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June 18, 2014

The Honorable Gina McCarthy
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Ave.
Washington, DC 20460

Re: Final Volumes for the 2014 Renewable Fuel Standard

Dear Administrator McCarthy,

API continues to urge the U.S. Environmental Protection Agency to promulgate Renewable Fuel Standard requirements that reflect the realities of the ethanol blend wall. The RFS volume standards for 2014 must protect U.S. consumers and be based on sound science, considering all vehicle, fuel, and infrastructure issues. EPA should resist pressure to increase the volumes beyond the ethanol blend wall and should act now to finalize the 2014 RFS regulations. The continuing delays are unacceptable, fundamentally unfair, and show a continued disregard for congressionally mandated deadlines.

On April 29th I wrote to you explaining our concerns with basing the annual standard on revised EIA demand projections. As we reach EPA's announced release of the 2014 standards this month, API recently arranged a meeting with senior administration officials to discuss our RFS concerns. We are encouraged that there is broad recognition that EPA's use of its waiver authority is necessary to address the ethanol blend wall. However, we again urge EPA and the Administration to avoid pushing the minimum biofuel requirements up to the maximum amount that could potentially be blended into transportation fuels. This approach fails to provide necessary flexibility in the marketplace and threatens our economic security. The negative consequences for the U.S. economy and consumers from hitting the ethanol blend wall could be severe, and EPA needs to provide an adequate "buffer" to safeguard against this unnecessary risk. The standards should be set below the equivalent of 9.7 volume percent ethanol in the gasoline pool.

Ethanol consumption is limited by vehicle and refueling infrastructure incompatibility

Vehicle and refueling infrastructure compatibility constraints are a fundamental dilemma with the RFS, and create a practical limit to the amount of ethanol that can be consumed in E85, E15 or intermediate ethanol blends. The investment decisions necessary to address these issues are made by independent retail gasoline station owners and operators, automakers, and ultimately the driving public. The cost to install retail infrastructure that can handle ethanol flex fuel (i.e. E85) can be significant. The National

Association of Convenience Stores estimated that the cost could be upwards of \$200,000 for an individual store owner who operates two underground storage tanks and four dispensers; and in 2012, the average single convenience store reported approximately \$48,000 in pre-tax profits.¹ Over 95 percent of all retail gasoline stations are independently owned and operated -- not by the RFS obligated parties.² These independent franchisees ultimately choose the brand they wish to carry (if any) and the products they wish to offer. This market reality contradicts the incorrect assertion that refiners are in some way responsible for the lack of retail E85 pumps and infrastructure. In fact, data on E85 pump availability show that 1,500 retail stations branded by API member companies offer E85³ and, DOE data shows that virtually every major refiner has branded retail stations offering E85.⁴ Yet, only about 2,400 retail stations offer E85, which is about 1.5 percent of the total retail station count.

Stakeholders in the ethanol industry have asserted⁵ that the law requires obligated parties -- refiners and importers -- to invest in retail infrastructure to offer higher ethanol blends even though such obligated parties do not own the vast majority of retail gasoline stations. Such assertions are false. The law does not require any party to invest in retail infrastructure. The law limits the amount of gasoline and diesel that can be supplied to the United States by the amount of renewable fuel consumed in U.S. transportation fuels. If consumption of biofuels cannot meet the percentage required by regulation, the domestic supply of gasoline and diesel is constrained. The reduction in transportation fuel resulting from this infeasible law jeopardizes our ability to move people and goods around the country and puts the U.S. economy at risk.⁶

Independent retailers have largely recognized the lack of consumer demand for E85 when weighing the potential costs and benefits associated with offering the fuel. Only about 6 percent of vehicles can use E85, and incentives for making more ethanol flex fuel compatible vehicles (i.e. FFVs) in the future are phasing out as a result of the new NHTSA/EPA CAFE/tailpipe GHG requirements.⁷ Even owners and operators of FFVs have largely rejected E85; the reduced economy inherent with E85 use results in a shorter driving range and more frequent refueling stops. Some retailers made the investments to sell E85, only to revert the infrastructure back to gasoline.⁸ According to EIA, energy adjusted ethanol prices have been and remain higher than gasoline blendstock; adjusted for energy, E85 prices are higher than

¹ Anderson, P. National Association of Convenience Stores, "E85" Message to Searles, P. June 10, 2014 Email

² Gilligan, Dan. Statement to U.S. Senate, Energy and Natural Resources Committee, *To explore the effects of ongoing changes in domestic oil production refining and distribution on U.S. gasoline and fuel prices*, Hearing, July 16, 2013

³ <http://www.api.org/oil-and-natural-gas-overview/consumer-information/~media/Files/Oil-and-Natural-Gas/Service%20Station/Retail-Outlet-2012-data.ashx>

⁴ Alternative Fuels Data Center found at: http://www.afdc.energy.gov/fuels/ethanol_locations.html

⁵ <http://www.ethanolrfa.org/pages/big-oil-builds-the-blend-wall>,

⁶ NERA Economic Consulting, "Economic Impacts Resulting from Implementation of RFS2 Program," October, 2012.

⁷ CAFE credits phase out in 2019, and other CAFE, GHG and Tier 3 requirements reduce or eliminate automaker incentives to produce FFVs.

⁸ October 14, 2013, 2013 NACS Show Panel, "Biofuels: A Look Ahead," statement by the owner of Echols Oil Company

E10. And according to AAA, E85 has cost consumers more, when accounting for fuel economy loss, for as long as the organization has been tracking E85 retail prices.⁹ EPA has acknowledged that FFV owners who have been purchasing E85 have been doing so for reasons other than the economic benefit.¹⁰ As a result, EIA data show very low demand for E85 (approximately 45 million gallons/year), and no demand growth between 2010 and 2013.¹¹ Lack of demand growth is also evidenced by data collected by Minnesota and Iowa that show combined E85 consumption in 2013 was less than in 2008 and 2011 and has remained within a range of 20-30 million gallons since 2006.¹²

The overwhelming majority of vehicles have not been certified or warranted for ethanol blends above 10 volume percent, and every automaker has declined to extend warranty coverage if its legacy vehicles are operated on E15.¹³ E15 is only compatible with flexible fueled vehicles and some newer model year cars specifically designed to accommodate E15. E85 is only compatible with flexible fueled vehicles. Together, ethanol blends exceeding 10 volume percent are only compatible with approximately 8-9 percent of vehicles on the road.¹⁴ Tests conducted by the Coordinating Research Council showed that ethanol concentrations in gasoline that exceed 10 percent can lead to engine and fuel system damage.¹⁵ In addition, as much as half of the retail gasoline infrastructure may not be compatible with ethanol blends above 10 percent.¹⁶

The RFS mandate must allow for consumer demand for E0 – clear gasoline

In the 2014 RFS standards proposal, EPA requested information to determine the demand for gasoline with no ethanol (i.e. E0), and the appropriateness of incorporating the latter into the final standards.¹⁷ Our industry provided the requested data in comments to the proposal, and we noted that, according to EIA data, about 97 percent of gasoline currently supplied is E10. EPA should set final ethanol standards sufficiently below 9.7 percent to allow consumers who demand E0 for boats, small engines, etc. to continue having access to this product. Contrary to assertions by some, gasoline used in boats and other non-highway uses is subject to the RFS requirements, and these consumers have expressed

⁹ AAA Daily Fuel Gauge Report

¹⁰ Federal Register/ Vol. 78, No. 158 / Thursday, August 15, 2013 page 49821

¹¹ EIA 2014 Annual Energy Outlook

¹² Minnesota Dept. of Commerce and Iowa Dept. of Revenue. Found at: <http://www.iowa.gov/tax/forms/motor.html> and <http://mn.gov/commerce/energy/topics/clean-energy/Vehicles-Fuels/Ethanol.jsp>

¹³ http://sensenbrenner.house.gov/UploadedFiles/E15_Auto_Responses.pdf

¹⁴ Estimate was based on data from IHS powered by POLK, <http://www.hybridcars.com>, and <http://www.cnbc.com/id/101078494>

¹⁵ Coordinating Research Council, “Intermediate-level Ethanol Blends Engine Durability Study,” April 2012; Coordinating Research Council, “Durability of Fuel Pumps and Fuel Level Senders in Neat and Aggressive E15.”

¹⁶ Larry Gregory Consulting, LLC. “A Comprehensive Analysis of Current Research on E15 Dispensing Component Compatibility” March 2012. Found at <http://www.api.org/news-and-media/news/newsitems/2012/aug-2012/~media/Files/Policy/Alternatives/E15-Infrastructure-Comprehensive-Analysis.ashx>

¹⁷ Proposed Rule at 71759.

particular concern with the impact of ethanol on their engines, in part due to the fact these engines remain in storage for long periods of time. While this known demand for E0 (gasoline with no ethanol) is only about 3.4 percent of the gasoline supply, it vastly exceeds the volume of E85 demand which accounts for a mere 0.15 percent of total gasoline supply.¹⁸ As such, shifts in E0 consumption will have a far greater impact on the ethanol blend wall than shifts in demand for E85. This relationship further illustrates the need for EPA to finalize standards with an adequate buffer below the ethanol blend wall.

Diesel Deficit Dilemma

An analysis by NERA Economic Consulting¹⁹ shows that as the ethanol blend wall is hit, obligated parties will exhaust all compliance options, and individual companies acting independently could be forced to reduce their RIN obligation by reducing the supply of transportation fuel. As a result of decreased domestic fuel supplies and large increases in transportation fuel costs in NERA's analysis, our economy experiences widespread harm. It is important to note that NERA's estimates of economic harm are driven largely by the impact of the ethanol blend wall on the *diesel* markets.

RFS obligations are based on companies' total transportation fuel (i.e. gasoline + diesel) refined and imported and as such diesel fuel provided incurs an obligation for "ethanol RINs" under the RFS. Ethanol is incompatible with diesel vehicles, so the necessary volume of RINs cannot be obtained by physically blending ethanol into the diesel fuel supply. Total ethanol blending has historically exceeded the minimum percentage required by the RFS for various reasons; one of which is to generate surplus RINs from ethanol blending to offset the deficit created by providing diesel fuel. As the renewable volume obligations increase, this ability to generate surplus ethanol RINs evaporates. NERA predicted that obligated parties' RIN deficits created by providing diesel fuel would significantly reduce diesel supply, and the reduction would become so large that it would lead to such severe rationing of diesel so as to cause extreme disruption in the commercial transportation sector. Diesel fuel costs impact our economy broadly as the cost to move goods and provide services are impacted by diesel fuel. NERA found that the impact on the diesel market would impose significant costs on society that ripple adversely throughout the economy, affecting employment, income, consumption, and GDP.

Conclusion

EPA has taken an important first step by proposing to exercise its waiver authority, which is necessary to provide a clear signal to the market for 2014 and beyond that EPA will take appropriate action to avert the ethanol blend wall and its potential ramifications on U.S. consumers, domestic product supply

¹⁸ EIA 2014 Annual Energy Outlook derived from data in Table 11

¹⁹ NERA Economic Consulting, "Economic Impacts Resulting from Implementation of RFS2 Program," October, 2012.



availability, and the economy. The 2014 Final Rule is once again being issued very late and will once again be applied retroactively. We urge the agency to take these considerations into account and finalize the 2014 RFS standards now so that ethanol volumes remain below 9.7 percent of EIA's projected gasoline demand.

Thank you for your consideration of these comments.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert L. Greco, III". The signature is fluid and cursive, with the last name "Greco" being particularly prominent.

Robert L. Greco, III
Group Director, Downstream & Industry Operations

cc: Jeffrey Zients, Director of the National Economic Council
Howard Shelanski, Administrator of the Office of Information and Regulatory Affairs
John Podesta, Counselor to the President