

To: Jackson, Ryan[jackson.ryan@epa.gov]
From: Brittingham, Charles II (WAS-CAS)
Sent: Wed 8/23/2017 9:42:40 PM
Subject: FW: For Ryan Jackson
Pruitt D3 Letter_aug22docx.pdf

For you, buddy. Miss ya, let's get together soon.

Charles Brittingham, II

Senior Vice President

Cassidy and Associates

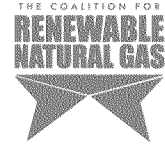
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CASSIDY&ASSOCIATES

From: Bernstein, Jordan (WAS-CAS)
Sent: Wednesday, August 23, 2017 5:22 PM
To: Brittingham, Charles II (WAS-CAS)
Subject: For Ryan Jackson

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August 22, 2017

Mr. Scott Pruitt
Administrator
U.S. Environmental Protection Agency (EPA)
1200 Pennsylvania Avenue N.W.
Washington, DC 20004

Dear Administrator Pruitt,

Thank you for holding the recent public hearing to receive input from stakeholders on the proposed 2018 Renewable Volume Obligation (RVO) for the federal Renewable Fuel Standard (RFS). As your staff begins to review public comment, we (the undersigned) would like to take this opportunity to highlight several areas of critical importance to the commercialization of cellulosic biofuels.

As you know, President Trump called the RFS “an important tool in the mission to achieve energy independence for the U.S.” because “energy independence is a requirement if America is to become great again.” The RFS is necessary because transportation fuel markets are not free markets. We rely on the RFS to create market opportunity for new fuels that would occur naturally in a price-driven market.

Over the last decade, the RFS drove a manufacturing boom across America’s heartland during one of the most challenging global recessions in history. Advanced and cellulosic biofuels are poised to drive the next American manufacturing wave. However, our ability to achieve success will depend largely on careful administration of the RFS in several key areas:

1. The RFS must continue to be administered in a forwardlooking manner. It is settled law that cellulosic biofuel blending requirements must be set in a forward-looking manner. This is vital because the RFS, by design, creates the market opportunity that draws project finance. Put another way, if the EPA fails to consider or discounts imminent supply of D3-eligible fuel, investment in cellulosic biofuel wanes due to the uncertainty around whether the RFS will drive obligated parties to buy these new gallons (or equivalent). Likewise, if EPA fails to properly consider imminent D3 supply, it increases the risk of D3 RIN oversupply, which in turn depresses D3 RIN prices, decreases market liquidity and dampens investor interest in the critical first stages of commercial growth. Unfortunately, the 2018 proposal appears to be forecasting cellulosic biofuel volumes by looking backwards. EPA is obligated to take a “neutral aim at accuracy” when it comes to setting “the projected volume of cellulosic biofuel production” in each calendar year. *See American Petroleum Institute v. EPA*, 706 F.3d 474, 476 (D.C. Cir. 2013), *reaffirmed by Americans for Clean Energy v. EPA*, No. 16-1005, slip op (D.C. Cir. July 28, 2017). We believe the new methodology fails this test. Perhaps more importantly, this methodology undercuts rather than drives the outcomes intended by Congress and sought by President Trump. To resolve this issue, we ask the agency to return to a forward-looking forecasting methodology that considers current market activity, including projects under construction, investments made to increase volume output, and volume from pending project registrations. As noted by EPA, historical data and trends alone are insufficient to project the volume of cellulosic biofuel that could be provided

in future years.¹ Our groups must do our share to provide EPA with data to the greatest of our ability. But the methodology is critical because investors need to know that year-to-year RFS administration is geared to be inclusive rather than exclusive of new gallons.

2. Alternative compliance mechanisms should not be administered in such a way as to undercut interest among obligated parties in securing **actual “D3-eligible” liquid or gasified biofuels**. Congress anticipated the challenge of predicting the emergence of new technology by allowing the EPA to issue Cellulosic Waiver Credits (CWCs) as a backstop against any shortage of D3-eligible, cost-competitive gallons post-RVO. CWCs essentially serve as an alternative compliance mechanism that covers any delta between forecasted and actual gallons. Unfortunately, the **EPA’s current approach to administering CWCs is to make available the maximum amount of CWCs** (defined by statute as equal to the cellulosic RVO) at the outset of the year. Because the CWC price is set by statute, obligated parties know that there will always be an alternative to purchasing physical liquid or gaseous D3 gallons at year-end for a price only slightly above or equal to the price of the physical D3 gallons. The EPA itself acknowledges in the 2010 regulation that alternative compliance should not be allowed to undercut the primary purpose of the law to promote the commercial production and use of physical biofuel gallons. The critical first step to resolving this issue is to stop making CWCs available – unconditionally – on a gallon-for-gallon basis with the cellulosic RVO. Our industry has submitted additional ideas to EPA staff that would further accelerate the commercialization of cellulosic biofuels. We would look forward to the opportunity to discuss those concepts with you.

The RFS is a proven tool for promoting growth. And notwithstanding volatile global oil prices and RFS policy uncertainty, the United States remains poised to lead the world in the development and commercial deployment of the most innovative fuels in the world. These cutting-edge projects are being developed in many of the same rural areas that produce clean, American-made biofuels today.

We appreciate your commitment to getting the RVO published on time. However, we urge EPA to strengthen the final RVO to meet Congressional intent, drive economic growth, achieve American energy independence, and promote investments that will keep America at the forefront of biofuel innovation.


Sincerely,



Patrick Serfass
American Biogas
Council



R. Brooke Coleman
Advanced Biofuels
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Brent Erickson
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David A. Cox
Coalition for Renewable
National Gas

¹ See Proposed Renewable Fuel Standard Program: Standards for 2018 and Biomass-Based Diesel Volume for 2019, 84 Fed. Reg. 34206, 34220 (July 21, 2017).