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April 29, 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,

As the U.S. Environmental Protection Agency finalizes the 2014 Renewable Fuel Standard (RFS), API urges the agency to recognize the ethanol blend wall and apply its general waiver authority, consistent with the Proposed Rule published last November, and promulgate standards that limit the amount of ethanol in the gasoline pool to not exceed 9.7 percent by volume. Given the uncertainties in gasoline demand projections, continued consumer demand for gasoline with no ethanol (E0), and very limited demand for E85 fuel, a 9.7 percent limit represents the minimum “buffer” warranted to safeguard against the negative economic consequences for consumers from hitting the ethanol blend wall.

Press accounts indicate you have recently suggested the final rule volumes will be higher than those in the proposal, “We will definitely be using the most up-to-date data, and it will result in a difference in the Renewable Fuel Standard amounts.”¹ As API explained in our Petition for Reconsideration of the 2013 Final Rule and our Petition for Review from the Court of Appeals for the D.C. Circuit, EPA is required by statute to promulgate, by no later than November 30 of the year immediately prior to the start of the compliance period, a rulemaking based on EIA’s fuel consumption projections from the preceding October, and prior to the start of the annual compliance period. Ultimately, our industry needs certainty to appropriately plan for compliance. The four annual RFS percentage standards should be finalized and published by November 30 of the prior year to provide the required certainty before the compliance year begins.

As we explained in comments to the 2014 proposal, the overwhelming majority of vehicles and refueling infrastructure have not been certified or warranted for ethanol blends above 10 percent. Coordinating Research Council testing showed that ethanol concentrations in gasoline that exceed 10 percent can

¹ Hagstrom, Jerry, Agweek: “McCarthy: RFS will reflect most recent data” April 10, 2014.



lead to engine and fuel system damage.² An analysis from NERA Economic Consulting shows that the failure to implement a waiver of the RFS could result in economic harm.³ EPA's 2014 Proposed Rule assumed that ethanol would be supplied to the market either as a 10 percent blend (E10) or as an E85 fuel. In the proposal, the Agency also requested information to determine the volume E0 demand, and the appropriateness of incorporating the latter into the final standards.⁴ Our industry provided the requested data in comments on the proposal, and we noted that, according to EIA data, about 97% of gasoline currently supplied is E10. EPA should recognize that the inherent uncertainty of EIA demand data necessitates building in an additional buffer below 9.7 percent ethanol. A final ethanol standard below 9.7 percent reflects the need to allow consumers who demand E0 for boats, small engines, etc. to continue having access to this product, and the need to protect our economy from the negative impacts of the ethanol blend wall.

EPA's use of the waiver in 2014 is appropriate and necessary to acknowledge the ethanol blend wall and its potential to cause domestic product supply disruptions that result in negative economic consequences, and it provides a clear signal to the market for 2014 and beyond. The 2014 Final Rule is being issued very late and will be applied retroactively. We urge the agency to take these considerations into account and expeditiously finalize standards that limit ethanol to no more than 9.7 percent of EIA's October estimates of U.S. motor gasoline supply.

Thank you for your consideration of these comments.

Sincerely,

A handwritten signature in black ink that reads "Robert L. Greco, III". The signature is written in a cursive style.

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

cc: The Honorable John Podesta, Counselor to the President
Howard Shelanski, Administrator of the Office of Information and Regulatory Affairs

² 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."*

³ NERA Economic Consulting, *"Economic Impacts Resulting from Implementation of RFS2 Program,"* October, 2012.

⁴ Proposed Rule at 71759.