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Chairman Long
And Members of the House Climate and Energy Policy and Finance Committee

On behalf of the American Fuel & Petrochemical Manufacturers (AFPM), thank you for the opportunity to submit comments regarding the proposed HF 2083 The Future Fuls Act, (FFA) legislation that would direct state regulating agencies to develop policy to financially penalize the use of gasoline and diesel fuel throughout Minnesota. AFPM is the national trade association representing America's fuel refineries. This includes refineries located in and supplying fuel to Minnesota.

The Minnesota Future Fuels Act aims to copy and one-up California's low carbon fuel standard (LCFS) which essentially: (1) imposes a tax on gasoline and diesel fuel producers and importers by requiring them to purchase and turn in progressively more expensive credits; and (2) subsidizes other energy producers by allowing them to generate credits for others to purchase. While California's LCFS sought a 10 percent reduction in transportation greenhouse gas (GHG) emissions in its first 10 years and a 20 percent reduction by its 20-year mark, the proposed CFS is even more aggressive, targeting a 20 percent reduction in GHG emissions by 2035, just 16 years after program implementation.

California, according to its own studies, is still far from reaching their 10-year goal, and this is in a state where massive economies of scale have raced to provide California with the liquid fuels needed to meet the demand. That demand has pushed credit prices as high as $200 per ton of CO2-equivilent in the state. These costs are a real and important consideration for Minnesota, particularly given that the FFA will force the state to compete with California for these same limited pool of alternative liquid fuels.

A new audit of California's environmental policies, including its LCFS program, found that GHG reductions have been overstated and double-counted across programs. That makes even more worrisome the earlier results from California's Legislative Analyst's Office (LAO) report that concluded the effects of the LCFS on GHG reductions are impossible to know and may be attributed to broader market shifts and other policies enacted around the same time, that may have much more cost-efficient carbon reduction records.

The LCFS Program targets reductions in greenhouse gases, on a lifecycle basis. Although there may also be some criteria pollutant emissions benefits such as NOx and particulate matter, these are small and generally from the off-road sector or from older vehicles. A LCFS program is not a cost-effective means for criteria pollutant emission reductions.

Stillwater Associates Analysis

A recent study conducted by Stillwater Associates examined California's LCFS and Oregon's Clean Fuels Program (CFP) as a benchmark for comparison to Minnesota's program outlined by SB HF 2083. HF 2083 tries to mimic California and Oregon's programs with key differences being a choice of baseline year and a different carbon intensity (CI) reduction schedule, in effect, setting much more ambitious goals in an effort to "catch up" to programs that are far more mature.

Stillwater estimated California's LCFS costs to be 23.6 cents per gallon of gasoline before oxygenate blending and 23.3 cents per gallon for ultra-low-sulfur diesel while targeting an 8.75 percent CI reduction in 2021. Minnesota's FFA would likely be even more costly in order to achieve the more ambitious proposed 20 percent CI reduction by 2035. Each increment of reduction becomes increasingly costly as it requires bigger changes in the fuel mix. Conservatively assuming that the cost increase is linear going from an 8.75 percent to 10 percent CI reduction, the proposed CFS can be estimated to increase costs to consumers by 54 cents per gallon for gasoline before oxygenate blending and 53 cents per gallon for ultra-low-sulfur diesel.

Minnesota must also consider that as vehicles become more efficient and electric car sales increase, building additional liquid biofuel capacity is a risky because these factors drive down the need for biodiesel. In addition, U.S. EPA is poised to adopt aggressive increases in federal fuel economy standards for MY 2022-26 vehicles, and these regulations and their associated costs and benefits will undermine the marginal cost-effectiveness of the CFS. In addition, Minnesota already has a mature biofuels market with mandates to include biofuels at the highest levels allowed by law. It will be difficult to lower carbon intensity by including more biofuels, causing Minnesota to achieve its reduction goals by substantially only by increasing the number of electric vehicles on the road – making HF 2083 a de facto ZEV mandate.

Policy Recommendations

The current bill is insufficient in its detail and legislative oversight while also containing CI targets that, given the experience of other state LCFS programs, would be very difficult to achieve. We would recommend several ways to enhance the FFA to give Minnesota's consumers, legislators, and regulators more flexibility and more time to build a program that is right for Minnesota. These include:

- Emissions Targets: A 20 percent reduction in emissions by 2035 is unachievable without incurring significant costs to consumers and the state. The timeline should be extended, and smaller, interim targets (such as 2 percent by 2026, 2.5 percent by 2027, etc.) should be included. Both California and Oregon initially targeted a 10% reduction in 10 years (averaging 1% per year), however, had smaller percentage reductions in the first years of the program.

- Post 2040: For years after 2040, the Legislature should determine additional reductions and the time frames for achieving them.

- Implementation: No later than 12 months after passage, the state shall complete a study regarding estimated fuel pricing impacts and economy-wide costs of the FFA. The state should publish the information and hold a stakeholder meeting to discuss the findings. The final rulemaking should be complete no earlier than 24 months after this stakeholder meeting.

- Legislative Oversight: Minnesota's Pollution Control Agency (MPCA) and the Minnesota Department of Commerce (MDC) should provide an annual report to the Legislature regarding credit generation, credit deficits and economic investments.

- Guardrails: The legislation should include an off-ramp, such as a per-gallon cost increase at which point the FFA would be suspended.

- Program Costs: The legislation is unclear here and more information is required to properly estimate the potential costs to producers, suppliers, and consumers. The legislation should call for the state to appropriate funds to implement the program.

- Emergency Deferral Process: As written, there is no way to determine what the process might be or how much this will impact prices and supplies in the state.

- Manufacturing Credits; include the ability for manufacturers to earn credits for emissions reduction projects.

- Federal Pre-emption: The legislation should include a provision to sunset the state program if the federal government adopts a similar program addressing the carbon intensity of transportation fuels.

AFPM remains open to good faith discussions about the future of all fuels in Minnesota and policies that would create cleaner transportation options for consumers. Climate change is real, our industries are responding, and we are committed to the development of sound policies that ensure growing global populations and economies have the affordable, sustainable fuels and petrochemical products they need to thrive in the years ahead. We support the adoption of policies that focus on consumers, strengthen America’s energy security, improve collective standards of living, and protect our environment.

Thank you for the opportunity to share our perspective. Should you have any questions, please contact me at dthoren@afpm.org or (202) 844-5526.

Sincerely,

Don Thoren
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