



January 25, 2018

The Honorable Scott Pruitt  
Administrator  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, NW  
Mail Code: 1101A  
Washington, DC 20460  
[pruitt.scott@epa.gov](mailto:pruitt.scott@epa.gov)

Dear Administrator Pruitt,

Thank you for visiting Bill Couser's farm in central Iowa and taking time to talk with us about the Renewable Fuel Standard (RFS). You actively listened and openly answered our questions and seem committed to learning the facts and taking prompt action on important issues. We both left the meeting truly encouraged that we can work together and positively address opportunities and challenges now and in the future. We are watching your EPA "Back to Basics" regulatory agenda with interest and look forward to additional efficiencies in your second year. We admire your commitment to the rule of law, dedication to stakeholders, and mission to provide regulatory certainty to industry, all while protecting both the environment and American jobs.

As the largest producer of advanced biofuel in the country, we have been actively engaged with the EPA for years and are fortunate to have had a good working relationship with EPA staff. As we have discussed with them, and again with you at the farm, there are a few areas that we believe should be quickly addressed that would result in reduced regulatory burden, reduced costs through lower RIN prices, and enhanced program integrity. We appreciate your attention and willingness to help expedite these matters.

1. **REG requests a determination letter from EPA, similar to the attached sample, clarifying that various forms of esterification technologies (both stand alone and pre-treatment) are similar to transesterification and qualify as part of the approved pathway.** In early 2015, Renewable Energy Group (REG) prepared a pathway petition for an acid esterification process for REG Mason City, LLC. This petition would have allowed for an increase in production capacity of 10-15 million gallons of biodiesel annually increasing supply and thus lowering RIN prices. This process would allow REG Mason City, LLC to use low quality feedstocks like brown grease, converting it to biodiesel, and diverting it from landfill and wastewater treatment plants. At that time, EPA advised REG not to submit a petition, stating it would not be reviewed, but they intended to revisit the issue at a later date. To date, this has not been addressed. As you yourself have stated, this kind of agency inaction does *nothing* to improve compliance or the environment. EPA's own analysis in the 2012 Additional Fuel Pathways Direct Final Rule<sup>1</sup> states that at least 71% GHG emission reduction thresholds would be met by this standalone process. This portion, and others, of the Direct Final rule were withdrawn in March of 2012<sup>2</sup>. To remedy

<sup>1</sup> <https://www.epa.gov/fhys/pkg/FR-2012-01-05/pdf/2011-31577.pdf>

<sup>2</sup> <https://www.epa.gov/fhys/pkg/FR-2012-03-05/pdf/2012-S256.pdf>

this inaction REG has proposed a Determination Letter (see attached sample) similar to prior letters<sup>3</sup> on this subject, stating that various forms of esterification technologies are substantially similar to transesterification and thus does not need a separate pathway. This would provide *all* biodiesel producers much needed regulatory clarity and certainty allowing the industry to continue to grow volumes and rural jobs, while reducing costs through lower RIN prices as additional production comes online. While EPA staff has expressed concerns around potential non-qualifying feedstocks being used in this process, that is a separate issue from the process technology itself and should be treated as such.

2. **REG requests a meeting with your senior staff to engage in substantive discussions on the future of EPA's draft REGS rule and the confusion around feedstock and process definitions.** The proposed Renewables Enhancement and Growth Support (REGS) rulemaking, created additional confusion and uncertainty around feedstock eligibility, both within the industry and the Agency. The additional regulatory burden from a poorly designed rule would be inconsistent with common industry practice and would be costly to implement. As we stated in our comments to the draft REGS rule,<sup>4</sup> this proposed rule further exacerbates the interpretation of existing regulations and should face significant scrutiny by the Administration prior to finalization or be withdrawn in its entirety. This is an issue that *all* RFS stakeholders as well as other regulated industries have an interest in resolving.
3. **REG requests assistance with new pathway requests.** These pathways are consistent with those currently approved and would allow for additional volumes of renewable fuel to enter the marketplace. This will have the effect of reducing RIN prices by creating more supply.
  - a. CR-13053. Submitted 1/27/16 and resubmitted 6/7/17.
  - b. CR-16202, CR-16203, and CR-16204. Submitted 6/21/17.
  - c. Biogenic waste oils/fats/greases petition for REG Geismar, LLC for naphtha/LPG.
4. **REG requests assistance with the following outstanding REG Company Requests (CR) and pathway petitions in the queue listed below.**
  - a. Separated Food Waste Plan update for all REG facilities. Palm Sludge Oil (PSO) and Spent Bleaching Earth Oil (SBE Oil) are both waste products that originate from palm oil mills producing palm oil for the food industry and should qualify as a separated food waste when properly tracked. While an Agency determination was made in the past, it has been arbitrarily revoked resulting with industry being left in regulatory limbo. REG has spent several years and significant resources to develop a palm sludge oil (PSO) supply chain and system of documentation. This was submitted as a specific separated food waste plan in early 2016. To date, we have satisfied all requests for information, and thus seek immediate approval. Additionally, EPA should publically provide clarity to all stakeholders what the requirements there are for feedstocks to qualify as separated food waste.
    - i. CR-13056. Submitted on 1/27/16.
    - ii. CR-14036. Submitted on 7/29/16.

<sup>3</sup> <https://www.epa.gov/files/production/files/2015-08/document/dumix-determination-ltr-3-7-14.pdf>

<sup>4</sup> <https://www.regulations.gov/document?D=EPA-HQ-OAR-2016-0041-0267>

5. REG requests Notice(s) for Proposed Rulemaking (NPRM)<sup>5</sup> for Carinata Oil, Pennycress oil, Cottonseed Oil, and Jatropha Oil. We also request that any feedstocks listed under Entries F and H in Table 1 in §80.1426 be evaluated and added to Entry I concurrently. We appreciate the Agency's commitment to evaluating and finalizing new feedstocks including the recent proposal for grain sorghum oil. In the spirit of increasing feedstock volumes and reducing RIN costs, we request that Carinata, Pennycress, Cottonseed, and Jatropha Oil be proposed and finalized as soon as possible. The industry is aware that these feedstocks were modeled in 2015, but faced process hurdles under the previous administration that prevented their inclusion to the program. This has resulted in REG, and other stakeholders, along with EPA staff, spending countless hours working on biorefinery specific pathway petitions for these feedstocks. By issuing a proposal and finalizing the updates to the regulation, stakeholders and the Agency would have greater certainty around feedstock availability. Inclusion of these feedstocks to Table 1 in §80.1426 could add up to 683 million gallons of biomass-based diesel and advanced biofuel annually by 2022 per EPA's own analysis<sup>6</sup>.

Thank you again and please feel free to contact us with any questions.

Sincerely,



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<sup>5</sup> <https://www.gpo.gov/fdsys/pkg/FR-2017-12-27/pdf/2017-27946.pdf>

<sup>6</sup> Carinata Oil – pg. 22999: <https://www.gpo.gov/fdsys/pkg/FR-2015-04-24/pdf/2015-09618.pdf>  
Pennycress Oil – pg. 15004: <https://www.gpo.gov/fdsys/pkg/FR-2015-03-20/pdf/2015-06444.pdf>  
Cottonseed Oil – pg. 41036 : <https://www.gpo.gov/fdsys/pkg/FR-2015-07-14/pdf/2015-17262.pdf>  
Jatropha Oil – pg. 61413 - <https://www.gpo.gov/fdsys/pkg/FR-2015-10-13/pdf/2015-26039.pdf>

## **SAMPLE DETERMINATION LETTER**

Thank you for your interest in the Renewable Fuel Standard (RFS) program. We have reviewed your petition request submitted pursuant to 40 CFR 80.1416, dated XX. In this petition, you requested EPA's assessment of the eligibility of REG's proposal to produce biodiesel from qualifying feedstocks using an esterification process technology similar to the common industry process for producing biodiesel as already approved for certain biodiesel fuel pathways under the RFS program (see Table 1 to 40 CFR 80.1426 for the list of approved biodiesel pathways). Approved use of this process, and others sharing similar approved technologies would allow for these feedstocks to be diverted from landfills and wastewater treatment plants at the REG Mason City production facility, as well as others enabled to utilize similar technology.

According to the information supplied in your petition, this process technology is sufficiently similar to the approved transesterification technology to be covered by existing biodiesel transesterification pathways for these feedstocks. Based on the information provided, the existing regulations cover your technology option and a petition for a new fuel pathway is unnecessary. Therefore, you may proceed with the RFS registration process. If you have any additional questions on the petition or registration process, please contact the support line by emailing [support@epamts-support.com](mailto:support@epamts-support.com).