



September 25, 2009

U.S. Environmental Protection Agency
Air Docket
1200 Pennsylvania Ave., NW
Mail Code 6102T
Washington, DC 20460
Attention: Docket ID Number: EPA-HQ-OAR-2005-0161

Re: The U.S. Environmental Protection Agency's Proposed Rule on
Regulation of Fuels and Fuel Additives: Changes to Renewable Fuel
Standard Program 74 Fed. Reg. 24904 (May 26, 2009)

Shell Oil Products US, Shell Trading US Company, Shell Deer Park Refining, and Motiva Enterprises LLC (Motiva) appreciate the opportunity to comment on EPA's proposed rules to implement the renewable fuel provisions of the 2007 Energy Independence and Security Act (EISA). 74 Fed. Reg. 24904 (May 26, 2009). Shell and Motiva are affected by this proposal in several ways. Shell and Motiva are obligated parties, and are renewable fuel producers and importers under the existing RFS rules. Given our varied interests, we are uniquely positioned to comment on this proposed rule.

We understand that the demand for energy will continue to grow both in the developed and developing world. This means greater demand for oil and gas. However supplies of readily accessible oil and gas cannot keep up with the growth in energy demand. As a result, society will need to add other sources of primary energy, including solar, wind, biofuels and fossil fuels from oil sands and oil shale. Furthermore, even with huge improvements in energy efficiency and growth in renewables and other alternatives like electricity, fossil-based fuels will remain the predominant part of the transport fuel mix at least through the first half of this century. New vehicle technology and new infrastructure (if required to support significant alternatives such as hydrogen fuel cell and electric vehicles) will take time to develop and penetrate the market.

More energy means more CO₂ emitted at a time when climate change looms as a critical global issue. The societal imperative to limit greenhouse gases in the atmosphere at a level less than 550 ppm will require the strict management of CO₂ emissions from both the production of energy and its use by consumers. We take these issues seriously. Helping to meet future global demand for energy and taking a leadership role in tackling greenhouse gas emissions are priorities.

Shell supports action to address greenhouse gas emissions and climate change and believes that sustainable biofuels have a key role to play for the road transport sector. However not all biofuels are the same - there are significant differences in terms of feedstock, "well to wheel" CO₂ production, performance and cost. We are already probably the world's largest distributor of fuel



containing bio-components, and we have technology development programs in next generation bio-components that have the potential to offer the lowest overall greenhouse gas production, without taking resources from the food chain for conversion to fuel.

It is against this background, and in an effort to ensure that EPA develops workable renewable fuel standard rules that implement the requirements set by the Energy Independence and Security Act (EISA), that we offer comments on the proposed regulations. While the attached document contains more detailed comments including supporting rationale, the following summarizes some of our key concerns.

January 1, 2010 implementation is not feasible. Even if it is possible for EPA to finalize this rule by January 1, 2010, the rule cannot be implemented by January 1, 2010. EPA should make the rule effective January 1, 2011 to give all affected parties – including foreign and domestic renewable fuel producers, refiners, blenders and importers – adequate time to implement the program.

Combining 2010 and 2011 biomass-based diesel requirements is contrary to EISA. EISA specifies the biomass-based diesel requirements for each year of the program through 2012, and thereafter specifies the conditions under which EPA can revise the required levels. EPA cannot, consistent with the law, impose a higher mandate than the law specifies.

Imposing the obligation on refiners and importers is unworkable due to the complicated four mandate structure of EISA. EPA should shift the obligation downstream to the parties that have the ability to choose which, and how much, of the various renewable fuels to blend.

The process for ensuring that renewable fuels meet EISA's definition of "renewable biomass" must be simplified. EPA has proposed an overly burdensome process that will hinder the production of renewable fuels, and impair imports, which in turn could undermine the ability of the industry to comply with EISA's mandates. We urge EPA to develop workable requirements that rely on sustainability certifications from existing 3rd party organizations.

Rather than adopting a highly uncertain indirect land use change factor, EPA should adopt appropriate sustainability criteria for biofuels. We are concerned that applying an indirect land use change factor could have a significant adverse impact on the existing biofuels industry, and the developing advanced biofuels industry. Further, unless there is a globally harmonized approach to this issue, action by EPA is likely to lead to unnecessary and counterproductive shuffling of biofuels from one jurisdiction to another.



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We appreciate this opportunity to comment on EPA's proposed RFS 2 Rules, and would appreciate the opportunity to discuss our comments further with the Agency. In the meantime, if you should have questions concerning these comments, please do not hesitate to call me.

Sincerely,

/s/ John E. Reese

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