

API Testimony: RFS Public Hearing
December 5, 2013 Arlington, VA

Good morning and thank you for the opportunity to testify at today's hearing on the 2014 RFS standards. I am Bob Greco, Group Director, Downstream & Industry Operations at The American Petroleum Institute. API is the national trade association representing all segments of the U.S. oil and natural gas industry. The over 550 members of API include the obligated parties under the RFS who are required to meet these standards.

Blendwall

Our members' primary RFS concern is the ethanol blendwall. There are serious vehicle and retail infrastructure compatibility issues associated with the usage of gasoline containing ethanol in excess of 10% by volume. Left untouched, the statutory mandates could cause fuel rationing, drive up the cost of diesel by 300 percent and the cost of gasoline by 30 percent by 2015, and lead to a \$770 billion decrease in U.S. GDP and a \$580 billion decrease in take-home pay for American workers, according to a study by NERA economic consulting¹.

When coupled with the fact that the current consumption of gasoline is significantly below the levels anticipated when Congress expanded the RFS mandates back in 2007, it is clear that these rigid requirements are obsolete and have no place in today's energy market. This is because they were based on the presumption that gasoline use would continue to rise well into the future when in fact, the opposite is now occurring.

¹ http://www.api.org/~media/Files/Policy/Alternatives/13-March-RFS/NERA_EconomicImpactsResultingfromRFS2Implementation.pdf

API is encouraged that, for the first time, EPA has acknowledged that the blendwall is a dangerous reality that must be addressed to avoid negative impacts on America's fuel supply and prevent harm to American consumers. However, we will continue our call for Congress to repeal the RFS to protect consumers from this outdated and unworkable program once and for all.

While the Agency took an important step in the right direction with this proposal, we believe the proposal does not go far enough to address the blendwall. Based on the volume ranges for each of the renewable fuel standards proposed by EPA, the resulting ethanol-to-gasoline blending ratio could be as low as 9.8 percent or as high as 10.3 percent. As stated in our general waiver petition submitted earlier this year, API recommends that EPA set the ratio at no more than 9.7 percent ethanol to ensure a fungible RIN market, and to preserve a market for consumers that choose E0 – clear gasoline. The proposed standards represent a significant challenge if finalized. The standards leave no tolerance to account for the difficulty of blending ethanol into every gallon; and as a result, some of the negative impacts of the blendwall may not be fully avoided. EPA's proposal could also restrict consumer choice by forcing E0 out of the market, leaving certain customers without a supply of their preferred product. We urge EPA to set the 2014 RFS volume standards so that the ethanol to gasoline blending ratio stays sufficiently below 10 percent.

Rulemaking Timing

EPA needs to take statutory deadlines seriously and issue timely rules. EPA's continual tardiness has real, adverse effects on our industry. Obligated parties need this information ahead of the compliance period to make operational, logistics and

investment decisions. A biomass based diesel standard for 2014 should have been issued well over a year ago. At this point, EPA does not have the authority to increase the stringency of the biomass-based diesel standard before 2016. The uncertainties created by the ethanol blendwall this year are enormous; and EPA is only adding to the uncertainty with retroactive rules. The Clean Air Act recognizes the need for regulatory certainty and clearly defines these non-discretionary deadlines.

Cellulosic Biofuel

The Clean Air Act also clearly requires EPA to determine the mandated volume of cellulosic biofuels each year at the: “projected volume available.” The D.C. Circuit Court vacated the 2012 cellulosic standard and EPA is taking appropriate steps to correct the invalid 2011 cellulosic standard. However, EPA’s proposal for 17 million gallons of cellulosic biofuel is once again aspirational and unreasonable. It shows EPA has not changed its failed “self-fulfilling prophecy” approach to one which employs a neutral methodology for setting future cellulosic biofuel mandates. It is patently unfair and improper for EPA to keep setting unrealistic cellulosic mandates only to revise them after the compliance year in response to court action.

This year, EPA suggests an improved methodology; but the use of spurious statistical simulations based on unrealistic parameters is a feigned attempt at legitimacy. Continuing to mainly rely on forecasts prepared by cellulosic biofuel producers, which have been consistently wrong every year, is a failed approach that achieves no environmental benefit and results only in the imposition of a stealth tax on our industry that adds a cost to providing transportation fuels. It is a clear example of bad public policy. EPA’s August assessment of 6 mil gal for 2013 appears to once

again be a substantial overestimate of actual cellulosic production which will likely be less than 1 million gallons. Clearly EPA still does not have an acceptable conceptual model for predicting cellulosic production capacity. API continues to recommend setting this standard at actual demonstrated production.

Conclusion

EPA has taken positive steps to address problems with the RFS in 2014, but tardy year-by-year fixes are not the solution. The RFS mandate is unworkable and API has joined a chorus of diverse interests that will continue to call on congress to repeal it. EPA needs to act quickly to finalize these 2014 standards, waiving the total ethanol requirement to not more than 9.7%.

Thank you again for the opportunity to discuss these issues, and I am happy to answer any questions you may have.