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Via E-mail to A-and-RDocket@epamail.epa.gov

Air and Radiation Docket and Information Center  
U.S. Environmental Protection Agency (EPA)  
Mail Code 2822T  
1200 Pennsylvania Avenue, N.W.  
Washington, D.C. 20460

**Re: Docket ID No. EPA-HQ-OAR-2013-0479 “2014 Standards for the Renewable Fuel Standard Program; Proposed Rule” and Docket ID No. EPA-HQ-OAR-2013-0747 “Notice of Receipt of Petitions for a Waiver of the Renewable Fuel Standard”**

Chevron appreciates the opportunity to review and comment on the referenced Notice of Proposed Rulemaking (NPRM) and the Notice of Receipt of Petitions for a Waiver of the Renewable Fuel Standard. Chevron is a major refiner and marketer of petroleum products in the U.S. This proposed rule directly affects Chevron’s compliance requirements for 2014, which in turn impacts our transportation fuel business.

As we have previously noted, the current Renewable Fuel Standard (RFS) program is unworkable and should be repealed or significantly reformed. The RFS was implemented when gasoline demand was expected to increase over time. Due to the changes in the U.S. economy, changes in consumer behavior, and more fuel efficient vehicles, gasoline demand has decreased to the point where the mandated volumes of renewable fuel cannot be accommodated in the transportation fuel market. As the RFS mandate continues to increase and the supply of renewable fuel credits (renewable identification numbers or RINs) remains limited, the pressure on energy costs could have a significant negative impact on the U.S. economy. In the absence of repeal, well-designed modifications should be enacted to ensure that the RFS does not exceed the practical limits of vehicle fleet fueling, fuel demand, retail station infrastructure, advanced biofuel technology commercial development, and renewable fuel production.

We recommend that EPA finalize the volume standards proposed in the API/AFPM waiver petition. Although the NPRM does not exactly match the industry waiver petition, EPA’s proposed rule for 2014 is a step in the right direction. However, it will be only a temporary one-year fix to the RFS, one which EPA must revisit each year. Congress needs to provide a long-term legislative remedy to avoid serious impacts on America’s fuel supply and to ensure consumers are not harmed. EPA can and should act to minimize the negative impacts of the RFS and to provide certainty to the marketplace.

**Comments on the RFS Waiver Petitions**

Chevron intends for this comment document to be submitted to the docket for the NPRM and also to the docket for the Notice of Receipt of Petitions for a Waiver of the Renewable Fuel Standard. As explained

in the RFS Waiver Petition Notice (FR 78, 71607), any comments submitted on the NPRM will also be submitted automatically to the docket for the RFS Waiver Petitions. We are not submitting separate comments on the waiver petition.

Chevron is a member of the American Petroleum Institute (API) and the American Fuel & Petrochemical Manufacturers (AFPM). We support the comments submitted by API and AFPM in response to this proposed rulemaking. We also support the RFS Waiver Petition submitted by API and AFPM on August 13, 2013.

The API/AFPM waiver petition addresses many of the issues discussed in the NPRM, including the ethanol blendwall, the cellulosic biofuel volume standard, the biomass based diesel standard, and the importance of meeting the statutory timelines for the RFS annual rulemakings. The API/AFPM waiver petition also describes the significant economic harm associated with the blendwall. We endorse the analysis and the recommendations presented in the industry waiver petition.

#### **Comments on the NPRM**

Chevron recommends that EPA finalize the volume standards for the 2014 RFS that are outlined in the August 13, 2013 API/AFPM waiver petition. The volumes for each of the four RFS categories are linked and must be considered simultaneously. The industry waiver petition provides a fully developed waiver justification and a consistent set of proposed volume standards. We believe that the industry proposed standards are appropriate and will avoid the significant economic harm associated with the blendwall.

We recognize that the volume standards proposed in the NPRM are not greatly different from the industry waiver petition. If EPA does not finalize the standards as recommended in the waiver petition, EPA should finalize standards that are within the ranges proposed in the NPRM. EPA should not finalize volumes that exceed the proposed ranges. Since the 2014 RFS regulations will not be finalized until well after the start of the compliance year, it would not be fair to obligated parties for EPA to establish standards that exceed the proposed ranges.

In addition to comments on the volume standards, EPA requests comment on a number of additional issues presented in the NPRM. Our primary comments on the NPRM are:

1. EPA's proposal to address the blendwall and utilize the RFS waiver provisions and reduce the 2014 total renewable fuel and advanced biofuel volume standards is appropriate and necessary.
2. The proposed cellulosic biofuel volume standard is overly optimistic and should be reduced based on the uncertainty of new production planned for 2014.
3. EPA has correctly proposed to maintain the biomass based diesel volume standard at 1.28 billion gallons per year for 2014 and 2015.
4. The use of Monte Carlo Simulation for establishing the volume standards is a step in the right direction, but improvements should be made.
5. EPA's inability to meet the statutory timeline for annual RFS rulemaking continues to be problematic for obligated parties and other RFS participants.

We discuss each of these issues in more detail below.

**1. The E10 Blendwall and EPA's waiver authority**

Correctly, EPA acknowledges the E10 blendwall as a barrier to mandating greater volumes of renewable fuels. EPA's proposal to use its statutory waiver authority under both the general waiver provision and the cellulosic biofuel waiver is the appropriate short-term response to the blendwall and the lack of significant cellulosic fuel production. It is Chevron's view that EPA is well within its legal discretionary authority to use the waiver provisions as described in the proposal. We also believe that it is appropriate for EPA to reduce both the total renewable fuel standard and the advanced biofuel standard to address the blendwall.

EPA justifies the waiver based on evidence related to inadequate domestic supply. However, Chevron believes that the blendwall also poses a significant threat of economic harm, as outlined in the API/AFPM waiver petition, dated August 13, 2013. The consequences of the blendwall are real and would have a negative effect on the market if not adequately addressed by using the waiver provisions.

The waiver provisions should be applied in two steps. First, the cellulosic biofuel waiver provision should be applied to reduce both the total renewable fuel standard and the advanced biofuel standard by the full amount of the cellulosic volume waiver. The general waiver should then be applied to further reduce the total and advanced standards to keep the total ethanol content in the gasoline pool below the blendwall level.

A key part of the EPA's analysis of the blendwall relates to the forecast of E85 demand in 2014. EPA's forecast of 100 to 300 million gallons of E85 in 2014 is not realistic. EPA's forecast relies partially on extrapolating E85 sales volumes from a very short time period in 2013. It is not appropriate to extrapolate from a limited time period without considering the additional historical data that are available. An analysis of the historical data and the cyclical variation of E85 volumes suggests that a forecast volume under 100 million gallons for 2014 is more reasonable.

While the proposal recognizes these issues, we are concerned that the proposal doesn't go far enough and may not address the full scope of the blendwall. We recommend that EPA finalize the volumes that were proposed in the API/AFPM RFS Waiver Petition. The API/AFPM volumes for total renewable fuel, advanced biofuel, and cellulosic biofuel are all less than the EPA's proposed volumes, and the biomass-based diesel standard is the same. Chevron believes that the waiver petition volumes fully address the blendwall and would minimize the impact of the blendwall on the market.

**2. The cellulosic biofuel (CB) standard should be established based on actual production of cellulosic biofuels in the marketplace.**

Regarding cellulosic biofuels, we appreciate the difficulty in predicting the future of the industry as new plants are being built and brought online. However, we are concerned that EPA's methodology for setting the annual cellulosic biofuel volume is aspirational and continues to overestimate the 2014 production rate and the rate at which new plants become operational after overcoming startup challenges.

There is significant uncertainty and very little historical data related to the probability of new plants and technologies completing construction and reaching steady state operation. EPA's forecast relies on assessments of three cellulosic plants that have not completed construction and two cellulosic plants that are operating but have not reached steady state production. The assumptions for these input variables appear to be too optimistic based on historical performance. Because of this, we recommend that EPA set the cellulosic biofuel standard based on an annualized total calculated from the most recent three months

of actual cellulosic biofuel production. In addition, we describe in more detail below our concerns with how EPA has used a Monte Carlo simulation to model future cellulosic production volumes.

**3. The biomass-based diesel (BBD) volume standard should be finalized at 1.28 billion gallons per year for 2014 and 2015.**

Chevron agrees with EPA's proposal to maintain the 2013 applicable BBD volume standard at 1.28 billion gallons for 2014 and 2015. The RFS requires EPA to finalize the BBD volume standard at least 14 months prior to the start of a compliance year (CAA Section 211(o)(2)(B)(ii)). Since EPA has missed the promulgation deadlines for both 2014 and 2015, it is prohibited by statute from increasing the applicable volume for those years. The BBD volume for 2016 could be increased if EPA meets all of the other requirements of the RFS and finalizes a 2016 BBD volume before November 1, 2014.

In addition to the statutory deadline, the RFS requires EPA to conduct a thorough analysis of six factors (CAA Section 211(o)(2)(B)(ii)(I-VI)) before proposing to increase the BBD volume standard. EPA has not presented the six factor analysis for either 2014 or 2015 in the current NPRM. Before proposing to increase the BBD volume standard, EPA must update the six factor analysis, last conducted for the 2013 BBD final rule, and provide an opportunity for public review and comment.

Chevron agrees with EPA's explanation that the 1.28 billion gallon per year volume standard will still allow additional volumes of BBD to enter the market. Biomass based diesel provides compliance flexibility when obligated parties decide how to comply with the multiple nested RFS standards. It is likely that additional volumes of BBD, above the minimum standard, will be supplied to the market. These additional volumes may be required for compliance with the advanced biofuel standard or based on consumer demand. By maintaining the current volume standard, BBD volume will be determined by the market to meet multiple compliance and commercial objectives. An increased standard removes this flexibility and provides an additional constraint on an already highly constrained program. We recommend that EPA maintain this approach for setting the BBD standard in future years.

**4. The use of Monte Carlo Simulation for establishing the volume standards is a step in the right direction, but improvements should be made.**

Chevron acknowledges EPA's use of Monte Carlo simulation and believes that this could be an effective methodology for establishing the annual RFS volume standards. Chevron actively uses a variety of decision analysis techniques, including Monte Carlo simulation, in all aspects of our business. Probabilistic assessments can lead to better decisions and results if the analysis is performed correctly.

EPA's use of Monte Carlo simulation could establish a sound, mathematical procedure for including uncertainty in the annual determination of the volume standards. EPA's explanation of their methodology and data analysis provides additional clarity for the process.

However, as highlighted in the API/AFPM comments on the NPRM, Chevron shares the specific concerns about the data collection process and expert analysis regarding cellulosic biofuels. Gathering accurate data with realistic probability assessments is critical in obtaining accurate results from the Monte Carlo simulation. There is evidence that the informal data collection and assessment process did not provide truly objective inputs for the model. This resulted in overly optimistic modeling results.

Specifically for cellulosic biofuels, the assumptions for start-up dates, ramp-up rates, and sustained commercial production levels are not consistent with the historical performance of the industry. The EPA



assumptions for the five cellulosic plants results in utilization rates that are not realistic, especially considering that 3 plants are still under construction and the other 2 have yet to achieve steady state production. The proposed volume standard of 17 million gallons and the range of 8 to 30 million gallons are overstated. Once several cellulosic plants are completed and operational, it may be reasonable to apply the Monte Carlo techniques to establish the cellulosic volume standard in the future.

In summary, we believe it is appropriate to develop a probability based methodology for establishing the annual volume standards. EPA's choice of Monte Carlo simulation appears to be reasonable. Chevron would like to see EPA improve their analytical procedure based on recommendations from decision analysis experts as outlined in the API/AFPM NPRM comments. An improved Monte Carlo methodology could be very effective in establishing the volume standards for future years.

**5. The EPA needs to meet all statutory timelines in establishing the annual RFS program volumes.**

Finally, the timeliness of meeting the statutory deadlines for establishing the annual program standards is still a significant problem. The 2013 standards were not finalized until August 2013, more than eight months past the statutory deadline. We are on a similar timeline for 2014. This has been a major problem because timely promulgation of the annual volume standards is critical for business planning and to ensure compliance for all program participants. To meet the statutory deadlines for future years, the rulemaking process for the 2015 standards and the 2016 biomass based diesel volume standard should begin immediately and be finalized by the November 30, 2014 statutory deadline.

**Conclusion**

We recommend that EPA finalize the volume standards that were proposed in the API/AFPM waiver petition. Although the NPRM does not exactly match the industry waiver petition, EPA's proposed rule for 2014 is a step in the right direction. However, it will be only a temporary one-year fix to the RFS, one which EPA must revisit each year. Congress needs to provide a long-term legislative remedy to avoid serious impacts on America's fuel supply and to ensure consumers are not harmed. EPA can and should act to minimize the negative impacts of the RFS and to provide certainty to the marketplace.

Thank you for providing this opportunity for Chevron to comment on the NPRM. If you have any questions regarding our comments, please contact Bob Anderson ([Bob.Anderson@chevron.com](mailto:Bob.Anderson@chevron.com); 925-842-5317) or Dave Sander ([davesander@chevron.com](mailto:davesander@chevron.com); 202-408-5853).

Sincerely,

A handwritten signature in black ink, appearing to read "Glauco R.", followed by a long horizontal flourish.

