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November 21, 2014

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Hon. Gina McCarthy, Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Mail Code 1101A
Washington, DC 20460

Re: Notice of Intent to File Suit for Failure to Issue the 2014 Renewable Fuel Standard Regulations

Dear Administrator McCarthy:

The American Fuel & Petrochemical Manufacturers (AFPM) hereby provides notice of its intent to sue the Environmental Protection Agency (“EPA” or “Agency”) under Section 304(a)(2) of the Clean Air Act, 42 U.S.C. § 7604(a)(2), to enforce EPA’s non-discretionary duties under Clean Air Act section 211(o), to timely determine renewable fuel volumes and promulgate Renewable Fuel Standard (RFS) regulations for 2014.

AFPM is a national trade association of more than 400 companies. Its members include virtually all U.S. refiners and petrochemical manufacturers. As refiners and importers of fuel, AFPM’s members are obligated parties under the RFS program, originally enacted by Congress in 2005 as part of the Energy Policy Act of 2005. AFPM members have been directly regulated by prior rulemakings under the RFS program. Once EPA completes its rulemaking process, AFPM members will be directly regulated by the 2014 RFS rule.

Pursuant to the Clean Air Act, section 42 U.S.C. § 7545(o), EPA is obligated to promulgate annual renewable fuel volumes to implement the RFS by November 30 of the preceding year. As such, EPA should have promulgated the 2014 RFS rule on or before November 30, 2013.

EPA’s track record concerning the issuance of RFS rules has become an egregious pattern of non-compliance. With respect to the 2012 RFS, EPA did not issue a final rule until January 9, 2012, 40 days beyond the statutory deadline and after the beginning of the compliance year.¹ For the 2013 RFS, EPA did not issue a final rule until August 15, 2013, more than 8 months after the statutory deadline and nearly two-thirds of the way through the compliance year.² (In fact, EPA did not even issue a notice of proposed rulemaking for the 2013 RFS standards until well after the 2013 compliance period had begun).³ For 2014, EPA’s delay

¹ 77 *Federal Register* 1320 (January 9, 2012).

² 78 *Federal Register* 49794 (August 15, 2013).

³ 78 *Federal Register* 9282 (February 7, 2013).



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reached new levels and the Agency still has not yet issued a final rule, even though the compliance year is almost concluded. These repeated inexplicable delays are a violation of the Clean Air Act.

EPA's failure to comply with RFS deadlines has only caused additional harm to obligated parties, including AFPM's members. We urge EPA to take prompt action to promulgate the 2014 standards.

If you have any questions concerning this Notice, please contact me at (202) 552-8474.

Respectfully submitted,

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cc: Avi Garbow
Chris Grundler