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August 15, 2016

The Honorable Gina A. McCarthy  
Administrator  
U.S. Environmental Protection Agency  
William Jefferson Clinton Federal Building  
1200 Pennsylvania Ave., N.W.  
Washington, DC 20460

Re: Renewable Fuel Standard Point of Obligation

Dear Administrator McCarthy,

I am contacting you to express the American Petroleum Institute's (API) opposition to moving the point of obligation under the Renewable Fuel Standard (RFS) program. API is the only national trade association representing all facets of the oil and natural gas industry, which supports 9.8 million U.S. jobs and 8 percent of the U.S. economy. API's more than 650 members include large integrated companies, as well as exploration and production, refining, marketing, pipeline, and marine businesses, and service and supply firms. They provide most of the nation's energy and are backed by a growing grassroots movement of more than 30 million Americans.

#### **Not a Solution to the Blendwall**

Changing the point of obligation under the RFS will not fix the blendwall problem or meaningfully impact the overall volume of renewable fuels. Any adjustment to the point of obligation 9 years into the program would create uncertainty in the administration of the RFS and, potentially, in the RIN market. RFS compliance plans, investments and commercial agreements that were premised on the current structure would be disrupted. Furthermore, moving the point of obligation would not address vehicle compatibility and consumer acceptance issues, nor would it address infrastructure constraints throughout the distribution system that inhibit greater penetration of E15 and E85. Simply put, moving the point of obligation will merely shift the compliance responsibility under the RFS from the current group to a different group of entities in the fuel supply chain.

#### **Increased Complexity**

Moving the point of obligation would increase complexity for our members, and for EPA to administer and enforce the program. The increased complexity affects the fuel distribution industry as the identification of obligated fuels becomes more difficult. While we believe that the number of obligated parties would increase significantly should the point of obligation be moved, regardless, the number of reporting instances would rise dramatically as RFS reporting would move from larger bulk production and import points to smaller terminal distribution points. Burdens to certain small businesses would also surge through a change to the point of obligation. These newly obligated parties, particularly small



businesses, would be forced to acquire the necessary personnel, expertise, and materials needed to navigate the complexities of compliance reporting under EPA fuels programs.

### **EPA Has Already Considered the Issue**

In implementing the RFS, Congress directed EPA to promulgate regulations that “contain compliance provisions applicable to refineries, blenders, distributors, and importers, as appropriate.” Based on EPA’s consideration of numerous factors, EPA placed the point of RFS obligation where gasoline and diesel are refined or imported. EPA recognized that some obligated parties, including merchant refiners, did not control the downstream blending of ethanol or other biofuels, and would need to have access to RINs. EPA addressed this concern by including provisions in the rule allowing obligated parties the unique ability to separate RINs for biofuels, and limited the amount of RINs that can be carried over, in part to make RINs more accessible in the market. EPA reconsidered the issue following the enactment of the Energy Independence and Security Act of 2007 (EISA), and purposefully decided to not change the point of obligation in the subsequent rulemaking.

### **Real Solutions to the Blendwall are Needed**

API’s primary and immediate RFS concern is the ethanol blendwall. Changing the point of obligation does not fix the blendwall problem, and the calls from a broad group of stakeholders to repeal or reform the outdated program will continue. Until Congress addresses the blendwall problem to provide long-term certainty, EPA must continue to exercise its waiver authorities to protect American consumers and their vehicles. Accordingly, we continue to urge EPA to set its final 2017 RFS volumes at or below 9.7 percent ethanol in gasoline for the reasons articulated in API’s comments to the 2017 proposed rule<sup>1</sup> and consistent with the *Food and Fuel Consumer Protection Act of 2016* (H.R. 5180).

As the only trade association representing all facets of the oil and natural gas industry, we urge EPA to deny the petitions for rulemaking that request EPA to move the current point of obligation under the RFS.

Sincerely,

A handwritten signature in black ink that reads "Jack Gerard". The signature is fluid and cursive, with a long horizontal stroke at the end.

Jack N. Gerard  
President and Chief Executive Officer

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<sup>1</sup> See comments from Frank J. Macchiarola, Group Director Downstream & Industry Operations, American Petroleum Institute (API) regarding the 2017 proposed RFS. Docket ID: EPA-HQ-OAR-2016-0004 <https://www.regulations.gov/document?D=EPA-HQ-OAR-2016-0004-3512>