

The Honorable Howard Shelanski  
Administrator, Office of Information and Regulatory Affairs  
Office of Management and Budget  
New Executive Office Building, Room 10202  
725 17th Street N.W.  
Washington, D.C. 20503

RE: EPA-HQ-OAR-2012-0621

Dear Sir,

Downstream petroleum marketers are responsible for the blending and marketing of the majority of renewable fuels in the U.S. fuel market. This industry is ultimately responsible for bringing renewable fuels to the public and does so under significant equipment, compliance, and economic hurdles.

We appreciate the time you have given to expedite the referenced proposed EPA RFS rule under docket EPA-HQ-OAR-2012-0621. Although the draft rules could be improved, they will allow our industry to continue blending safely and without the threat of fraudulent credits or EPA violations. We strongly believe that, without these rules and support, many blenders will cease blending due to a lack of an affirmative defense against violations and overall transparency of the renewable fuel identification number (RIN).

#### **RIN Separation**

Petroleum marketers are tasked with reporting RIN separation events. As the blender, we introduce the renewable fuel to hydrocarbon based diesel, gasoline, and heating oil. We document time, volume, and EPA "reason code" of the RIN separation event. The RIN cannot be sold to an Obligated Party until this has been properly completed. The value of the RIN has played a significant role in the ultimate price of fuel for the public. As blenders, we are typically forced to pay a premium on gallons that have a RIN attached which creates a constant need to assess the cost versus benefit of blending.

Renewable fuel producers (RIN generators) have recognized the value of the RIN and have gone to great lengths to monetize its value over the past few years. Due to confusion over the numerous EPA rules and policies on RIN separation, non-compliant separation does occur. A high probability of invalid separated RINs entering into the program exists today. We suggest that Producers not be allowed to separate RINs. If, however, the facility activities (including RIN separation) are monitored under the Quality Assurance program, then the separation should be allowed. Proper documentation of on-site blending, selling to an EPA registered Exempt Small Blender, and any other reason for separation must be monitored and validated under the QAP.

#### **Quality Assurance Professionals**

The QAP provider must have access to all EPA Moderated Transaction System (Agent) transactions for RIN Generation, RIN Separation, and downstream sales. This will allow the EPA, Producer, and QAP providers the ability to quickly and accurately assess any inaccuracies and necessary corrective actions. Because the RIN travels relatively quickly, QAP providers must have the ability to access and intervene in any non-compliant situation. The QAP provider must be allowed to act as the compliance agent for the producer but must not be allowed to act as a broker or trader of separated RINs. We currently have a

limited number of QAP providers and any further restrictions on QAP provider qualifications may severely damage existing relationships between regulated parties and drive costs up.

#### **Room for Improvement: EPA Certification**

We do note the following areas where the proposed rule falls somewhat short. First, by forcing invalid RINs to be replaced, it could result in simultaneously increasing the demand for RINs while reducing the supply. This could increase obligated parties' costs, which would lead likely to higher retail fuel prices

Second, multiple QAP options will give major producers a competitive advantage over small producers. Major producers will likely utilize QAP-B (or no QAP at all) because their balance sheets will obviate the concern about replacing RINs. Smaller producers may not have this luxury if they want to remain competitive.

To solve these problems, the final rule could develop a system under which all producers are required to implement a QAP in order to be "EPA-Certified." Such certification would occur when a producer implements a QAP as described in the proposed rule. Under this scheme, any entity that purchases product from a certified producer (and does not tamper with the product after purchase) would be free of liability for any fraudulent RINs. In the event that there is tampering after purchase, the company that did the tampering should continue to be subject to penalties under the Clean Air Act.

#### **Conclusion**

Our industry has proactively taken steps to work with renewable fuel producers and Obligated parties to assure the best possible level of protection for all regulated parties. EPA's interim and proposed rules, as written, have allowed blending to continue thus far. The existing draft rules and the suggestions above will allow for much needed transparency in the RIN market. Without a high level of due-diligence and transparency, the RFS will continue to have set-backs.

If the proposed rules are significantly modified, there is the possibility of dire consequences. Our industry has already begun to utilize interim QAP rules set forth by EPA. Any major alteration to the QAP program, as written, may void RIN contracts designed to move RINs to the Obligated party and unnecessarily expose industry to upstream fraudulent and non-compliant acts.

We urge your office to consider these comments and to move forward with this rule-making expeditiously. The protection for downstream parties, under these rules, will allow blending to expand with confidence while quickly eliminating the majority of non-compliant issues under the RFS.

/s/

PETROLEUM MARKETERS ASSOCIATION OF AMERICA (PMAA)  
SOCIETY OF INDEPENDENT GASOLINE MARKETERS OF AMERICA (SIGMA)  
NATIONAL ASSOCIATION OF TRUCK STOP OPERATORS (NATSO)  
NATIONAL ASSOCIATION OF CONVENIENCE STORES (NACS)

