



INSTITUTE FOR 21ST CENTURY ENERGY
U.S. CHAMBER OF COMMERCE



February 7, 2013

Dr. Marianne Klingbeil
Deputy Secretary-General
Secretariat General of the European Commission
Berlaymont Building
Brussels, Belgium B-1049

**RE: U.S. Stakeholders Comments on the Impact Assessment on Article 7a of
the Fuel Quality Directive**

Dear Dr. Klingbeil:

AFPM, the American Fuel & Petrochemical Manufacturers, is a trade association representing high-tech American manufacturers of virtually the entire United States (U.S.) supply of gasoline, diesel, jet fuel, other fuels and home heating oil, as well as the petrochemicals used as building blocks for thousands of vital products in daily life. AFPM members manufacture virtually all the fuel and petrochemicals produced in the U.S., as well as fuels that are in some cases exported to the European Union (EU). As such, our businesses will be directly and adversely affected if the European Commission adopts the proposed amendment to the Fuel Quality Directive (FQD) that would require separate reporting values for products derived from oil sands and oil shale crudes.

The U.S. Chamber of Commerce, the world's largest business federation, represents the interests of more than three million businesses and organizations of every size, sector, and region. At the U.S. Chamber's Institute for 21st Century Energy (Energy Institute), we are deeply concerned about the proposed amendment to the FQD that would discriminate against crudes and fuels derived from oil sands and oil shale. EI believes that the separate reporting value within the FQD is an unjustified, selective, and punitive measure that would result in disproportionate harm to U.S. exports to Europe.

The proposed methodology for implementing Article 7a of the EU FQD (98/70/EC) [herein referred to as "proposal"] places carbon intensity (CI) values on crudes produced from oil sands and oil shales along with synthetic fuels that, for all practical purposes, makes the crudes and products derived from them, unsalable in the European Union. This proposed amendment to the FQD will likely result, contrary to its intent, in increased global green house gas (GHG) emissions. It would have significant consequences as outlined below for the EU refining and transport fuels supply industries, the U.S. refining and crude industries, and U.S. – EU fuels trade. The ICF Impact

Assessment is not a sufficient basis for measuring the impact of the proposed Directive largely because it does not take into account these substantive issues. Because of the perverse consequences the proposal would create, we recommend abandoning it in favor of one that provides a single value for crudes and does not assign separate default GHG values for fuels derived from oils sands and oil shale feedstocks.

The proposal would significantly impact the U.S. – EU fuels trade by severely limiting, if not halting completely, the ability of the U.S. to export diesel fuel and other petroleum products to the EU. To comply, the U.S. refining industry would need to establish extensive, costly and likely infeasible Identity Preservation schemes to track crude oil molecules, from production through finished products and to end-users.

According to the U.S. Energy Information Administration (EIA), in 2012, the U.S. refining industry exported 340 thousand barrels per day (KBD) of diesel to the EU, and the EU refining industry exported 365 KBD of gasoline to the U.S. The trades together represent \$32 billion dollars per year.¹ This product flow occurs because of differing fuel production and usage patterns in the U.S., which uses comparatively more gasoline than the EU, which uses comparatively more diesel fuel than the U.S. The trade is built on the comparative advantages these differing consumption patterns produce for refiners in the United States and the EU on increases in efficiency and competitiveness of the refining sectors in both regions.

The proposal would make the U.S. export of diesel and other petroleum products to the EU a practical impossibility because it would require U.S. refiners to ensure that any petroleum product, including diesel, was not produced using crude oil derived from these sources in the crude diet.² Since crudes are comingled based on refinery configuration and economics, the need to ensure that oil sands crude does not end up in a particular refineries diet would require the establishment of an Identity Preservation scheme for crudes used in U.S. refineries - a costly, complex, and probably unachievable task. The details of the resulting Chain of Custody system would require directing crudes to particular refineries, product segregation based on crude input, rigorous recordkeeping, and the establishment of an accounting scheme for managing the process. Such a task would be

¹ Distillate export volumes were taken from available U.S. Energy Information Administration (EIA) data for January through November 2012. http://www.eia.gov/dnav/pet/pet_move_expc_a_EPD0_EEX_mbbldpd_m.htm. Gasoline import volumes were used from available EIA data for finished gasoline. http://www.eia.gov/dnav/pet/pet_move_impqus_a2_nus_epm0f_im0_mbbldpd_m.htm and gasoline blending components http://www.eia.gov/dnav/pet/pet_move_impqus_a2_nus_epobg_im0_mbbldpd_m.htm. In both cases, only EU country data plus volumes associated with Gibraltar were used, assuming most Gibraltar volumes were destined for EU countries. Monthly average spot New York ULSD and conventional gasoline prices were taken from EIA's website as well http://www.eia.gov/dnav/pet/pet_pri_spt_s1_m.htm. The 2012 values were calculated assuming the average export and imports daily rates persisted for the entire year.

² Since the CI values in the proposed amendment assigned to oil sands derived and conventional crude are 26 and 6 g CO₂e/MJ, respectively, the FQD target of a 6% CI reduction cannot be met if refined products produced using oil sands derived crude oil are used in fuel blends for sale in the EU.

significantly more challenging than the Chain of Custody schemes required of biofuel suppliers in the EU; segregation of biomass supply on a supplier basis is more achievable due to the nature of biofuel lot production and the mass balance approach utilized.³ The onerous nature of such accounting would likely have a significant impact on the U.S.– EU fuels trade.

The proposal would likely necessitate alternative diesel sources for the EU fuels market, resulting in a net increase in global green house gas emissions, rather than a reduction.

The challenges detailed above warn of a significant decrease in the U.S. – EU fuels trade, making the export of diesel from the US to the EU less likely if the proposed measure is adopted. If the US did not export diesel to the EU, this 340 KBD demand shortfall, which represent 8%⁴ of the total diesel consumed in the EU, would need to be imported from elsewhere. Such diesel would likely come at a higher price to EU consumers as well.

Crude and fuel markets are global in nature. Thus if U.S. produced diesel were not exported to the EU, the net result would not be a net decreased use of oil sands derived crude globally, because such crudes and the fuels refined from them would be shipped to alternative markets, and be utilized elsewhere (termed crude and fuel shuffling). The net result would be an increase in global GHG emissions, due to the fuel consumption from increased transportation of these crudes and fuels elsewhere. The Wood Mackenzie consulting study⁵ details the likely impact of the proposed Directive on global crude and fuel trading and finds that EU consumers would face incrementally higher fuel costs and higher GHG emissions stemming from transportation of crudes and fuels to alternative markets. For additional information, a study on crude shuffling and GHG impacts may be found in a study by Barr Engineering.⁶

The proposal would have little or no impact on the global production of oil sands crudes.

Since EU refineries do not process oil sands derived crudes, the proposed amendment to the FQD does not directly reduce EU GHG emissions either in the refining or the transportation sectors. Further, it would not reduce global GHG emissions, but instead may be viewed as an

³ For more information on Chain of Custody Schemes, particularly for biofuels, see the IPIECA publication: “Chain of Custody Schemes” <http://www.ipieca.org/publication/chain-custody-options-sustainable-biofuels>

⁴ EU diesel consumption was 4,200 KBD in 2012. “ExxonMobil Outlook for Energy: A View to 2040,” 2013. http://www.exxonmobil.com/Corporate/energy_outlook.aspx

⁵http://www.europia.com/DocShareNoFrame/docs/1/LPPLFNBCCADIOJLLDFONOIBHGH4K48S4H786HCVD1HYO/CEnet/docs/DLS/Wood_Mckenzie_Report-Executive_summary-2013-00109-02-E.pdf

⁶ Barr Engineering report: “Low Carbon Fuel Standard “Crude Shuffle” Greenhouse Gas Impacts Analysis,” June, 2010. Report available on demand.

attempt to reduce the global use of oil sands crude. As described above, because crude and fuels are fungible and traded in a global market, the proposed Directive would not achieve this objective either, and undoubtedly would come at the expense of reduced energy security for the EU and a net increase in global GHG emissions from increased crude and fuel transportation.

Oil sands crudes are within the average band of GHG emissions used in the EU.

The Government of Alberta, Canada had commissioned a study that concluded that oil sands derived crudes fall well within the band for production GHG emissions for all crudes used in the EU.⁷ This study, which utilized Jacobs Engineering as contractor, was completed less than a year ago. It was done in an open fashion with full participation from several members of DG Climate, and full disclosure of both the data utilized and model results. We are not aware of any objection being raised by DG Climate or any of the DGs within the European Commission that would call the results of this analysis into question. Thus, we are unable to comprehend why this Directive establishes a higher carbon intensity for oil sands derived crudes than other crudes currently used in EU refineries.

The Impact Analysis by ICF does not sufficiently address these concerns, and is thus fatally flawed.

The ICF Impact Analysis does not adequately address the issues raised above, nor does it portray the real consequences of the proposed Directive described above. It outlines EU fuel and feedstock projections, but employs unrealistic assumptions about how the fuels market in the EU would react to the proposed amendment. It does not address the true nature of the proposal – that is, the impact of assigning crude CI values to crude oils derived from oil sands and oil shale crudes, and synthetic fuels. While it outlines broad proposals for GHG calculation methods, it does not address either the lack of publically available data needed for such calculations, or the crudes which this proposal attempts to regulate. We conclude, therefore, that the serious shortcomings of this analysis render it an inadequate assessment of the impacts of the proposed amendment.

The Impact Analysis by ICF was performed without the engagement of the EU or the U.S. refining industry.

There has been considerable analytical work and communication by Europaia, an EU trade organization, and by the Government of Alberta on many of the points raised above. This includes the work done with Wood Mackenzie on the impacts of the proposal, the work done with Jacobs Engineering on the crude production CI, and the many discussions that the Trades have had with members of DG Climate and other members of the European Commission. All of these studies were performed in an open, collaborative fashion, and a thorough review of the results has either taken place or is underway. We do not understand why these substantive analyses were ignored in

⁷ <http://www.energy.alberta.ca/Oil/pdfs/OSPPolicyReviewPathwayStudy2012.pdf>

the ICF Impact Analysis, and why only the completed impact analysis was presented to the expert teams mentioned above as a *fait accompli*, without the option to comment as the study was being undertaken.

Summary

The EU and the U.S. refiners Industries remain committed to making cost effective contributions to reducing global GHG emissions – in the EU, Trades, Europaia and Concawe have led this charge, while in the U.S., AFPM and the American Petroleum Institute are pursuing at least qualitatively similar initiatives.

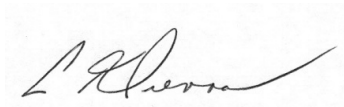
We conclude, however, that the EU proposal would not achieve its stated goal of GHG reduction, particularly when viewed on a global basis, would not have a meaningful impact on the use of oil sands crudes, and would on a practical matter be unworkable. Further, it would damage U.S. – EU fuel trade, be costly for the EU consumer, and reduce EU energy security. The ICF Impact Analysis is not sufficient for assessing the true impacts of the proposed amendment to the FQD. We respectfully urge to abandon the Commission's current proposed approach in favor of one that provides a single value for crudes and does not assign separate default GHG values for fuels derived from oils sands and oil shale feedstocks.

Thank you again for your consideration on this important matter. We would be glad to expand on these items in further detail at a meeting at your convenience.

Sincerely,



Karen A. Harbert
President
Institute for 21st Century Energy
U.S. Chamber of Commerce



Charles T. Drevna
President
American Fuel & Petrochemical Manufacturers

cc: Director-General Jos Delbeke, European Commission
European Union Commission Members