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Biofuels battle heats up in House Ag hearing on RFS2

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Frustration ruled in a packed House hearing Wednesday held to consider how biofuels will be impacted by EPA's controversial announcement Tuesday on a new Renewable Fuel Standard (RFS2). In the House Agriculture Subcommittee on Conservation, Credit, Energy, and Research hearing, an EPA witness repeatedly pointed out that EPA has simply issued a "proposed" rule and that both the scientific community and the general public will have 60 days to comment on the proposal.

In a totally bipartisan response, subcommittee members joined in saying that Congress, the public and scientific experts should have far more than 60 days to read and respond to a highly complex proposal that runs to 1,371 pages. They are requesting a full 180 day comment period and several members plan to introduce legislation to limit EPA's authority. House Agriculture Committee Chair Collin Peterson (D-MN) said the time for negotiations is past, that he's lost all confidence in EPA, and that EPA should be stripped of all rulemaking authority in dealing with biofuels and climate change legislation. To listen to comments by Peterson and Rep. Jerry Moran (R-KN), go to: <http://www.agri-pulse.com/uploaded/PetersonRant050609.mp3>

In his testimony to the subcommittee, USDA Chief Economist Dr. Joe Glauber went straight to the key issue generating controversy: the "indirect land use" provisions that are part of the Energy Security and Independence Act of 2007 (EISA). He said repeatedly that any attempt to calculate indirect effect involves "a great deal of uncertainty. . . I think there is great uncertainty around these numbers." He promised that before EPA turns its proposed rule into a final rule, USDA "will be vocal" in meetings with EPA. In response to questioning by lawmakers about USDA's role in its meetings with EPA and the Energy Department, Glauber said "Believe me, we are being advocates for the biofuels industry."

As interpreted by EPA, EISA requires EPA to calculate all indirect effects of increased U.S. use of corn-based ethanol and other biofuels. The EPA's witness at the hearing, EPA Office of Transportation and Air Quality Director Margo T. Oge, made it clear that EPA had no choice – the law as laid down by Congress requires EPA to include possible

indirect effects such as increased conversion of tropical forests into cropland as an indirect result of using more U.S. cropland for energy crops.

Other witnesses and subcommittee members rejected the EPA argument, saying there's no requirement to include possible indirect impact in other countries especially since there is no scientifically accepted way to calculate indirect land use impacts overseas. Peterson pointed out as well that it is unfair to penalize U.S. produced biofuels for the possibility that growing U.S. energy crops could have an indirect effect on Brazilian forests – while not penalizing petroleum for far more obvious impacts such as the high cost of “protecting shipping lanes to the Middle East.” After the hearing ended, Growth Energy CEO Tom Buis echoed Peterson's point, saying that “The carbon emissions that result from protecting the oil supply in the Middle East could alone double the carbon footprint of foreign oil.”

To demonstrate the absurdity of claiming to use science to calculate indirect effects, New Fuels Alliance Executive Director R. Brooke Coleman gave the example of buying a Prius. He said the direct effect would include obvious environmental benefits from burning less gasoline per mile. He then pointed out it would be impossible to calculate such potential indirect effects as perhaps driving more because it's cheaper to drive or using the money saved on gas to purchase other products which could be harmful environmentally.

Another example of uncertainty surrounding indirect land use calculation came from Dr. Bruce A. Babcock, Director of Iowa State's Center for Agricultural and Rural Development. He pointed out that rather than leading to deforestation in Brazil as environmentalists charge, recent studies indicate that it's more likely that U.S. biofuels may instead lead to more intensive cattle production in Brazil, not any lost of forests.

Witnesses and subcommittee members noted that the EPA's proposal for calculating indirect effects threatens soy-based biodiesel far more than corn-based ethanol. That's because, as EPA's Oge explained, the EISA legislation provided a provision to exempt already constructed ethanol plants from the new indirect-land-use rules. She said the law provides no similar “grandfather” language to protect biodiesel. She said that based on the law as passed by Congress, EPA must follow the law and that if Congress now objects to provisions of the law it passed two years ago, Congress could pass new legislation to change those provisions.

Responding to questions, Oge acknowledged that since EPA's indirect land use calculations necessarily involve “significant uncertainty,” EPA considers its proposal this week “the beginning of very important dialogue.” She stressed that EPA “is actively soliciting peer review comments from the scientific community and from the public at large” and looks forward to “an open and transparent dialogue with all stakeholders during the public comment period.” Yet she also emphasized that EPA plans to close the comment period after 60 days “so we can see the 2010 implementation.”

For full information on EPA's proposed RFS2 rule, including the 549 page Proposed Rule and the 822 page Regulatory Impact Analysis of the Proposed Rule, go to: <http://www.epa.gov/otaq/renewablefuels/>. For the full witness statements prepared for the subcommittee hearing, go to: <http://agriculture.house.gov/hearings/statements.html>.