



October 16, 2014

The Honorable Shaun Donovan, Director  
Office of Management and Budget  
725 17<sup>th</sup> Street NW  
Washington, DC 20503

Dear Director Donovan:

The Biotechnology Industry Organization (BIO) was greatly disappointed to read the comments expressed by you and U.S. Environmental Protection Agency (EPA) Acting Administrator for the Office of Air and Radiation Janet McCabe in the Tuesday, October 14, 2014 Reuters article, *U.S. gas station constraints complicate 2014 biofuel mandate: officials*<sup>1</sup>. Based on the reported comments, it appears that the Administration is still planning on improperly setting the Renewable Fuel Standard's (RFS) annual volumes according to the gasoline supply and obligated parties' willingness to use biofuels, rather than the biofuels supply as the statute requires.

BIO is the world's largest trade association representing biotechnology companies, academic institutions, state biotechnology centers and related organizations across the United States and in more than 30 other nations. BIO members are involved in the research and development of innovative healthcare, agricultural, industrial and environmental biotechnology products.

BIO represents nearly 90 companies leading the development of new technologies for producing conventional and advanced biofuels. Through the application of industrial biotechnology, BIO members are improving conventional biofuel processes, enabling advanced and cellulosic biofuel production technologies and speeding development of new purpose grown energy crops. Our membership includes companies that are producing commercial gallons of cellulosic biofuels in 2014.

Ahead of EPA's November 29, 2013 release of the proposed 2014 Standards for the Renewable Fuel Standard Program (RFS2)<sup>2</sup> (hereinafter "2014

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<sup>1</sup> Ayesha Rascoe, "U.S. gas station constraints complicate 2014 biofuel mandate: officials," Reuters, October 14, 2014. <http://www.reuters.com/article/2014/10/15/us-climatechange-summit-biofuels-idUSKCN0I401J20141015>

<sup>2</sup> 78 Fed. Reg. 230, 71732. Friday, Nov. 29, 2013



proposed rule”), BIO and its member companies held a meeting at the Office of Management and Budget (OMB) with representatives from EPA and other Administration officials to discuss a leaked draft of the 2014 Renewable Volume Obligations (RVO). The leaked draft showed the Administration was planning to allow the RVOs to be based off the oil industry’s refusal to make renewable fuels available to consumers, rather than on the biofuels industry’s ability to produce and deliver fuel. Despite the very pressing concerns expressed by BIO and its member companies that the Administration’s fundamental reversal in the direction of the agency’s well-established methodology for setting the annual RVO would negatively impact investment and commercialization efforts in the advanced renewable fuel sector, EPA moved forward and released the flawed 2014 proposed rule.

Since that meeting, BIO and its member companies have consistently demonstrated in formal comments on the proposed rule<sup>3</sup>; briefings to members of Congress and the media; and in meetings with officials at EPA, OMB, and the White House that the proposal has had the predicted negative impact on investment and commercialization. Further, we have shown that EPA does not have the authority to make its proposed reductions to the RVO based off constraints of fuel infrastructure and obligated parties’ willingness to provide consumers access to biofuels.

Unfortunately, despite BIO’s and the biofuels industry’s direct outreach to the Administration<sup>4,5,6</sup> warning the methodology in the proposed rule would create an inconsistent regulatory climate that chills investment and undermines the development of advanced and cellulosic biofuels just as they are set to produce millions of commercial gallons and launch a rapid scale up, it appears the Administration still intends on issuing a final rule for the 2014 Renewable Fuel Standards for the Renewable Fuel Standard program with this faulty methodology.

While advanced and cellulosic biofuel producers have made significant investments to initiate commercial production of this fuel, with commercial facilities coming online this fall, the Administration is sending a signal to the

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<sup>3</sup> BIO Comments to the U.S. Environmental Protection Agency 2014 Renewable Fuel Standards for the Renewable Fuel Standard program Docket ID No. EPA-HQ-OAR-2013-0479. Available at:

<http://www.bio.org/advocacy/letters/bio-comments-epa-pr-2014-rfs-rvos-docket-id-no-epa-hq-oar-2013-0479>

<sup>4</sup> Advanced Ethanol Council and Biotechnology Industry Organization letter to President Barack Obama, “Proposed 2014 RFS volumetric blending requirements,” October 29, 2013. <https://www.scribd.com/doc/179974675/BIO-AEC-Letter-to-WH-pdf>

<sup>5</sup> Advanced Ethanol Council and Biotechnology Industry Organization letter to President Barack Obama, “Maintain the Methodological Integrity of the Renewable Fuel Standard (RFS),” May 15, 2014. [http://ethanolrfa.3cdn.net/a67f9fc0c74f3d6e28\\_w9m6bpv1a.pdf](http://ethanolrfa.3cdn.net/a67f9fc0c74f3d6e28_w9m6bpv1a.pdf)

<sup>6</sup> Leading Cellulosic Biofuel Company Executives letter to President Barack Obama, “Iowa commercial scale cellulosic ethanol,” September 9, 2014. [http://advancedethanol.net/Iowa\\_Innovation\\_Letter\\_POTUS\\_Final.pdf](http://advancedethanol.net/Iowa_Innovation_Letter_POTUS_Final.pdf)



developers of advanced and cellulosic biofuels that there is no reliable expectation of a market for these fuels and to their investors that there is little assurance of a return on investment. As a result, "wavering U.S. policy on renewable fuels and the North American oil boom cast a shadow over the commercial triumph. The next big cellulosic ethanol plants are planned or underway in Brazil, not the United States."<sup>7</sup>

Director Donovan, BIO and its member companies urge OMB and the Administration to overcome its misunderstanding regarding the purpose of the RFS and work to issue a final rule that revises the flawed proposed methodology. While the proposal has called into question the government's support for the development of clean, domestically produce renewable biofuels, it is not too late for the Administration to correct this methodology now and for future years and issue a final rule that will actively encourage the future investment and development of the advanced and cellulosic biofuels industry here in the United States.

Sincerely,

A handwritten signature in black ink, appearing to read "Brent Erickson".

Brent Erickson  
Executive Vice President  
Biotechnology Industry Organization

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<sup>7</sup> David Shaffer, "Beyond the corn: The new frontier in ethanol is nonfood biofuel," Minneapolis Star Tribune, October 11, 2014. <http://www.startribune.com/business/278834141.html>