 billion gallons of diesel and it's the fastest growing  
2519 commodity in terms of demand, going forward, along with jet fuel.

2520 So if you want to make billions of gallons of jet fuel to  
2521 fly the airplanes because they're not likely to be electric in  
2522 my lifetime, you're going to need those diesel distillate fuels.

2523 And all of these impediments are statutorily driven that  
2524 need to be addressed in a way. Same thing with waste oil. Same  
2525 thing with one-celled biological organisms.

2526 There's a whole plethora of these things that just prohibit  
2527 technologies that we never knew existed when we did the spill  
2528 in '07 that blocked the entry to these volumes.

2529 Mr. Tonko. Thank you.

2530 Mr. Feraci.

2531 Mr. Feraci. Thanks, Mr. Tonko.

2532 So I think it's a great question and I want to share the  
2533 experience that we've had in the RNG industry because it's a fairly

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2534 new experience but I think that there's some lessons to be taken  
2535 from that.

2536 So our fuel become qualified as a cellulosic biofuel in 2014  
2537 and as I said in my statement, I mean, we've seen a 620 percent  
2538 growth in the use of the fuel -- the cellulosic biofuel -- and  
2539 what -- one of the big things that has spurred that is the RFS  
2540 program and it's something at the federal -- a decision at the  
2541 federal level that we are going to prioritize the introduction  
2542 of advanced biofuels and that reduce greenhouse gas emissions  
2543 that that's a federal priority from an energy policy standpoint  
2544 and from an environmental standpoint.

2545 But beyond that, the way that the RFS is structured now is  
2546 when you set volumes out into the future it's prospective so that  
2547 it allows investors to go and get private sector capital  
2548 investment to put in the projects.

2549 And like I said, when you're doing an RNG project, you know,  
2550 it's not something you just put up overnight. I mean, you're  
2551 going to have to go into a 20-year off take agreement with a  
2552 feedstock provider to do this.

2553 So, you know, as it comes back to the discussion of the  
2554 Discussion Draft, I mean, I think that a piece of constructive  
2555 criticism would be that you really want to have a formula, going

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2556 forward, that does drive growth and you want it prospective  
2557 looking because if it's just -- if you just look back at previous  
2558 production it could have -- what I was careful to say is, I think,  
2559 an unintended consequence of potentially having production be  
2560 flatter or even contract.

2561 Mr. McAdams. Mr. Chairman, could I address this RVO  
2562 production?

2563 Mr. Shimkus. [Presiding.] Well, I think I am going to be  
2564 asking you that question. So --

2565 Mr. Tonko. I will yield back.

2566 Mr. Shimkus. This is our last time together so we are  
2567 milking it out.

2568 So let me just go directly to Mr. McAdams because I want  
2569 to address this issue about how you set the RVOs.

2570 Obviously, you're in the minority at the panel saying that  
2571 we should do it based upon -- and we've had this discussion about  
2572 what are we actually producing now and then -- and then you propose  
2573 a mid-term review. So talk to your fellow panellists on why you  
2574 think that is successfully achieving, I think, what their goals  
2575 are.

2576 Mr. McAdams. Okay. First of all, we need to realize that  
2577 the federal court directed EPA in 2013 that they could not put

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2578 their thumb on the scale.

2579 So all three of these guys up on this panel are suggesting  
2580 that they want to play politics and put their thumb on the scale  
2581 instead of having a rules-based rule.

2582 I disagree with them. So in the case of Mr. Kovarik, if  
2583 you took the approach that you have put in this bill, Mr. Kovarik  
2584 would have gotten 2.7 billion gallons of an RVO for the biodiesel  
2585 industry this year instead of 2.1. That's a 600-million-gallon  
2586 advantage.

2587 So I don't know what we are talking about when we are talking  
2588 about taking the actual production --

2589 Mr. Shimkus. Okay. We can be nice.

2590 Mr. McAdams. Okay. Taking the actual EMTS numbers off the  
2591 system which have to be put in the system five days after the  
2592 fuels are produced and then every six months queue up the RVO  
2593 in line with the actual production of those numbers, okay.

2594 Now, the second reason we should do this is because the oil  
2595 industry and the obligated parties were allowed to use the waiver  
2596 credits under the cellulosic standard and EPA, under the existing  
2597 statute, which is another reason why we have to change the statute,  
2598 EPA has taken the position since the beginning of the program  
2599 that they must issue the same number of waiver credits each year

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2600 as the RVO.

2601 So if I am Exxon Mobil, hypothetically, and I only need 300  
2602 million waiver credits for the cellulosic pool, I wait until the  
2603 end of the year and I buy the waiver credits from EPA.

2604 And all the gallons of cellulosic or biogas from my friend  
2605 here don't get bought and it's not bought on a rateable take.

2606 You should consider a rateable take. That's also in my written  
2607 testimony.

2608 Mr. Shimkus. Follow up with the mid-term review and --  
2609 because I do think the intent was for us let's have achievable  
2610 real numbers.

2611 But then I do also appreciate the signals that we send about  
2612 -- for people who wanted growth. So talk about the mid-term  
2613 review and does that help incentivize that.

2614 Mr. McAdams. So the way I would see it is if you -- if you're  
2615 actually bringing these fuels into the market what would happen  
2616 at the six-month review the EMT system would already incorporate  
2617 these advanced numbers. So the number would go up.

2618 So for Mannie, at the six-month mark instead of having to  
2619 wait until the end of the year and argue that the next RVO should  
2620 go into a black box at EPA and the number be lifted, the number  
2621 automatically at six months relative to the projects he brought

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2622 in would come into the RVO.

2623 It would be added to the RVO at six months. It would also  
2624 be queued up at the end of the year at 12 months.

2625 So you would collect your numbers and, again, the NBB guys  
2626 would collect their numbers in the actual line with what they  
2627 produced and that has nothing to do with whether the oil industry  
2628 is going to buy this fuel or not, because David's right -- this  
2629 fuel is going to get bought if the price is right.

2630 Mr. Shimkus. Okay. Let me give you a short chance to  
2631 respond, Mr. Coleman.

2632 Mr. Coleman. Very quickly, two quick things.

2633 We are not opposed to truing up. We've been asking for true  
2634 up, which is mid-term review, for quite some time. So that's  
2635 point one.

2636 Point two is --

2637 Mr. Shimkus. So that's a good process of our bill?

2638 Mr. Coleman. Yes, that's a good -- trueing up is okay as  
2639 long as --

2640 Mr. Shimkus. Very good. Whew, I am glad I got a good one.

2641 Mr. Coleman. Although there's a comma. As long as --

2642 Mr. Shimkus. Okay. Keep going. Keep going, quickly.

2643 Mr. Coleman. As long as -- and this is the short second

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2644 point -- that it's forward looking and EPA -- the one thing that  
2645 Mr. McAdams said that wasn't true is we are not asking for a thumb  
2646 on the scale.

2647 After they lost that case, EPA went out and did a good  
2648 forecasting methodology that's forward looking. They can do  
2649 that, have it be completely legal, and do mid-term review.

2650 Mr. Shimkus. Great. Thanks. Anyone else?

2651 Go ahead, Mr. Feraci.

2652 Mr. Feraci. Yeah, and --

2653 Mr. Shimkus. Quickly.

2654 Mr. Feraci. I am going to start, Mr. Shimkus, by -- I am  
2655 going to be nice. So here's my -- so here's what I would say,  
2656 and I really do think that Mike is probably coming at this from  
2657 a good place and he's advocating for his members.

2658 When we said that there could be -- potentially being  
2659 unintended consequences, let's take a very real-world example.

2660 So the EPA just came out with the RVO for cellulosic biofuels  
2661 this year. They're going to set that at 418 million gallons.

2662 So prospectively for this year, going forward, that's what  
2663 the biofuel requirement is going to be. If you were doing a look  
2664 back, it would be -- the numbers aren't in final but it would  
2665 be around 323 million based on EPA's numbers.

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2666           So when you're talking about something of the scale that  
2667 way, when you're talking about trying to drive RNG investment,  
2668 it's a lot easier to go and get that investment forward looking,  
2669 having a volume like that, as opposed to looking back and saying,  
2670 yeah, there's going to be this mid-term review process and it  
2671 may work out. It may not. People may time their buying different  
2672 based on that mid-term review.

2673           So, again, it's just a constructive observation in terms  
2674 of things to think about when you --

2675           Mr. Shimkus. Yeah. I've got -- my time is expiring and  
2676 so I think we are hashing this out that there is a way to get  
2677 there and that's, again, Mr. Tonko's problem next year.

2678           [Laughter.]

2679           But I want to end -- I want to end on this statement. Then  
2680 I will go to Mr. Olson.

2681           While the RFS does not end in 2022, as you all have  
2682 highlighted in this panel, it does evolve in a scenario where  
2683 EPA has enormous discretion to set levels based upon a bunch of  
2684 unweighted factors.

2685           That should scare everyone and that's part of the reason  
2686 why we are trying to move to certainty versus uncertainty.

2687           And with that, I would like to yield to the Texan, Mr. Olson,

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2688 for five minutes.

2689 Mr. Olson. I thank the chair, and welcome, guys, and let's  
2690 be very friendly. Okay.

2691 I am from a big oil and gas state, Texas. You all know that  
2692 but I want to say, Mr. Feraci, I've seen your product firsthand  
2693 back home.

2694 Fort Bend County, right near Needville, Texas, we have a  
2695 renewable natural gas facility that's going strong for about five  
2696 years now. It's in partnership with WCA, Morrow, Enerdyne, and  
2697 Fort Bend County.

2698 What it does is there is a municipal dump. They stack up  
2699 their products at the dump. They are decomposing. They grab  
2700 methane. They turn that into natural gas, get a pipeline, it  
2701 goes to market.

2702 So I believe in your product. It's working back home. I've  
2703 seen it first hand. I will invite you to come out and see if  
2704 you haven't.

2705 I have a question for all five of you, just sort of around  
2706 the table. One thing that has bothered me over and over that's  
2707 talked about by this panel is how uncertain the RFS is.

2708 I know D.C. has a role in that. There's other market  
2709 factors. So can you talk about whether this bill moves in the

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2710 right direction or the wrong direction for certainty and are there  
2711 things that we should look at?

2712 Mr. Coleman, you're up first, sir.

2713 Mr. Coleman. So our position on the fundamentals of the  
2714 bill, which is octane trade for RFS, is that that's not going  
2715 to work for us because we don't know what the oil industry is  
2716 going to do.

2717 The EIA suggestion that they can do it without us we do not  
2718 feel like that is a good trade for us and could actually -- we  
2719 could be rolling back from a renewable fuels perspective.

2720 Mr. Olson. Mr. McAdams, sir.

2721 Mr. McAdams. Any bill that starts a discussion on reform  
2722 is a good bill for us.

2723 Mr. Olson. There we go.

2724 Mr. Feraci.

2725 Mr. Feraci. I would base it on current law. So right now,  
2726 admittedly, there's instability in the way that it functions  
2727 post-2022. But it is permanent long and it's something that's  
2728 there for our industry as opposed to something that will sunset.

2729 Mr. Olson. I apologize. Mr. Feelakov. Is that close?

2730 Mr. Fialkov. That's very close.

2731 Mr. Olson. Thank you.

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2732 Mr. Fialkov. It's Fialkov. But I think that the bill moves  
2733 in the right direction with respect to the rules-based RVO. I  
2734 agree with everything that Mr. McAdams just said.

2735 I would say that this notion that there's kind of a homogenous  
2736 oil industry that will, as part of a stratagem, not buy biofuels  
2737 in order to artificially lower the RVO in a given year.

2738 It's simply not true. I mean, to the extent it would lower  
2739 diesel prices by a cent a gallon I know people who would kill  
2740 one another to get that cent.

2741 So that is something I am not concerned about and I don't  
2742 know where that fear comes from. But I will say that all of the  
2743 progress in terms of establishing certainty and what not doesn't  
2744 mean a lot if you don't address the small refinery exemption issue  
2745 because that is the kind of thing that will inject uncertainty  
2746 and the mere fact that it's looming out there means that there's  
2747 a level of uncertainty that you just can't overcome no matter  
2748 how you adjust the RVO process.

2749 Mr. Olson. And Mr. Kovarik, your concerns.

2750 Mr. Kovarik. Yes, thank you, sir.

2751 Just very quickly. I think we view the backward-looking  
2752 setting the volumes as a small step towards certainty. That,  
2753 coupled with no guarantee or no ensure of growth -- our industry

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2754 -- along with the sunseting of the program in 2032, are the  
2755 failings of the bill.

2756 Mr. Olson. Thank you.

2757 One final question for my good friend who controls all the  
2758 power pumps there. We have professional drivers, mostly truck  
2759 drivers, pros. We talked last panel about misfueling.

2760 Now, that could be a concern, and one of the panellists on  
2761 the last panel pointed out a great point that hey, I can't control  
2762 a person putting diesel in a gasoline engine -- that just happens.

2763 So my question is are your customers more likely or less  
2764 likely to make a misfueling mistake because they're pros and how  
2765 can this bill help ensure we have no misfueling issues or as few  
2766 as possible? Because that's a real big deal back home.

2767 That's a yes or --

2768 Mr. Fialkov. So with respect to the -- if I understand your  
2769 question correctly, there's very little concern that a  
2770 professional truck driver will put gasoline in a truck, if that's  
2771 what you're asking. I think --

2772 Mr. Olson. How about most of the people you work for --  
2773 it's not just truck drivers. You got a lot of people here at  
2774 the pump and that's where these mistakes are made.

2775 Mr. Fialkov. Yeah. I mean, undoubtedly, when you have a

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2776 bifurcated fuels market or automobile market where some cars can  
2777 only accept certain fuels, other cars can only accept other fuels  
2778 and one of those fuels is materially less expensive than another,  
2779 there are going to be instances where people are going to try  
2780 to put the less expensive fuel in a car that can't handle it.

2781

2782 So I think that all of the misfueling mitigation concerns  
2783 that were addressed in the last panel by Mr. Columbus are spot  
2784 on and the committee would be wise to take them.

2785 Mr. Olson. Thank you. I am out of time.

2786 Have a great holiday season. I yield back.

2787 Mr. Shimkus. The gentleman yields back his time.

2788 Seeing no further members wishing to ask questions, I would  
2789 like to thank you all for being here. I think it was a very vibrant  
2790 and important part of this discussion on the draft bill and I  
2791 would like thank you for being here today.

2792 Before we conclude, I would like to ask for unanimous consent  
2793 to submit the following documents for the record: a letter from  
2794 the American Petroleum Institute; a letter from the Illinois Corn  
2795 Growers, a letter from Briggs and Stretton, a letter from the  
2796 National Farmers Union, and a letter from the Union of Concerned  
2797 Scientists.

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Without objection, so ordered.

2799

[The information follows:]

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\*\*\*\*\*COMMITTEE INSERT 12\*\*\*\*\*

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2802           In pursuant to committee rules, I remind members that they  
2803 have 10 business days to submit additional questions for the  
2804 record. I ask that witnesses submit their responses within 10  
2805 business days upon receipt of the questions.

2806           Without objection, this subcommittee is adjourned.

2807           [Whereupon, at 12:30 p.m., the committee was adjourned.]