August 14, 2018

The Honorable Andrew Wheeler
Acting Administrator
U.S. Environmental Protection Agency
Ariel Rios Building Mail Code: 1101 A
1200 Pennsylvania NW
Washington, DC 20460

Re: Renewable Fuel Standard Program: Standards for 2019 and Biomass-Based Diesel Volume for 2020; Docket ID No. EPA-HQ-OAR-2018-0167

I would like to provide comment on the Environmental Protection Agency's (EPA's) proposed Renewable Fuel Standard Program: Standards for 2019 and Biomass-Based Diesel Volume for 2020 (EPA-HQ-OAR-2018-0167; FRL-9980-37-OAR).

EPA's proposed increase in the RFS requirement over 2018 levels fails to recognize the blend wall and the uneven playing field among RFS obligated parties. It could result in upward pressure on RIN costs, which as we saw earlier this year with Philadelphia Energy Solutions (PES), would once again threaten highly skilled domestic refining industry jobs.

To avoid this situation, EPA should use its waiver authority to prevent "severe economic harm" and reduce the proposed 15 billion gallon conventional biofuel requirement to a level that reflects 9.7 percent of projected fuel demand. This reduction would accurately reflect the ethanol volume *all* vehicles and infrastructure can safely handle.

A look back on the last six months proves EPA can help prevent RIN price spikes without adversely impacting biofuel consumption. A combination of RFS reform discussions and small refiner waivers has resulted in RIN prices decreasing from 90 cents last November to approximately 20 cents recently. Despite these factors, U.S. Energy Information Administration (EIA) monthly data shows there has been no backtracking on biofuel blending. In fact, the blend rate in the first quarter of this year was slightly higher than it was in the first quarter of last year. Witnesses at a recent Congressional hearing before the House Energy & Commerce Committee noted record biofuel production and consumption this year, with one highlighting EPA data proving the country is right on track to consume the mandated amount of biofuel this year.[1] Again, this has all occurred in conjunction with small refiner waivers and falling RIN prices. The facts to date show that domestic biofuel use will remain robust, even when the standard is waived for parts of the industry. These facts prove EPA can set a reasonable volumetric requirement that is below the blend wall without adversely impacting domestic ethanol or other biofuel consumption, much of which is economic without government support.

[1] https://energycommerce.house.gov/hearings/background-on-renewable-identification-numbers-under-the-renewable-fuel-standard/

At the same time, facts prove setting unreasonable biofuel requirements does result in skyrocketing RIN costs that cause "severe economic harm." The PES bankruptcy earlier this year was the result off soaring RIN costs leading to hundreds of lost jobs, with thousands more at risk. EPA recognized this reality in approving the PES bankruptcy plan earlier this year. An RVO that risks RIN prices spiking could once again threaten thousands of jobs in Philadelphia, Toledo and in merchant refiners across the country.

In Toledo, the Toledo Refining Company is an economic driver for the Midwest. It provides 15 percent of the entire state's fuel and contributes 5.2 billion dollars in total direct and indirect economic benefit to Northwest Ohio. In the high RIN price environment of the last two years, RINs became the refinery's most significant operating expense; rising above pay, benefits and energy costs. Returning to such a financial environment would be unsustainable and certainly threaten jobs in the region.

We also encourage EPA to reduce the proposed RVO increase for advanced biofuel. Biodiesel is essentially the only fuel available to meet the advanced mandate. EPA and EIA data indicates while domestic biodiesel production is up compared to last year, it will fall short of this year's requirement. This situation results in a de facto foreign biodiesel mandate, which is costly and runs counter to the energy security goals of the RFS.

Finally, we are encouraged that EPA is taking comment on RIN market reforms, but believe such reforms should be dealt with in the final RVO and not via a separate rulemaking. Even biofuel interests have questioned the volatility of the RIN market. The history of the program shows wild swings in RIN costs, but the percentage of ethanol blended into gasoline has stayed at around 10 cents regardless of whether RINs are three cents or $1.40. Public comments EPA received for last year's RVO detailed several observations of possible market manipulation that are illegal in other contexts, but not controlled or regulated in relation to the RIN market. EPA must act to prevent anti-consumer manipulative practices and should advance RIN market reforms in the final 2019 RVO, rather than wait to pursue measures addressing RIN market integrity in the future.

Sincerely,

Brian Dicken
Vice President, Advocacy & Public Policy