November 11, 2011

The Honorable Lisa P. Jackson
Administrator
US Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvaniana Avenue, NW
Washington DC 20004

RE: Letter from Mitch Bainwol, Alliance of Automobile Manufacturers (AAM), dated October 6, 2011 concerning “Changes to US Retail Gasoline”

Dear Administrator Jackson:

America’s refining industry is a strategic and valuable asset for the United States. It provides secure supplies of products (including gasoline, diesel, jet fuel, and heating oil) to American consumers and the industries that depend on these products. Maintaining a strong domestic refining industry is critical to the nation’s economic security. The refining industry:

- Provides readily available, clean, and environmentally friendly products;
- Supplies our products to individuals for their mobility and comfort and to the industries that require them to manufacture and deliver myriads of goods;
- Employs highly skilled Americans with good-paying jobs; and
- Supports a multitude of American communities in which we operate.

The American Petroleum Institute (API) firmly maintains that no Tier 3 regulation should be proposed unless it is based on the timely completion of an adequate body of scientific research and vetted by all stakeholders in the process. EPA’s justification should demonstrate its necessity along with a credible economic and supply impact analysis of its costs and energy security consequences. The recommendation from the Alliance of Automobile Manufacturers (AAM) to cap nationwide retail gasoline sulfur levels to 10 parts per million (ppm) in a Tier 3 regulation is an example of understating the costs and overstating the benefits. Our concerns with the AAM proposal can be summarized as follows:

The need for lower sulfur to enable technology isn’t supported by reality. AAM claims that a 10 ppm sulfur cap will enable lean burn gasoline direct injection (GDI) engine technology to meet yet to be established Tier 3 and Corporate Average Fuel Economy (CAFE) standards, but ignores the fact that in Europe and Japan where 10 ppm S gasoline has been mandated, the market penetration of lean GDI technology peaked at a maximum of 2% and has since been steadily declining. A recent study
sponsored by API finds that the opportunity for lean GDI market penetration in the US is limited to at most 3% by 2020 and a 10 ppm gasoline sulfur cap will not motivate the automakers to produce lean-burn engines.¹

The proposal lacks scientific justification. AAM does not provide any credible study to support a retail gasoline sulfur cap of 10 ppm. Based on the Agency’s own vehicle emissions certification database, there are at least 19 vehicle model configurations already in production that have been designed to (quite handily) meet the equivalent of the Tier 3 emissions standards being considered by EPA while operating on federal Tier 2 sulfur compliant certification gasoline. We are not aware of any published studies describing operational issues with any of these vehicle models while operating on gasoline that meets current federal sulfur requirements (e.g., 30 ppm refinery gate average/ 95 ppm retail max).

AAM also argues that lower levels of sulfur in gasoline are needed to counteract the NOx emissions impacts associated with expected higher future levels of ethanol in gasoline. Again, such an argument is unsupported. We know of no publicly available study that has quantified the emissions effects on advanced technology vehicles associated with the systematic variation of both the sulfur and the ethanol content of gasoline.

Fuel cost impacts are understated. It is important to clarify the discrepancy between the potential refinery Tier 3 regulatory compliance costs and supply impacts mentioned by AAM and those of a recent study by Baker & O’Brien²; the latter was discussed with your staff on September 6, 2011. AAM relies on a model that simply does not have sufficient granularity and complexity to adequately represent the actual operations of the refining industry.³ As a result, this simplified AAM approach understates compliance costs by at least a factor of four.

AAM asks the Agency to deny the petroleum industry any flexibility in meeting a Tier 3 fuels regulation. At the same time it purports to support the use of a vehicle/fuels “systems-based” approach to designing regulations that equitably divide the compliance burden amongst the regulated parties. These two concepts are at odds as regulatory flexibility in the form of compliance phase-in schedules is essential for equity; EPA relied upon this fundamental provision to successfully implement the Tier 2 regulations. The AAM ignores the 5 years of flexibility granted by EPA that the auto industry considered essential to phase in the production of Tier 2-compliant vehicles. Carrying the AAM

³ The refinery cost study relied upon by AAM was updated in late October 2011 under the sponsorship of the International Council for Clean Transportation. We have obtained a copy of this updated effort and will likely offer detailed comments after completing an evaluation of it. However, while the magnitude of the results from this revised study may have changed, the underlying methodology did not, and therein lies our major concern.
recommendation of no flexibility to its logical conclusion would require the Agency to forego any phase-in of Tier 3 emissions standards for vehicles – an approach that is not likely to be acceptable to the automakers. An attachment to this letter further expands upon the above comments.

We would be happy to discuss our concerns with the AAM recommendations in more detail with you and/or your staff. If you have specific questions concerning the comments provided in this communication, please contact Bob Greco, API’s Downstream Group Director, at 202-682-8167.

Sincerely,

Jack N. Gerard  
President and Chief Executive Officer  

Attachment  

cc:  Cass Sunstein, Administrator, OMB Office of Information and Regulatory Affairs  
    Gina McCarthy, Assistant Administrator, EPA Office of Air and Radiation  
    Margo T. Oge, Director, EPA Office of Transportation and Air Quality