

Testimony of Kate Shenk, Director of Regulatory Affairs, National Biodiesel Board

**U.S. Environmental Protection Agency
Public Hearing on the Extension of Compliance and
Attest Engagement Reporting Deadlines**

Good morning. Thank you for the opportunity to speak today on behalf of the National Biodiesel Board. I am Kate Shenk, Director of Regulatory Affairs.

On behalf of the biodiesel industry, I ask that you maintain the integrity of the Renewable Fuel Standard program and follow through with the Administration's commitment to get the RFS back on track and meet statutory deadlines. Today's proposal sends the wrong signals on fuel availability and gas prices. The uncertainty EPA is creating for the RFS will undermine biodiesel and renewable diesel producers, blow up demand for cleaner fuels, and derail the nation's progress toward carbon reductions. Through this proposal, EPA is allowing oil refiners to further avoid overdue Renewable Fuel Standard obligations from 2019 and 2020, which the agency previously extended in April. At the same time, the agency is still not issuing the 2021 and 2022 RFS rules or the 2023 volumes or announcing decisions on pending small refinery exemptions.

The biodiesel industry relies on timely RFS rules as signals to continue making investments in new production capacity, increased efficiency, diversification of biofuel feedstocks, and fuel distribution infrastructure. Instability in the RFS program endangers small business' access to capital, threatening continued operations, the jobs of plant workers, and economic opportunities throughout the surrounding communities.

Additionally, EPA already announced that they have changed course in granting small refinery exemptions going forward, making the April extension unnecessary. That statement alone should have been indicative that small refineries will not be receiving exemptions for 2019 and should plan to come into compliance. But the extended 2019 deadline – which EPA reset to November 30, a full 20 months past the statutory deadline – has come and gone. EPA's proposed rule is in fact a *fait accompli*.

Extending the compliance deadline for all obligated parties in 2020 compounds the problems facing the agency in putting the program back on track. Furthermore, if EPA continues to extend the compliance obligation deadlines, obligated parties will continue to assume that they do not need to meet them, rendering the annual RFS volumes that EPA sets meaningless because they are not enforced.

What is also concerning about this proposal is that EPA is attempting to sneak in an automatic delay in the compliance reporting and attest engagements for future years. However, what we see is an admission that EPA will miss the statutory deadlines going forward, while making it easier to do so. With EPA's current non-actions on issuing the RVO, coupled with this proposal, EPA is acting as if there is no statutory deadline for promulgating annual rules.

Timely implementation of the RFS and compliance in line with the statute supports the growth Congress intended to achieve with this program. We urge the agency to withdraw the proposed rule, maintain the annual compliance deadlines, and issue the 2021 and 2022 RVO immediately. This is the only way to put the program on a sustainable path to achieving its principal goal – reducing greenhouse gas emissions by increasing use of renewable fuels. Thank you.