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WRITTEN STATEMENT OF

COUNTRYMARK COOPERATIVE HOLDING CORPORATION

AS SUBMITTED TO THE

SUBCOMMITTEE ON ENERGY AND POWER

Committee of Energy and Commerce
United States House of Representatives

On

"The American Energy Initiative"

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I. Introduction

Chairman Whitfield, Ranking Member Rush and Members of the Subcommittee, thank you for giving me the opportunity to testify in today's hearing on the "The American Energy Initiative." I'm Charlie Smith, and I serve as President and CEO of Countrymark Cooperative (CountryMark). As the EPA continues to develop and promulgate regulations that control Greenhouse Gas (GHG) emissions, I believe it is important for Congress to understand how the GHG regulatory process will impact and affect companies such as CountryMark.

CountryMark is Indiana's only American-owned oil refining and marketing company, and is recognized nationwide as a leader in the distribution of biodiesel and ethanol. The CountryMark refinery uses 100% American crude oil sourced from the Illinois Basin located in Illinois, southwest Indiana, and western Kentucky. Our refinery processes 27,000 barrels of crude per day, which represents only 0.15% of the entire domestic refining industry. Our capacity is 1/10 the size of the average refinery in our region. Even though CountryMark is small from an industry perspective, we have a large impact on the State of Indiana, southeast Illinois and western Kentucky. CountryMark supplies over 75% of agricultural market fuels, and 50% of school district fuels in Indiana.

CountryMark is owned and controlled by its member cooperatives which are owned and controlled by individual farmers within our trade territory. Over 100,000 farmers in Indiana, Michigan and Ohio participate in these local cooperatives, through which they enjoy ownership in CountryMark. CountryMark's Board of Directors is controlled by farmers. Each year, profits are distributed back to farmers via the cooperative system. These cash distributions remain in rural communities, where the dollars support local economies.

CountryMark is a Small Business Refiner (SBR), and along with most other SBRs, we are located in rural America. We, therefore, have our strongest economic impact in the rural communities we serve. We purchase over $800 million of crude oil per year from the Illinois Basin. These purchases provide income to the 40,000 royalty owners. Our products are sold and distributed through our branded dealer network, providing solid employment throughout the rural communities of Indiana.

CountryMark's operations employ nearly 450 workers, mostly in the rural economy of southwest Indiana and southeast Illinois. In Posey County, Indiana alone, a county with only 26,000 residents, over $30 million in wages and benefits are provided each year. These wages are over twice the local average,

and are paid mostly to hourly workers who have little or no local opportunity for other similar employment.

In addition to the positive financial impact of CountryMark's crude purchases and payroll, the company contributes over $200 million into the local economy for the purchase of other goods and services. With everything combined, CountryMark's total economic impact exceeds $2.5 billion per year. This money stays here in America's heartland, and provides much needed jobs in mostly rural communities.

All SBRs compete in a highly competitive global commodity market where both U.S. and foreign competition influence refining margins and economics. Unlike large, fully integrated oil companies, we only operate between two commodity markets: 1) the crude oil market and 2) the gasoline and diesel fuel markets. We purchase crude oil that is priced in the global market, refine it, and sell our products into the highly competitive refined product market. Between these two markets, CountryMark survives by controlling our costs compared to other fuel suppliers.

Regulations and mandates increase operating costs, which in turn, negatively impact SBR's ability to manage costs of operations. This regulatory cost impact affects all refiners, but especially SBRs such as CountryMark, due to our small scale. When a refiner cannot pass on or absorb these costs they go out of business. The result is reduced domestic refining capacity, loss of high-paying manufacturing jobs and higher fuel costs for the consumer.

The following sections explain how current, proposed and potential future GHG regulations individually, and in combination, drive up our costs. These higher costs are either passed on to the consumer in the form of increased gasoline or diesel prices, or the refinery goes out of business when the costs exceed the capitol reserves or credit of the refinery; in the case of an SBR, reserve capital and credit are insufficient and do not provide a long term solution.

In addition, several regulations have conflicting consequences, so our industry ends up in between the proverbial rock and a hard place. Regulatory development must be coordinated and use a holistic approach to ensure cumulative costs are taken into account and unintended consequences are mitigated.

II. GHG Reporting Rule

In October 2009, the U.S. Environmental Protection Agency (EPA) issued the final Mandatory Reporting of Greenhouse Gas rule, which required facilities that emit greater than 25,000 metric tons of GHG's per year to submit annual reports to the EPA. During the months leading up to the final rule, both CountryMark and the ad-hoc group of SBRs commented on the proposed rule. I would like to highlight two of those comment areas; specifically, 1) compliance cost and 2) de minimis emissions.

1. **Compliance Cost:** From our perspective, the EPA is ignoring the reality of the actual cost of compliance. In the proposed rule, EPA estimated that the cost of compliance with the GHG reporting rule was small, and therefore did not have a significant impact on businesses, including SBRs. For example, the EPA's cost estimate for installation of Continuous Emission Monitoring Systems (CEMS) was $9,500 per refinery. With this presumed minimum impact, the EPA did not establish a Small Business Regulatory Enforcement and Fairness Act (SBREFA) process to investigate the negative impacts on SBRs and determine flexibility options. CountryMark's actual cost to install the required CEMS was $450,000 - 47 times more expensive than the EPA's estimate. First year set-up and compliance cost exceeded $750,000. Over the next ten years, the cost to comply with this rule alone will exceed $4 million.

2. **De Minimis Emissions:** According to 2010 data published by the EPA, the entire refining industry represents only 5.7% of the 3.2 billion metric tons of reported stationary sources of GHGs. CountryMark's 199,913 metric tons is 0.00625% of the total reported GHG emissions. Not only does the refining industry contribute a small percent to the economy's overall GHG emissions, but CountryMark's contribution is infinitesimal. Any rational regulatory approach would recognize CountryMark's GHG emissions as de minimis. However, CountryMark is subject to this regulatory burden, and in fact, it increased our operating cost disproportionately to the overall impact that our refinery has to global GHG emissions, while raising the cost of fuel to consumers. This rule, and its conseqeunces, are not isolated in their affect, and in fact, interact with other rules to create even larger negative consequences.

III. GHG Tailoring Rule

In May 2010, the EPA issued its final rule addressing GHG emissions from stationary sources under the Clean Air Act (CAA) permitting programs. This final rule sets thresholds for GHG emissions that define when permits under the New Source Review Prevention of Significant Deterioration (PSD) and Title V Operating Permit programs are required for new and existing industrial facilities. Under the tailoring rule, existing facilities with carbon dioxide emissions exceeding 100,000 metric tons per year are required to obtain an updated operating permit. In addition, facilities that would implement modifications increasing carbon dioxide emissions by 75,000 metric tons per year would require a PSD permit. Both thresholds were set to limit the number of GHG permits that would be required throughout the national economy. Because CountryMark's GHG emissions exceed 100,000 metric tons per year, CountryMark will need to update its Title V permit for our current operations. However, due to our size, any modifications we would make would most likely have emissions less than 75,000 metric tons, and therefore, not require a GHG PSD permit. To illustrate this point, a small facility like CountryMark's 27,000 barrel per day refinery has process heaters and boilers that average approximately 30 MMBTU/Hr. This results in approximately 15,000 metric tons per year of GHG emissions. This is well below the 75,000 metric ton threshold set by the GHG tailoring rule. Therefore, in the current environment, CountryMark would be able to replace obsolete equipment with improved modern equipment without the unnecessary and misplaced requirements of a PSD permit.

CountryMark is preparing to operate under the current tailoring rule. However, decreasing the tailoring rule limits would put significant regulatory pressure on CountryMark, especially with regards to replacement of obsolete equipment or making improvements. Without the ability to upgrade, CountryMark would eventually not be able to operate and potentially go out of business. The EPA has not indicated significant upcoming changes to the tailoring rule limits at this time. However, of great concern is that EPA has indicated they intend to further restrict GHG emissions for the refining sector applying another concept called New Source Performance Standards (NSPS).

IV. New Source Performance Standards

CountryMark participated as a Small Entity Representative (SER) on Small Business Advocacy Review (SBAR) panels for both the Tier 3 Fuels and the "Petroleum Refinery Sector Risk and Technology Review and New Source Performance Standard" proposed rule makings. Meetings were held for both panels on June 28, 2011 and August 18, 2011. The SERs are on record stating the information provided as part of the "Petroleum Refinery Sector Risk and Technology Review and New Source Performance Standard" was inadequate for the purpose of providing flexibility options to the EPA from the SERs.

At the SBAR panel meetings, the EPA articulated how they intended to further control GHG emissions only in refineries, below the tailoring rule limits that apply to the general economy. CountryMark was able to evaluate the impact of the EPA's intentions to lower the GHG limits below those stipulated in the tailoring rule. By uniquely regulating GHG emissions from only the U.S. refining sector, the EPA directly threatens small refineries such as CountryMark, since we lack the ability to pay for costly and arbitrary regulations.

Unlike the tailoring rule, meeting NSPS requirements may involve Best Available Control Technology (BACT). BACT is usually applicable to larger sources, because economic considerations are part of the determination. For smaller facilities, BACT implementation is typically uneconomical, because the size of the equipment and de minimis emissions cannot justify the cost. For example, at large refineries with fired process heaters that burn 100's of millions of British Thermal Units (BTU) an hour, BACT equipment includes expensive air pre-heat equipment. In these situations, this makes economic sense because BACT equipment optimizes energy input costs. At a small refinery like CountryMark's, the smaller sized process heaters are a natural draft design and do not have air pre-heat. For small process heaters, BACT could add more that 50% to the cost of the new equipment. The additional cost of installing BACT equipment at a small refinery would not provide a commensurate energy savings while threatening our viability.

If the EPA uses the NSPS rulemaking to drive GHG limits to statutory limits of 100 and 250 metric tons, it would be orders of magnitude more stringent than the tailoring rule. Since most SBRs are sensitive to capital costs, the additional increase required to meet the stricter limits would make most modifications uneconomical, limiting or precluding growth at our refinery, and thus threatening our jobs.

The EPA also told the SERs they were considering energy management and intensity benchmarking as additional ways to further reduce GHG emissions through the proposed NSPS rulemaking. There are significant problems with these prescriptive approaches to reducing GHG emissions.

1. **Energy Management:** Energy costs are a very high expense item in a refinery. Economic realities for refineries have already forced operators to undertake energy management programs in order to optimize and reduce energy costs, which have already lowered GHG emissions. In 2007, CountryMark implemented an energy program where the primary energy savings were achieved from tuning and optimizing excess air in heaters and boilers. Significant investment was made for program implementation. The EPA discussed prescriptive requirements for meeting stringent energy management goals. The EPA's type of approach would increase compliance costs due to reporting requirements alone. Prescriptive EPA rules do not allow for innovation and typically cost more to implement than EPA estimates. Any energy management program should be performance- based and flexible enough to allow existing programs to meet compliance objectives.

2. **Intensity Benchmarking:** Intensity benchmarking would compare every refinery to the same standard developed by the EPA. The problem with the EPA setting standards is that no two refineries have the same capacity, complexity or feed stock. Based on past experience with benchmarking programs, the impacts on small refineries are inadequately understood by the EPA's approach. Small refineries do not have the economies of scale. Even on a process by process basis, small facilities have limited opportunities for heat integration. Also, since a large facility has more power demand, its scale provides opportunities for co-generation facilities which also improve efficiency. This is not true in a small facility. Benchmarking has to account for complexity of processing units and power generation. Physical equipment size should be taken into account. Treating small refineries and larger complexes the same is like comparing apples to oranges. A prescriptive approach to benchmarking has the potential to inadvertently drive SBRs out of business due to disproportional economic impacts of ignoring facility size in the equation.

In the end, it appears that the EPA is headed toward further restricting GHG emissions from refineries even though the tailoring rule as it now stands would not require dramatic changes for small refiners. A one-size-fits-all approach is clearly inappropriate and, if done, would further damage CountryMark's

ability to stay in business. The EPA's approach outlined in the SBAR panel meetings presents uncertainty as to how the EPA will further reduce the threshold for GHG permits requiring BACT. Implementing BACT for small sources would have diminishing returns since the cost would be high but the incremental reduction would be very small. The EPA even admitted in the SBAR panel meetings that reductions from refinery process heaters and boilers would only be in the 1-3% range. With the entire refining industry only contributing 5.7% of GHG emissions, stringent requirements for process heaters would only reduce national GHG emissions by 0.17%. This begs the question as to why require additional expense, which will threaten our existence, for minimal returns?

V. Conflicting Requirements

The EPA's Clean Air Highway Diesel rule and Non-road Diesel rule requires that only 15 parts per million (ppm) of sulfur diesel fuel be sold on and off-road. To achieve compliance with this requirement and continue to stay in business, CountryMark was required to construct and start-up a Distillate Hydrotreater (DHT) unit in 2006. This project also included construction of sulfur recovery facilities, resulting in a total cost of approximately $50 million. The annual operating cost for the DHT is $4.4 million.

The EPA's Tier 2 Gasoline rules required that gasoline sulfur be reduced to 30 ppm. To comply, CountryMark has constructed a Low Sulfur Gasoline (LSG) unit in order to continue to sell product and stay in business. The LSG unit cost was $33 million and has an annual operating cost of $1.8 million per year.

The EPA has indicated it will soon propose Tier 3 gasoline regulations that would further reduce sulfur in gasoline from 30 ppm to 10 ppm. CountryMark has estimated that complying with this additional requirement has potential capital costs of $15 million and increased operating costs of over $200,000 per year.

Removing sulfur from diesel fuel and gasoline takes hydrogen and energy, which in turn, significantly increases CountryMark's GHG emissions. Prior to installing desulfurization capabilities, CountryMark purchased minimal amounts of natural gas for combustion. Instead, excess hydrogen produced by reforming was burned in process heaters resulting in minor GHG emissions. This hydrogen is now required to remove sulfur from diesel fuel and gasoline. CountryMark now purchases natural gas for

combustion in process heaters. In addition, desulfurization takes energy which requires additional process heaters and increased steam production. Therefore, the energy intensity of the refinery has increased, due to additional fired sources. These two effects combined have increased refinery GHG emissions by 10-15%.

CountryMark spent or will spend nearly $100 million over a ten year period to comply with EPA's low sulfur fuel requirements just to stay in business. These changes have increased GHG emissions. Now with GHG reductions looming on the horizon, CountryMark and other SBRs will be penalized through GHG regulation for complying with other EPA requirements. Even with the increased GHG emission due to removing sulfur from fuels, CountryMark still only contributes an infinitesimal fraction (0.00625%) to the nation's GHG emissions.

VI. Cap and Trade

In addition to those issues outlined in previous sections, the specter of implementing potential limits on GHG emissions through a cap and trade regime is still within EPA's power. A GHG regulatory regime of the variety discussed in Congress in 2009 would be devastating to CountryMark. The first year compliance costs could exceed annual income, as was the case with some prior legislative proposals. CountryMark would not be able to absorb the high compliance costs and remain economically viable. Therefore, CountryMark and the rest of the industry would need to pass those additional costs on to consumers in the market or go out of business.

VII. Conclusion

CountryMark operates in a highly competitive commodity market, where oil prices and refining margins are influenced by global events beyond our control. Regulations and mandates increase capital requirements, operating costs and product costs, which in turn make refiners, especially those SBRs like CountryMark, less competitive. When refiners cannot pass on these costs to the consumer, or absorb these costs, they go out of business. The result is reduced domestic refining capacity and consequentially higher gasoline and diesel costs for the consumer. If domestic refining capacity is reduced, EPA regulations will actually increase U.S. demand for imported fuels and consumer prices will increase.

Regulation of GHG poses a significant threat to CountryMark, other SBRs and the domestic refining industry. The refining industry as a whole only contributes 5.7% of the nation's GHG emissions reported from stationary sources. The EPA admits that regulating the refining industry will only lower GHG emissions by 1-3% for process heaters and boilers. For example, assuming refinery GHG emissions were reduced by 5% and according to published reports the United States contributes approximately 18% of global GHG emissions, regulating GHG for refineries has the potential to reduce (5.7% x 5% x 18% =) 0.00051% of global GHG emissions. The potential cost of compliance is high for very small impacts on global GHG. Capital and expense that is spent on regulatory compliance cannot be spent on growth opportunities that lead to higher employment. If these costs cannot be absorbed or passed on to the consumer, refiners will shutdown. Either way, costs will increase in the long term as refining capacity is rationalized.

CountryMark fully supports any legislation that would impose rational and realistic cost analysis, cumulative impact analysis and congressional approval of the EPA's ability to regulate GHG emissions from the refinery industry and especially SBRs like CountryMark.

Table of Acronyms

BACT	Best Available Control Technology
BTU	British Thermal Unit
CAA	Clean Air Act
CEMS	Continuous Emissions Monitoring System
DHT	Distillate Hydrotreater
EPA	U.S. Environmental Protection Agency
GHG	Greenhouse Gases
LSG	Low Sulfur Gasoline
MMBTU/hr	Million British Thermal Unit per hour
NSPS	New Source Performance Standard
NSR/PSD	New Source Review Prevention of Significant Deterioration
PPM	Parts per Million
PSD	Prevention of Significant Deterioration
SBAR	Small Business Advocacy Review
SBR	Small Business Refiner
SBREFA	Small Business Regulatory Enforcement and Fairness Act
SER	Small Entity Representative