

1999 HOUSE NATURAL RESOURCES

HCR 3041

1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 3041

House Natural Resources Committee

Conference Committee

Hearing Date 2/11/99

Tape Number	Side A	Side B	Meter #
1	x	x	46.7-55.0; 0.0-6.3
Committee Clerk Signature <i>Robin L. Small</i>			

Minutes:

IN SUPPORT.....

REP. GROSZ introduces the resolution, and talks about the needs and requirements where we live . He would like to send this piece of legislation to the EPA.

LOWELL J. RIDGEWAY, ND PETROLEUM COUNCIL, is also in support. SEE HANDOUT and MAPS. REP. DEKREY asks about some of the smaller refinery plants that would be shut down and lost. RIDGEWAY replies that he knows a number of smaller refineries could not afford to do this.

DON LITCHFIELD, GNDA, is also in support of this resolution. Please SEE HANDOUT.

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House Natural Resources Committee
Bill/Resolution Number 3041.lwp
Hearing Date 2/11/99

NEUTRAL.....

FRANCIS SCHWINDT, HEALTH DEPARTMENT, would like to go on record as being neutral for this legislation. SEE HANDOUT. REP. HENEGAR would also like to put in the record that when a person is neutral for a bill, that it should be informational instead. SCHWINDT replies thank-you I think.

There was no OPPOSITION so the hearing was closed until later in the morning. REP. GROSZ asks the committee their wishes.....REP. NOTTESTAD moves for a DO PASS and to be PLACED ON THE CONSENT CALENDAR. REP> PORTER seconds the motion. The roll call vote was taken with 15 YES, 0 NO, 0 ABSENT. The CARRIER of the bill on the floor is REP. GROSZ.

Date: 2.11.99
 Roll Call Vote #: 1

1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES
 BILL/RESOLUTION NO.

House House Natural Resources Committee

Subcommittee on NCR 3041
 or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken do pass put on consent calendar

Motion Made By Nottestad Seconded By Porter

Representatives	Yes	No	Representatives	Yes	No
Chairman Mick Grosz	✓				
Vice-Chairman Dale Henegar	✓				
Representative David Drovdal	✓				
Representative Pat Galvin	✓				
Representative Duane DeKrey	✓				
Rep. Darrell D. Nottestad	✓				
Representative Jon O. Nelson	✓				
Representative Byron Clark	✓				
Representative Todd Porter	✓				
Representative Jon Martinson	✓				
Reperesentative Lyle Hanson	✓				
Representative Scot Kelsh	✓				
Representative Deb Lundgren	✓				
Representative Sally M. Sandvig	✓				
Representative Dorvan Solberg	✓				

Total (Yes) 15 No 0

Absent _____

Floor Assignment Grosz
 If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE (410)
February 11, 1999 12:11 p.m.

Module No: HR-28-2579
Carrier: Grosz
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HCR 3041: Natural Resources Committee (Rep. Grosz, Chairman) recommends DO PASS and BE PLACED ON THE CONSENT CALENDAR (15 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HCR 3041 was placed on the Tenth order on the calendar.

1999 SENATE NATURAL RESOURCES

HCR 3041

1999 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HCR3041

Senate Natural Resources Committee

Conference Committee

Hearing Date March 4, 1999

Tape Number	Side A	Side B	Meter #
1		x	3980-5300
Committee Clerk Signature <i>Sylvia A. Hagen</i>			

Minutes:

SENATOR TRAYNOR opened the hearing on HCR3041: A CONCURRENT RESOLUTION URGING THE ENVIRONMENTAL PROTECTION AGENCY TO REDUCE GASOLINE SULFUR LEVELS TO PROVIDE THE FLEXIBILITY OF A REGIONAL APPROACH THAT WILL MAXIMIZE AIR QUALITY BENEFITS AND TO PROPOSE REGULATIONS REDUCING VEHICLE ADMISSIONS IN RECOGNITION THAT FUELS AND VEHICLES WORK IN TANDEM AND NEITHER FUELS NOR VEHICLES CAN BE ADDRESSED IN ISOLATION.

REP. GROSZ explained HCR3041 was introduced because the EPA is in the process of coming up with sulfur admission rules. This resolution encourages EPA to do is look at the different sections of the country instead of one size fits all, or else this will hurt us in ND because of the distances we drive to different points in the state.

LOWELL RIDGEWAY, ND Petroleum Council testified in support of HCR3041. (See attached testimony)

SENATOR REDLIN asked since we have cleaner air, can we use dirtier gas.

LOWELL RIDGEWAY replied our gasoline should not have to meet the same high standards because it is going to impact our pocketbooks of from 5-6 cents per gallon. We would have to burn this gas in our part of the country where our air quality standards are far cleaner than they are in other parts of the country that have environmental problems.

SENATOR TRAYNOR asked is there some urgency for HCR3041.

LOWELL RIDGEWAY replied yes because EPA has sent their recommendations to OMB with their price tag attached. I would like to think that a resolution from ND has some substance with the EPA and that it reaches them in time.

DON LITCHFIELD, GNDA testified in support of HCR3041 and urged a DO PASS. (See attached testimony)

SENATOR TRAYNOR closed the hearing on HCR3041.

SENATOR FREBORG moved for a DO PASS, seconded by SENATOR CHRISTMAN. Roll call vote indicated 6 YEAS, 0 NAYS, 0 Absent and not voting. SENATOR FREBORG volunteered to carry the bill.

Roll Call Vote #: 1

Date: 3-4-99

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HCR 3041

Senate Natural Resources Committee

Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken Do PASS

Motion Made By Freborg Seconded By Christmann

Senators	Yes	No	Senators	Yes	No
Senator John T. Traynor, Chr	✓				
Senator Tom Fischer, Vice Chr	✓				
Senator Randel Christmann	✓				
Senator Layton Freborg	✓				
Senator Joel C. Heitkamp	✓				
Senator Rolland W. Redlin	✓				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Freborg

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE (410)
March 4, 1999 12:45 p.m.

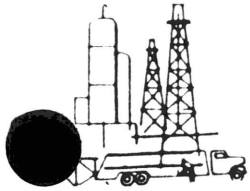
Module No: SR-39-4023
Carrier: Freborg
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HCR 3041: Natural Resources Committee (Sen. Traynor, Chairman) recommends DO PASS (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HCR 3041 was placed on the Fourteenth order on the calendar.

1999 TESTIMONY

HCR 3041



NORTH DAKOTA PETROLEUM COUNCIL

A DIVISION OF THE AMERICAN PETROLEUM INSTITUTE
and the
ROCKY MOUNTAIN OIL AND GAS ASSOCIATION

LOWELL J. "RED" RIDGEWAY
EXECUTIVE DIRECTOR

MARSHA REIMNITZ
OFFICE MANAGER

701-223-6380 FAX: 701-222-0006
120 N. 3RD STREET • SUITE 225
P.O. BOX 1395
BISMARCK, ND 58502-1395

Testimony on House Concurrent Resolution 3041

The petroleum industry has proposed federal regulations for producing two cleaner, lower sulfur gasolines for all areas of the nation not using reformulated gasolines. The new gasolines would help states reduce polluting emissions without forcing those with minimal air quality problems to pay more than needed to address them

While the industry would cut gasoline sulfur levels in half under its proposal, it has also pledged to continue to work with the U.S. Environmental Protection Agency (EPA) to ensure that longer-term air quality concerns are addressed. This commitment could result in requirements for additional reductions in sulfur.

EPA considers regulations

The industry's proposal anticipates likely new EPA regulations. As required by the 1990 Clean Air Act Amendments, EPA is evaluating whether more stringent tailpipe emission standards will be needed to help the nation achieve its air quality goals. These standards could be proposed yet this month, with implementation phased in later, probably beginning in 2004. EPA could establish regulations lowering gasoline sulfur levels according to the same timetable.

Industry's proposal

The petroleum industry is proposing regulations that would result in two new lower sulfur gasolines, cutting sulfur levels about in half. Conventional gasoline today has an average sulfur content of about 350 ppm with a cap per gallon of 1,000 parts per million (ppm).

The first new lower sulfur gasoline would have an average sulfur level of no more than 150 ppm with a cap per gallon of 300 ppm. It would be used in states and areas east of the Mississippi River plus Louisiana, Missouri and East Texas where air quality problems are generally more significant. The only areas in this region not using this new fuel would be those using federal reformulated gasoline, although it would have the same low sulfur level.

The second new gasoline would have an average sulfur level of no more than 300 ppm with a per gallon cap of 450 ppm. It would be used in most of the rest of the nation, including North Dakota, except for California, which already severely limits gasoline sulfur content.

The petroleum industry would provide its new gasolines in 2004 or when the new tailpipe emission standards are implemented, whichever occurs first. It would use the period until then to make changes to refineries and distribution facilities needed to provide the new gasolines. States using the proposed 300 ppm sulfur level gasoline could opt to use the 150 ppm alternative, provided they demonstrate a need for the fuel under provisions in the Clean Air Act.

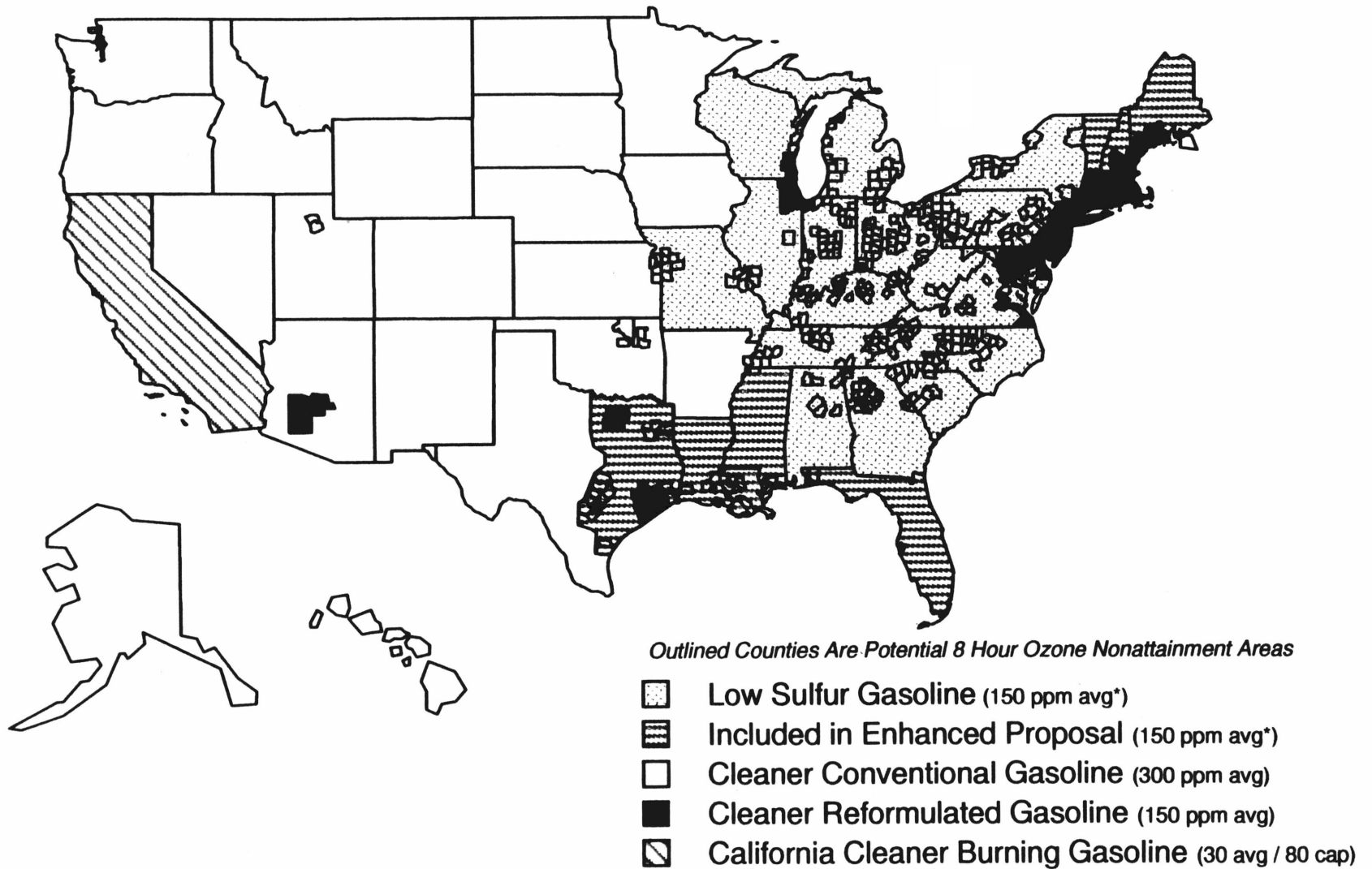
Cleaning the air

The new lower sulfur gasolines proposed by industry would reduce NO_x and other tailpipe emissions, which contribute to air pollution. They would assist in cutting emissions in future cars and also in all existing cars, helping cities and other areas working to comply with the new, recently established national air quality standards for ozone. The 150 ppm sulfur gasoline would have the effect of eliminating the emissions of more than 20 million vehicles.

Costs

The proposed new lower sulfur gasolines would cost no more to make because the refining industry must invest roughly \$3 billion in new processing equipment. While these higher costs would tend to affect retail pump prices, the precise impact cannot be accurately predicted. Forcing sulfur levels substantially lower than the industry has proposed -- for example, to a "California level" with a per gallon cap of 80 ppm, as called for the automakers -- could mean additional manufacturing costs above the cost of making today's conventional gasoline of as much as 5 cents to 6 cents per gallon.

Petroleum Industry's Cleaner Gasoline Proposal



Map illustrates petroleum industry proposal for EPA regulation

*parts per million sulfur annual average



OFFICE OF THE GOVERNOR

STATE CAPITOL
DES MOINES, IOWA 50319
515 281-5211

TERRY E. BRANSTAD
GOVERNOR

May 20, 1998

Ms. Margo T. Oge
Director, Office of Mobile Sources
US Environmental Protection Agency
401 M Street, S.W.
Washington, D.C. 20460

Dear Ms. Oge:

We the undersigned governors are very concerned with your effort to adopt new gasoline sulfur requirements as part of the agency's program to address the need for tighter emissions standards for cars. We want to ensure that any action taken by EPA in our states is consistent with the air quality needs so that consumers don't have to pay unnecessary costs.

We are proud of the air quality in our states and will take prudent actions to continue to assure clean air for our citizens. We participated in the Ozone Transport Assessment Group's analysis of ozone formation and transport. That analysis confirmed the high quality of our air and showed that our states don't contribute significantly to the ozone problem. EPA agreed in a letter it sent to our states assuring us that we would not be required to participate in any requirements from the Ozone Transport Assessment Group. In the subsequent proposed rule for ozone transport, the agency determined that our states were not significantly contributing to the problem and that no further emissions controls are necessary.

We are now aware that in a separate but related effort, EPA is proceeding with a program to analyze the need for cleaner cars. This includes the agency's intent to reduce sulfur levels to improve air quality and assure compatibility with cleaner cars. EPA is looking at two proposals. The first would apply very stringent California gasoline sulfur levels to all states. The second proposal would require lower sulfur levels in gasoline to be sold in the 22 states that EPA has identified as significantly contributing to the ozone transport problem. This proposal would also reduce gasoline sulfur in states without air quality problems but would not require the sale of the more expensive California-type gasoline. Both proposals would allow auto manufacturers to sell cleaner cars nation wide.

Given that the cost to produce the California-type gasoline is about a nickel more per gallon than that needed to assure the availability of cleaner cars in our states, we strongly recommend that EPA adopt a program that tailors the stringency of gasoline regulations with the need. This prudent approach would avoid millions of dollars in unnecessary costs to our motorists, many of which have to travel many miles to work, school and other activities. Increased gasoline costs

Ms. Margo T. Oge
May 20, 1998
page 2

also have significant ramifications for our tourist businesses that provide the livelihood for many of our citizens.

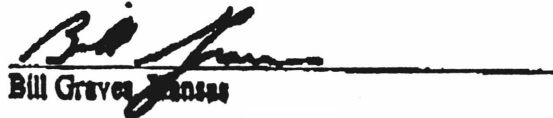
Our states do not have the air quality problems like California. That doesn't mean we shouldn't do anything. EPA should adopt an approach to gasoline that assures that cleaner cars will help maintain the clean air we currently enjoy but without the excess cost of a California-type gasoline.

Sincerely,


Terry E. Reinstad, Iowa


William J. Janklow, South Dakota


Ed Schafar, North Dakota


Bill Graves, Kansas


E. Benjamin Nelson, Nebraska

Congress of the United States

Washington, DC 20515

July 24, 1998

The Honorable William Jefferson Clinton
President
The White House
Washington, DC 20520

Dear President Clinton:

The Environmental Protection Agency (EPA) has recently proposed a regulation to address regional haze in class I areas (national parks and wilderness areas). Regional haze obscures visibility and is caused by natural sources as well as various manmade sources of air pollution, such as industrial facilities, motor vehicles and prescribed burning. One of the goals of the Clean Air Act is to address existing manmade visibility impairment and prevent future impairment in class I areas.

State and local governments, businesses, and citizens have dedicated themselves to improving air quality and have expended significant resources to achieve that goal. In fact, according to EPA's most recent "National Air Quality and Emissions Trends Report," visibility has generally improved in many class I areas as a consequence of various Clean Air Act programs. Visibility is expected to continue to improve in many areas as the Title IV acid rain program and the national ambient air quality standards of ozone and fine particles reduce emissions further.

While we support programs to improve and protect visibility, we strongly urge that the regional haze regulation proposed by EPA be substantially modified in accordance with recommendations from the states. To date, over forty states have commented on the proposal and recommended making significant changes to the rule. In addition, Congress recently addressed one significant problem with the proposed rule by adopting language to align the implementation schedules for the regional haze program and the new PM 2.5 standard.

In short, there is an unusual amount of agreement about how to improve the proposal. We want to add our voices to this strong consensus and urge EPA to modify the proposal by adopting the following changes recommended by the states:

- Allow other regions of the country to create their own regional commissions as called for by the Clean Air Act and allow them to adopt and implement the proposals they develop. We should build upon the success of the Grand Canyon Visibility Transport Commission process and encourage regional and intergovernmental cooperation;
- Allow states adequate time to develop their visibility improvement programs;
- Allow states to rely on Clean Air Act criteria to design their own programs to measure visibility improvement rather than forcing compliance with the inflexible measures contained in the proposal. This can be accomplished by eliminating the 1 deciview presumptive target and BART requirement; and

- Provide more funding and technical guidance to the states for implementation.

In addition, EPA is negotiating with the Western Governors Association on changes to the proposal consistent with the recommendations of the Grand Canyon Visibility Transport Commission. Governors from other regions of the country must be given a similar opportunity to negotiate with EPA on their concerns with the proposed rule.

We support these and other measures to improve the current proposal to harmonize the regional haze program with other requirements of the Clean Air Act. This will result in a final regulation that ensures protection of visibility while responding reasonably to the concerns of states who are responsible for Clean Air Act implementation.

Sincerely,

Ed Strickland

Earl Pomeroy x

Jim Jones

Cheryl

Glenn Paul

Bob Cramer

Marvin Berry

Harold Bump

Doug

United States Senate

WASHINGTON, DC 20510

December 1, 1998

The Honorable Carol M. Browner
Administrator
U.S. Environmental Protection Agency
401 M Street, SW
Washington, D.C. 20460

Dear Administrator Browner:

The Environmental Protection Agency is currently considering implementation of sulfur regulation which we feel threatens the prosperity of many of our states' residents. The proposed Tier 2 emission standards are certain to adversely impact the small refineries located in Rocky Mountain and other rural states. While automakers support the imposition of California gasoline sulfur standards nationwide, such standards had a devastating impact on small refineries in that state. Since our region and other rural areas depend heavily on small refineries for fuel supply, the agency must not set fuel sulfur standards that are excessive or beyond the reach of these facilities.

As you know, Congress mandated the use of several yardsticks in the creation of Tier 2 standards: air quality need, feasibility, and cost-effectiveness. This criteria will obviously yield different answers when applied to regions as dissimilar as California and rural America. Our states enjoy a high degree of compliance with National Ambient Air Quality Standards compared to the nation at large. California standards are simply not feasible for many small, regional refineries. And with EPA/DOE cost estimates of five to eight cents a gallon for 40 ppm sulfur control, families in the West would spend \$150 or more a year for the regulation. Therefore, we urge EPA to take into account the Tier 2 factors -- as they relate to rural states -- when setting sulfur standards for gasoline.

The U.S. petroleum refining industry has developed an equitable solution based on regional air quality need and cost. This approach attempts to balance the Tier 2 criteria noted above. Regional consideration of fuel standards would help prevent overregulation while reducing costs to consumers and industry. This approach has been endorsed by numerous governors in Rocky Mountain and Central Plains states who also advocate the adoption of a national gasoline sulfur regulation, based on regional standards.


September 9, 1998
Page 2.

We strongly endorse the agency's recent attempts to expand this discussion by consulting with refiners and other stakeholders from western, rural states. Regrettably, consultations, analysis, and debate on low emission vehicles and fuels have thus far centered in the East. Involvement on these matters must range more broadly. The support of refiners, governors, and other stakeholders in rural states is essential to avoid compliance problems and for gasoline sulfur regulation to succeed.

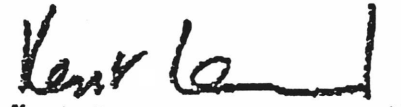
We support the reduction of sulfur levels in gasoline to continue clean air progress. As EPA proceeds with fuel sulfur regulation, we urge EPA to consider regional uniqueness and to balance the Tier 2 factors of need, feasibility, and cost as required by Congress.

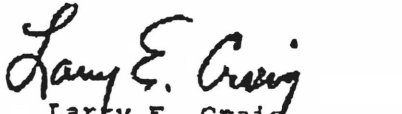
Sincerely,

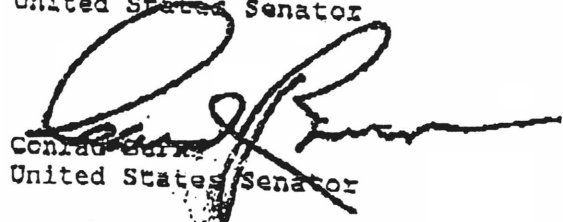

Orrin G. Hatch
United States Senator


Byron L. Dorgan X
United States Senator

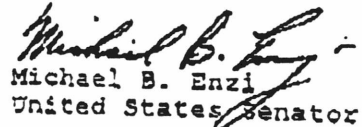

Robert F. Bennett
United States Senator


Kent Conrad X
United States Senator


Larry E. Craig
United States Senator


Conrad Burns X
United States Senator


Craig Thomas
United States Senator


Michael B. Enzi
United States Senator


Wayne Allard
United States Senator

House Natural Resources Committee
Representative M. Grosz, Chairman
February 11, 1999

House Concurrent Resolution 3041

Mr. Chairman, Members of the Committee:

My name is Don Litchfield and I am Chairman of the Greater North Dakota Association (GNDA) Regulatory Affairs Committee, and I am testifying today on behalf of GNDA.

GNDA understands the Environmental Protection Agency intends to reduce sulfur levels in gasoline to improve the nation's air quality and assure compatibility with cleaner fuel-burning automobiles. GNDA agrees that sulfur in gasoline should be reduced to provide air quality benefits. GNDA also recognizes reducing sulfur can have a significant economic effect on the citizens of North Dakota. That is why we support the regional approach outlined in HCR 3041 which recognizes state differences.

GNDA believes the Environmental Protection Agency must take a common-sense approach to this issue. North Dakota does not have California-type air quality problems and does not need a California solution. Other states may or may not need more stringent sulfur reductions to solve their air quality problems and EPA must recognize those differences.

GNDA knows North Dakotans are sensitive to gasoline price increases because they drive so many miles due to geography. Therefore, it is doubly important to us that the EPA use a common-sense approach to this issue and permit regulations recognizing the differences among the states.

GNDA supports HCR 3041, and urges a DO PASS on this Resolution.

D. K. Litchfield, Chairman
GNDA Regulatory Affairs Committee

EPA TO PROPOSE CAP-AND-TRADE SYSTEM FOR SULFUR IN GAS

EPA is seriously considering floating proposed regulations as early as next month that would lower sulfur levels in gasoline through a cap on sulfur content and a system for trading sulfur "credits" between refineries, sources familiar with the proposal say.

Under the plan EPA is expected to propose, the agency would gradually reduce sulfur levels in gasoline over the coming years and by 2006, sulfur levels would have to average 30 parts per million (ppm) with a maximum at 80 parts per million, sources familiar with the proposal say.

In the meantime, the proposal would create a cap-and-trade system. For example, EPA may set an initial sulfur cap at around 200 or 240 ppm that would gradually decrease, with a "trigger" for generating credits at about 150 ppm. In order to generate sulfur credits, oil companies must produce gasoline below 150 ppm, getting credit for achieving levels lower than 150 ppm, if their current "baseline" is higher.

The final levels in 2006 are likely to mirror regulations adopted by California and Canada. The credit trading system will allow smaller refineries — mostly located in the Rocky Mountains — that lack the economies of scale to cheaply lower sulfur levels to trade in sulfur credits with larger refineries until the final cap takes effect early next century.

As early as next month, EPA will float regulations designed to set maximum sulfur levels in gasoline as well as new tailpipe "Tier II" emission standards. Automobile manufacturers have long sought to lower sulfur levels in gasoline because sulfur incapacitates catalytic converters designed to reduce tailpipe emissions. Auto industry officials have even signalled to EPA that they could manufacture light trucks and sport utility vehicles that could conceivably meet strict Tier II tailpipe emissions set for smaller cars if EPA reduces sulfur levels in gas.

The potential move has received strong support from some segments of the oil and oil refinery industry, because it allows smaller refineries to survive the new regulations and larger ones to profit from the trade in credits. But other industry officials note that the proposal could have the affect of penalizing companies that have made early efforts to reduce sulfur levels in gasoline — such as facilities in California — because their lower initial "baseline" sulfur levels would not allow the companies to generate credits, industry sources explain.

Also, gradual reductions with a hard "cap" could devalue sulfur credits because the cap could force companies to invest in the sulfur-reducing technologies — or go out of business — simply to meet the initial caps.

But the proposal still has received strong support from some segments of the industry. BP Amoco Chief Executive Officer Sir John Browne this week announced that the oil giant will begin reducing sulfur levels in gas immediately. In the announcement, Browne argued that "We need supportive regulation which works through targets and incentives rather than through prescriptive regulation and imposed costs. That regulation should, for instance, encourage trading — which I believe may have a major role to play in driving down fuel sulfur levels."

EPA Administrator Carol Browner told *Inside EPA* this week that the credit trading program for sulfur "is a possibility." But some sources from the automobile and oil industries disagree on how the system will work on reducing air pollution, because a credit trading system will allow some relatively high-level gasoline into the market. The two sides disagree on whether catalytic converters will recover from the damage caused by the sulfur.

Finally, some oil industry officials warn that reducing sulfur levels in gasoline in conjunction with other regulatory activities could arguably lead to gasoline shortages. For example, EPA is considering the efficacy of regulating the amount of methyl tertiary butyl ether (MTBE) in gasoline, currently added to boost octane levels to burn more cleanly. But the MTBE both increases the octane levels in gas and increases the volume dramatically because of the sheer volume of MTBE added. So, if MTBE is eliminated from gas, refiners will be forced to process more gasoline, further boosting costs. In short, refiners say they cannot reduce MTBE levels, correspondingly refine gas further, and reduce sulfur levels simultaneously and continue current supplies of gas.

"There is no question that there will be gasoline shortages if we have to do both of those in a hurry," one refinery industry official says. — *Mark Benjamin*

Senate Natural Resources Committee
Senator J. Traynor, Chairman
March 4, 1999

House Concurrent Resolution 3041

Mr. Chairman, Members of the Committee:

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D. K. Litchfield, Chairman
GNDA Regulatory Affairs Committee