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September 23, 2019

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

Re: Section 610 Review of the Renewable Fuel Standard (RFS) Program (EPA-HQ-OAR-2019-0168-0001)

PBF Holding Company LLC, a subsidiary of PBF Energy Inc. ("PBF"), respectfully submits these comments in response to the Environmental Protection Agency's (EPA's) "Section 610 Review of the Renewable Fuel Standard Program" (EPA-HQ-OAR-2019-0168-0001) ("the review"). PBF is a member of and acknowledges the comments submitted by the American Fuel & Petrochemical Manufacturers (AFPM) (the "AFPM comment letter"). PBF's comments are intended to complement and emphasize those raised in the AFPM comment letter. PBF's comments addresses relevant issues from the unique perspective of its role as a merchant refiner.

PBF is one of the largest independent petroleum refiners and suppliers of unbranded transportation fuels, heating oil, petrochemical feedstocks, lubricants and other petroleum products in the United States. The company currently owns and operates five domestic oil refineries in five states – Delaware, New Jersey, Ohio, Louisiana and California - and related assets with a combined processing capacity of approximately 900,000 barrels per day. PBF employs more than 3,000 people nationally. As one of the largest U.S. merchant refiners - with the most East Coast refining capacity - the Renewable Fuel Standard (RFS) has a significant, negative impact on PBF.

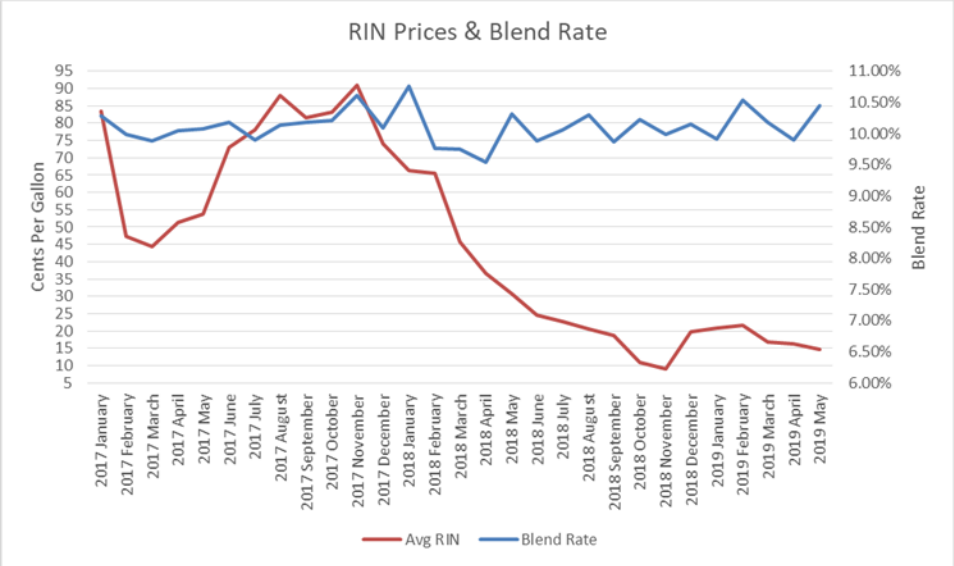
Given the significant impact of the RFS on a substantial number of small entities, EPA is required to conduct a review of program pursuant to Section 610 of the Regulatory Flexibility Act. Specifically, the Agency must assess the following:

1. the continued need for the rule;
2. the nature of complaints or public comments;
3. the complexity of the rule;
4. the extent to which the rule overlaps, duplicates or conflicts with other Federal, State and local government rules; and
5. the length of time since the rule has been evaluated or the degree to which technology, economic conditions, or other factors have changed.

Recent history of RFS implementation continues to prove that the program imposes disproportionate costs on both small and merchant refiners, without advancing the programs objectives. EPA should acknowledge these realities in its review.

1) Continued need for the rule.

The last three years have proven that there is no need to continue mandating ethanol in the nation's fuel supply. New research also shows the standard has become obsolete. As detailed in PBF's 2020 RFS Renewable Volume Obligation (RVO) comments, recent history proves that there is no correlation between Renewable Identification Number (RIN) price or mandated volumes and ethanol blending.[1] To the contrary, as RIN[2] prices have fallen and as EPA has issued more RFS small refiner exemptions (SREs), the national ethanol blend rate has continued to gradually increase.



U.S. Energy Information Administration (EIA), Monthly Energy Review; Argus RIN Price

Data also indicates that sales of fuel containing more than 10 percent ethanol – so called "mid-level ethanol blends" like E15 and E85 (fuel containing 15 and 85 percent ethanol respectively) – have also increased over the last few years, as RINs have fallen and EPA has granted more SREs. This has occurred despite the fact that vast majority of engines and infrastructure are not warranted for or capable of handling such fuels.[3] As an example, Minnesota is home to more than a quarter of all stations selling E15 in the nation. The state's biofuels association recently stated:

> *On an annualized basis, E15 sales in Minnesota would hit 73 million gallons this year, well above the 59.4 million gallons achieved in 2018.*[4]

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[1] See comments from PBF Holding Company LLC (PBF)(Docket No. EPA–HQ–OAR–2019–0136; FRL–9996–53–OAR)

[2] RINs are the currency of the RFS. They are credits generated when biofuel is blended into gasoline or diesel, which refiners have to collect and hand in for compliance. They are theoretically supposed to function like cap-and-trade credits, where a higher price signals scarcity and encourages more biofuel blending. However, as noted in these and other comments, the RIN system is broken. It does not function rationally nor have any impact on ethanol blending.

[3] The vast majority of engines and infrastructure cannot handle or run on fuels containing more than 10 percent ethanol. This is known as the "E10 blendwall." See comments from the American Fuel & Petrochemical Manufacturers (AFPM)(Docket No. EPA-HQ-OAR-2019-0136-0021)

[4] Minnesota Bio-Fuels Association. "6.29 MILLION GALLONS OF E15 SOLD IN JUNE." Blog Post. August 7, 2019. Available at: https://www.mnbiofuels.org/media-mba/blog/item/2635-6-3m-gallons-of-e15-sold-in-june

E15 sales in Minnesota in July was the second highest monthly volume ever recorded in the state, according to data from the Minnesota Department of Commerce.[5]

The U.S. Energy Information Administration (EIA) has also noted the robust growth in E15 that has occurred over the last few years,[6] and a survey of fuel retail stations nationally indicates that since EPA started granting more SREs and RIN prices started falling, the amount of stores offering E15 compared to years prior has nearly tripled.[7]

Growing ethanol consumption in the face of SREs and falling RIN prices proves the nation no longer needs an ethanol mandate. Ethanol has become competitive on its own. New research reinforces this reality. Energy Ventures Analysis (EVA) assessed the effectiveness of the RFS using EIA's National Energy Modeling System (NEMS). The firm modeled various scenarios out to 2025 and 2030. The results show the RFS is an all cost, no benefit program. More specifically, the EVA analysis concluded:

- Completely eliminating the RFS would have essentially no impact on the percentage of ethanol blended into gasoline, nor would it impact corn-based ethanol production.
- The program will cost consumers more than $8 billion annually in 2025 and 2030 compared to what they would pay if the RFS were eliminated.
- Consumers would pay $12 billion more in 2025 if the mandated volumes were increased just 5 percent, without resulting in increased biofuel production.[8]

EVA notes the reasons for such results are fairly simple:

- "The production cost of corn-based ethanol currently is (and is projected to remain) lower than the wholesale price of motor gasoline, which results in ethanol being economic to produce and blend into the motor gasoline pool."[9]
- When the ethanol portion of the mandate is eliminated, "consumers are not paying for the additional biodiesel that would be needed to bridge the gap between the 10 percent ethanol blendwall and the additional amount of unmarketable corn ethanol that would be required by an even higher conventional biofuels mandate."[10]

Recent history and research prove that there is no continued need to mandate ethanol and that doing so is an all cost, no benefit proposition. In light of these realities, and the fact that EPA has already triggered a statutory requirement to adjust all the mandated volumes downward (commonly referred to as the "RFS reset" provision),[11] the Agency should promulgate conventional RFS volumes each year that are no higher than the 10 percent ethanol concentration that all vehicles and infrastructure are built to handle.

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[5] Minnesota Bio-Fuels Association. "6.83 MILLION GALLONS OF E15 SOLD IN JULY." Blog Post. September 5, 2019. Available at: https://www.mnbiofuels.org/media-mba/blog/item/2654-6-82-million-gallons-of-e15-sold-in-july

[6] U.S. Energy Information Administration. "New EPA ruling expands sale of 15% ethanol blended motor gasoline." Today In Energy. July 16, 2019. Available at: https://www.eia.gov/todayinenergy/detail.php?id=40095

[7] See comments from PBF Holding Company LLC (PBF)(Docket No. EPA–HQ–OAR–2019–0136; FRL–9996–53–OAR)

[8] Energy Ventures Analysis. "An Assessment of the Renewable Fuel Standard Using EVA-NEMS." July 17, 2019. Available at: https://www.evainc.com/wp-content/uploads/2019/07/EVA_RFS_REPORT-final.pdf

[9] Id. p. 15

[10] Id. p. 17

[11] Clean Air Act (CAA) Sec. 211(o)(2)(B)(ii)(I)-(VI).

2) The nature of complaints or public comments.

The AFPM comment letter effectively details EPA's failure to change the broken nature of the program despite receiving extensive comments on the matter. It is also worth noting that EPA continuously fails to decrease the de facto conventional biofuel requirement by the amount of biofuel that is blended with gasoline from small refiners exempt from the program. The law requires EPA to make such reductions.[12] PBF's 2020 RVO comments detail why EPA's reliance on the RIN program to comply with this provision of the law is inadequate.[13] However, it is also important to note that the regulation itself is in violation of this provision of the law. The RVO formula contains an element that allows for reallocation of volumes attributable to SREs if those exemptions are granted before the RVO is finalized.[14] If EPA is not going to reduce the volume of renewable fuel non-exempt refiners are required to account for by the amount of biofuel blended into gasoline of exempt small refiners, instead relying on RINs associated with such blending to act as a de facto reduction in the requirement, then it is impermissible to allow for such reallocation in the RVO formula. Doing so certainly creates a "redundant obligation"[15] in violation of the statute.

3) The complexity of the rule.

Building on the AFPM comment letter regarding complexity of the rule, the EVA analysis highlights how an overly complex and poorly constructed RIN market disadvantages small and merchant refiners at the expense of integrated oil companies. EVA notes:

> "Unlike the integrated refineries, merchant refineries cannot offset their RIN obligation without making purchases from the RIN market because most of their sales are on the bulk level. Unlike integrated refineries and chain marketers, the RIN obligation represents a net cost to the merchant refiners that has increasingly reduced their refining margin. Buying RINs from the market can be costly because the RIN market is illiquid and volatile. Because integrated refineries are able to blend and offset their RIN obligations, the competition on fuel production is distorted and favors the integrated business model."[16]

Given this reality, EPA needs to institute RIN market reforms or cost containment mechanisms, as detailed in PBF's 2020 RFS RVO and E15 Reid Vapor Pressure (RVP) waiver/RIN market reform rule.[17]

5) The length of time since the rule has been evaluated or the degree to which technology, economic conditions, or other factors have changed.

Several have commented on the vast changes in America's energy landscape since the RFS was passed into law. Building on such comments, the EVA study notes the RFS does not support energy independence or security. It states:

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[12] 42 U.S.C. § 7545(o)(3)(C)(ii)
[13] See comments from PBF Holding Company LLC (PBF)(Docket No. EPA–HQ–OAR–2019–0136; FRL–9996–53–OAR)
[14] 40 C.F.R. 80.1405(c)
[15] 42 U.S.C. § 7545(o)(3)(C)(i)
[16] EVA. "An Assessment of the Renewable Fuel Standard…." July 17, 2019. p. 25
[17] See comments from PBF Holding Company LLC (PBF)(Docket No. EPA–HQ–OAR–2019–0136; FRL–9996–53–OAR); (Docket ID No. EPA–HQ–OAR–2018–0775; FRL–9991–04–OAR)

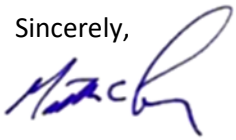
- "Under all cases analyzed in this report, the U.S. becomes a net exporter of petroleum and other liquids by 2025."
- "Completely eliminating the RFS would change U.S. net import dependency on petroleum and other liquids by only 1.2 percentage points by 2030, from negative 17.6 percent to negative 16.4 percent. In other words, the U.S. remains a net exporter, but petroleum exports would just be lower."
- "The change in the U.S. energy import outlook results largely from the outlook for lower U.S. petroleum consumption and significantly increased domestic production from tight and shale oil resources."[18]

Additionally, EPA continuously ignores the fact that the RFS has become a massive, de facto foreign biofuel mandate, contrary to the energy independence and security goals of the statute. Promulgation of RVOs that cannot be met given the E10 blendwall and domestic biodiesel production has resulted in a de facto foreign biodiesel mandate averaging about one billion gallons per year in each of the last three years.[19]

Conclusion

In conclusion, the RFS has become an obsolete foreign fuel mandate. It is an all cost, no benefit proposition for the American consumer and the nation's economy. EPA has the power to initiate needed reforms capable of changing this reality. These include setting conventional biofuel volumes below the E10 blendwall, setting all volumetric requirements in a manner that avoid a de facto foreign biofuel mandate and instituting meaningful RIN market reforms or cost containment mechanisms.

Sincerely,



Matthew Lucey
President

[18] EVA. "An Assessment of the Renewable Fuel Standard…." July 17, 2019. p. 5
[19] Fueling American Jobs Coalition. "EPA Data Proves the RFS Has Become a Foreign Fuel Mandate." Available at: http://www.fuelingusjobs.com/library/public/Study/RFS-Foreign-Fuel-Mandate.pdf