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Mr. Chris Grundler
Director
Office of Transportation and Air Quality (6401A)
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Sent via email to: Grundler.christopher@Epa.gov

Dear Mr. ^{Chris} Grundler,

API and our member companies are concerned that EPA has once again failed its statutory obligations by not providing notification of the volume requirements for the Renewable Fuels Standard in 2013, and the biomass-based diesel standard for 2014. As we approach the ethanol “blendwall” (i.e. when ethanol concentration exceeds 10% of the gasoline pool), obligated parties need an appropriate amount of time to consider compliance options prior to the compliance period.

By no later than November 30, Clean Air Act section 211(o)(3)(B)(i) requires EPA to determine the applicable renewable fuel obligation percentages to ensure the Renewable Fuel Standard volumes are met in the following year. In addition, by November 30, Clean Air Act section 211(o)(7)(D)(i) also requires EPA to reduce the applicable volume of cellulosic biofuel mandated under the Renewable Fuels Standard for the following year to the projected volume available. EPA is also required by Clean Air Act section 211(o)(2)(B)(i)(IV)(ii) to establish biomass-based diesel standards 14 months in advance of the compliance period. EPA has failed to meet these statutory deadlines by not setting biomass-based diesel standards for 2014 and other renewable fuel categories for 2013 in a timely manner.

The Office of Management and Budget’s Office of Information and Regulatory Affairs reports receiving a draft proposal on July 20th, but a Proposed Rule has not yet been issued. We have subsequently been notified informally of the Agency’s intent on issuing a Direct Final Rule for the 2013 RFS. In response to previous annual RFS proposals, EPA received a significant number of public comments that indicate a Direct Final rule would be an inefficient approach for the annual standard setting process. While we are uncertain as to what method EPA will use in issuing the rulemaking, API urges the Agency to complete the process expeditiously and inform



industry of the standards they are expected to meet prior to being held to those standards on January 1st.

Data on EPA's EMTS website show no commercial volume of cellulosic biofuel was produced through October 2012. As API noted in comments to the 2012 RFS proposal, EPA could adopt a mechanism to correct for cellulosic production shortfalls each year by exercising its own waiver authority provided under section 211(o)(7)(A)(ii) of the Clean Air Act. With the benefit of information available to the agency on the full year's production numbers, an EPA initiated waiver could eliminate the unjustified cost to obligated parties after it was clear that the obligation could not be achieved.

Prompt promulgation of the final standards is necessary, and EPA should immediately provide a timeline for publication. We appreciate your attention on this issue. Please contact me or Patrick Kelly at 202-682-8192 if you have any concerns.

Sincerely,

A handwritten signature in black ink, appearing to read "David Korotney", written in a cursive style.

cc: David Korotney; Paul Argyropoulos