Advanced Biofuels Association

October 13, 2017

President Donald Trump
The White House
1600 Pennsylvania Ave, NW
Washington, DC 20500

Dear Mr. President:

We write today to express our strong opposition to the October 4th Notice of Data Availability (NODA) from the Environmental Protection Agency (EPA), which requests comments on "potential options for reductions" on the EPA's proposed 2018 Renewable Volume Obligation mandates (RVOs) under the Renewable Fuel Standard (RFS) program.

As domestic and international producers, marketers, and distributors of over 12 billion gallons annually of renewable fuels, including 4 billion gallons of biodiesel and renewable diesel, we have grave concerns about the market and consumer impacts of this NODA. We believe that this proposal will ultimately raise the price of fuel for American consumers while reducing the incentive to invest in growing America's capacity to produce, blend, and distribute innovative renewable fuels.

Specifically, we oppose the proposals in the NODA on three grounds.

First, the NODA undercuts the basic intent of the RFS program by reducing the annual mandates for advanced RVO pools lower than previous years' mandates and lower than available domestic supply. We believe Congress intended the RFS to *increase* American consumption of renewable fuel in order to reduce our dependence on foreign oil and greenhouse gas (GHG) emissions –instead, EPA is reducing the mandates below available domestic supply. Such reductions not only undercut investments which have already been made by fuel producers and blenders, but would also discourage future investments in advanced biofuels. In addition, the proposed NODA would replace advanced biofuels delivering 50% GHG reductions with fuels delivering less than 20% reductions.

In particular, further reducing the biomass-based diesel pool has no grounds. EPA itself predicts that 2.9 billion gallons will be available domestically in 2018, yet the current proposal leaves the RVO flat at 2.1 billion gallons and this NODA threatens to drop the mandate down as low as one billion gallons.[1] Given that the domestic supply of biomass-based diesel has exceeded the annual RVO mandates for each of the last three years, we believe such a proposal to drop these mandates is fundamentally misguided.

Second, EPA justifies this decrease by inventing its own definition of "domestic supply" that is directly contrary to the federal court's interpretation of the RFS, reversing the direction and application of the statute since the inception of the RFS program. The case *Americans for Clean Energy, et al. v. Environmental Protection Agency and E. Scott Pruitt,*

[1] "Proposed RFS Standards for 2018 and Biomass-Based Diesel for 2019," 82 Fed. Reg 34239, July 21, 2017.

Administrator, decided on July 28, 2017 by the U.S. Court of Appeals for the District of Columbia Circuit, specifically states,

> The Renewable Fuel Program requires that increasing volumes of renewable fuel be introduced into the Nation's supply of transportation fuel each year. Congress enacted those requirements in order to "move the United States toward greater energy independence and security" and "increase the production of clean renewable fuels.[2]

Furthermore, the Court states,

> To date, EPA has applied the renewable fuel obligations only to refiners and importers of fuel – not to blenders…by requiring upstream market participants such as refiners and importers to introduce increasing volumes of renewable fuel into the transportation fuel supply, Congress intended the Renewable Fuel Program to be a "market forcing policy" that would create "'demand pressure' to increase consumption" of renewable fuel.[3]

EPA's NODA clearly violates the basic tenets of the RFS program by reducing the demand pressure in spite of adequate and increasing domestic supply.

Third, the NODA speculates on overall market conditions and trends governed by forces well beyond EPA's jurisdiction. In our opinion, this demonstrates a fundamental misunderstanding by EPA of how the biofuels and RIN markets actually operate.

While EPA states that domestic supply may be reduced in response to both the expiration of the biodiesel blender's tax credit and a potential countervailing duty placed on Argentinian and Indonesian fuels, we believe that neither of these events will cause meaningful decreases in available domestic supply. In the first six months of 2017, without the tax credit in place, over 1.6 billion gallons were produced. We are on track to exceed the 2.1 billion gallon mandate originally proposed, let alone the reduced volumes EPA is currently considering. Moreover, the market is already adjusting to increase U.S. production and increase production from Canada and Europe in response to the Department of Commerce case. Already, cargos are landing in U.S. ports from U.S. companies' overseas production facilities. This competition in the marketplace, combined with the favorable logistics and pricing, will continue driving down costs for consumers at the pump.

Furthermore, the nesting function of the RFS was designed such that when the biomass-based diesel pool actually exceeded the 2016 RFS mandate, the market naturally lowered the overall RIN cost and made compliance cheaper for merchant refiners in need of RINs. The RFS program's structure allows for market correction—and this competitive, free market is functioning at maximum economic efficiency without EPA's interference.

Mr. President, we believe EPA's proposal to reduce the annual mandates under the RFS will have negative impacts on producers, marketers, and consumers alike. Moreover, the proposal is absolutely unwarranted given the performance of the advanced biofuels industry

[2] *Americans for Clean Energy et al. v. Environmental Protection Agency,* D.C. Cir. No. 16-1005, July 28, 2017, p. 5.
[3] *Ibid*, p. 21.

in recent years. We oppose the EPA's proposal and urge you to ensure the Administration's support for increasing the volumes of advanced biofuels used across America.

Sincerely,

cc: EPA Administrator Scott Pruitt