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EPA-HQ- OAR-2017-0091  
U.S. Environmental Protection Agency  
Office of Air and Radiation  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460

*Submitted via: [www.regulations.gov](http://www.regulations.gov)*

Re: **EPA-HQ- OAR-2017-0091**  
***Notice of Data Availability Concerning Potential Reductions in the Volume Requirements for 2018 Renewable Fuel and 2019 Biomass-Based diesel under the Renewable Fuels Standard Program***

The American Petroleum Institute (API) appreciates the opportunity to comment on the Notice of Data Availability (NODA) Concerning Potential Reductions in the Volume Requirements for 2018 Renewable Fuel and 2019 Biomass-based Diesel under the Renewable Fuels Standard Program. API is the national trade association that represents all aspects of America's oil and natural gas industry. Our more than 625 corporate members - from the large major oil and gas companies to the small independents - come from all segments of the industry. They are producers, refiners, suppliers, marketers, pipeline operators and marine transporters as well as service and supply companies that support all segments of the industry. They provide most of the nation's energy and are backed by a growing grassroots movement of more than 30 million Americans. As refiners and importers of transportation fuels, our member companies are obligated parties under the Renewable Fuel Standard (RFS) program and subject to its requirements.

API commented extensively on EPA's proposed rule to set Renewable Fuel Standard (RFS) standards for 2018 that included a biomass-based diesel volume for 2019. These were contained in both a letter prepared jointly with the American Fuel and Petrochemical Manufacturers Association (AFPM)<sup>1</sup> and in a separate letter by API.<sup>2</sup> We believe that the comments that we previously submitted to this docket address the issues raised in the NODA.

In the recently published NODA, EPA considers its various waiver authorities under the RFS program, including its waiver authority specific to biomass-based diesel, which has not received much attention in

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<sup>1</sup> EPA-HQ-OAR-2017-0091-3645

<sup>2</sup> EPA-HQ-OAR-2017-0091-3647



previous annual rulemaking or other RFS related Federal Register notices. Implementation of this waiver on a 60 day basis (or other specific number of days) leaves uncertainties, and potential inequities in how different companies are impacted by such a waiver. API supports a level playing field for obligated parties, and as such, implementation of this waiver authority, when EPA deems it is justified, should be based on a reduction from the annual volume standard. When this authority is invoked, it is appropriate to also reduce the advanced and total biofuel volume requirement by a commensurate volume, and express the revised annual requirements as new RVO percentages.

Regulatory certainty is critically important to obligated parties, who must develop their RIN compliance strategies well before a compliance period begins. Regulatory changes to the 2018 biomass-based diesel standard at this time could negatively affect obligated parties that have executed compliance plans in good faith based on the December 2016 final rule, and thus we are not recommending such a reduction. Consistent with our recently submitted comments submitted to EPA's proposed rule, we continue to support reductions to the advanced and total biofuel categories in 2018 as these standards are putting additional pressure on the biodiesel market. As market conditions evolve in the upcoming compliance year, particularly with regard to the biodiesel tax credit, potential import duties, and other factors impacting biodiesel availability and cost, EPA should continue to monitor biodiesel supply and price and exercise its biomass-based diesel waiver authority should changes warrant.

Congress directed EPA to consider several broad factors when setting an appropriate biomass-based diesel standard volume in both the short and the long term. To assist EPA in weighing some of these market and economic factors, API submitted a study by Advanced Economic Solutions (AES) with our comments to the 2018 RFS proposal (as Attachment B).<sup>3</sup> The AES analysis found several negative consequences from aggressive increases in the RFS volume requirements. For instance, AES found that increasing biodiesel production from soybean oil could affect its use in food consumption and cause market disruptions across the agriculture, food, and fuel sectors. EPA should consider these and other broad factors when evaluating the appropriate volume standards in 2018, 2019 and future years.

We appreciate the opportunity to comment on this NODA. If you have any questions or concerns regarding these comments, please contact me at (202) 682-8192.

Sincerely,

A handwritten signature in blue ink that reads "Patrick Kelly". The signature is fluid and cursive, with a long horizontal stroke at the end.

Patrick Kelly  
Senior Fuels Policy Advisor

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<sup>3</sup> EPA-HQ-OAR-2017-0091-3647