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President Barack Obama
The White House
1600 Pennsylvania Avenue NW
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Dear Mr. President:

As senior executives representing U.S. refining companies, we urge the Administration to maintain the renewable fuel volumes set forth in the Environmental Protection Agency's (EPA) November 29, 2013 notice of proposed rulemaking for the Renewable Fuel Standard (NPRM). Although renewable fuels already have a place in the fuel supply, the federal government should not force consumers to use certain fuels, and particularly those that cannot be safely integrated into existing vehicles, small engines (such as lawn equipment and marine engines), and retail infrastructure.

Declining gasoline consumption and the failure to develop "drop-in" biofuels has accelerated the onset of the E10 blendwall (10% blend in gasoline), or the maximum amount of ethanol that can safely be consumed in existing vehicles and infrastructure. EPA correctly recognized the challenges with the E10 blendwall in its NPRM and exercised its clear legal authority to waive the statutory EISA volumes. The following facts, relied on by EPA in the NPRM, remain true today:

- Only six percent of the auto fleet is capable of using E85[1], and even those consumers that own flex-fuel vehicles choose to buy conventional blends more often than not. These choices stem primarily from E85's poor gas mileage and resultant higher consumer costs.[2] In turn, low consumer acceptance provides a disincentive for both E85 infrastructure development and flex-fuel vehicle manufacturing.
- Of the approximately 156,000 gas stations nationwide, only two percent sell E85 and very few stations sell E15.[3] More than 90 percent of gas stations are owned and operated by independent businesses, and more than half sell unbranded fuels.[4]
- Retrofitting gas stations to handle more E85 is prohibitively expensive for these independent businesses. The National Association of Convenience Stores (NACS) estimates that

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[1] U.S. Energy Information Administration, Annual Energy Outlook 2014, Supp. Table 58 (2014).
[2] *See*, *e.g.*, U.S. Energy Information Administration, Annual Energy Outlook 2014, at MT-29 (2014).
[3] US Gov't Accountability Office, Rep. No. GAO-11-543, *Challenges to the Transportation, Sale, and Use of Intermediate Ethanol Blends* (2011); *see also* US Environmental Protection Agency, 2014 Standards for the Renewable Fuel Standard Program; Proposed Rule, 78 FR 71732, 71759 (Nov. 29, 2013).
[4] *Id*.

installing E85 infrastructure costs nearly $200,000 per station, while the average pre-tax profit of a gas station is less than $50,000.[5]

- Although E15 is approved by EPA for use in MY 2001 and newer vehicles, auto manufacturers have indicated such use in pre-2012 vehicles could void warranties. Moreover, E15 use raises significant liability concerns, questions about compatibility with underground storage tanks, and conflicts with air quality regulations in the summer months. A recent EPA presentation raises serious concerns about underground storage system compatibility with ethanol blends above E10.[6]
- Consumers still demand E0, particularly for applications such as boats, motorcycles, and older cars. In fact, E0 demand in 2013 increased to approximately five percent of total gasoline demand, versus three percent in 2012.[7]

The refining industry is not alone in voicing these concerns. In 2011, the Government Accountability Office released a report detailing the multitude of challenges with mid-level ethanol blends.[8] In 2011 the National Academy of Sciences published a comprehensive study highlighting a plethora of issues/concerns with the RFS.[9] AAA recommends that its members avoid using E15, citing concerns with vehicle damage and consumer misfueling.[10] In July of this year, the Congressional Budget Office estimated that gasoline prices would increase by up to $0.26/gallon and diesel prices would increase by up to $0.51/gallon by 2017 if the RFS continues along its statutory trajectory.[11] A diverse coalition of stakeholders ranging from engine manufacturers, environmentalists, agricultural groups, food manufacturers, anti-hunger groups, and many others have all been saying the same thing: the RFS has created unacceptable unintended consequences and should be, at minimum, overhauled. Similarly, a bipartisan majority of the U.S. House of Representatives has expressed its support for lower volumes or outright repeal of the RFS.

We understand the biofuel industry is asking for higher volumes than what your Administration proposed. For context, however:

1. EPA proposed an implied 13 billion gallons of conventional biofuel. This was the same amount consumed in 2012 and 2013 and remains the trend in 2014—so in other words, the EPA proposal would not reduce the amount of ethanol consumed.
2. EPA proposed 1.28 billion gallons of biomass-based diesel, the same mandate as 2013. EPA does not have the legal authority to set the biomass-based diesel requirement higher without

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[5] Letter from R. Timothy Columbus, General Counsel, SIGMA and NACS, to John Podesta, Counselor the President (July 10, 2014).

[6] U.S. Environmental Protection Agency Office of Underground Storage Tanks, *Underground Storage Tanks: New Fuels and Compatibility*, presentation to DOE Biomass 2014 Conference (Jul. 29, 2014).

[7] Derived using recent data from the Energy Information Administration.

[8] US Gov't Accountability Office, Rep. No. GAO-11-543, *Challenges to the Transportation, Sale, and Use of Intermediate Ethanol Blends* (2011).

[9] National Research Council. *Renewable Fuel Standard: Potential Economic and Environmental Effects of U.S. Biofuel Policy*. Washington, DC: The National Academies Press, 2011.

[10] AAA Press Release, *New E15 Gasoline May Damage Vehicle and Cause Consumer Confusion* (Nov. 30, 2012).

[11] Cong. Budget Office, *The Renewable Fuel Standard: Issues for 2014 and Beyond* (June 2014).

at least 14 months notice, i.e., 2014 biomass based diesel standards should have been finalized on November 30, 2012. Moreover, there is no prohibition against voluntary use of higher volumes.

3. EPA did not propose to reduce the 2014 cellulosic mandate below the 2013 regulatory requirement. Rather, EPA proposed 17 million gallons of cellulosic biofuel, more than double the initial 2013 requirement and 2100% higher than actual 2013 production.
4. Although several cellulosic plants have opened in recent weeks and the new biogas pathway has increased available D3 (cellulosic) RINs, historically cellulosic biofuel plants have faced start-up challenges. KiOR's operating troubles are just the latest example of this trend. Regardless, the miniscule amount of actual cellulosic production to date is less than one percent of the statutory mandate.
5. EPA is now 10 months late in finalizing the 2014 rule. If EPA raises the volume requirements, the supply chain is unable to retroactively generate additional compliance credits for the first nine months of 2014. This problem will grow in 2015 as EPA continues to delay release of the 2015 proposed rule, compounding compliance challenges for obligated parties managing volatile and uncertain RIN markets.

In other words, EPA proposed a reasonable set of RFS standards for 2014 that will maintain ethanol's market share, addressed the issue of E10 blendwall, and provided cellulosic biofuel growth. Although Congress still needs to reform the RFS for the long-term, EPA's proposal is doing the right thing for the short-term. Now is not the time to backtrack on a proposal to avoid economic disruption. Doing so could send a signal to the market that EPA is willing to push the fuel supply past the blendwall, which could adversely impact consumers in the form of higher costs.

Our industry does not oppose renewable fuels and is one of the largest investors in renewable technologies. However, technological and market limitations exist and consumers, not the federal government, should determine what goes in their cars. We look forward to working with your Administration to continue delivering affordable and reliable fuels to the American people.

Sincerely,

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(AFPM Chairman)

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