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VIA ELECTRONIC SUBMISSION

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Environmental Protection Agency
Air and Radiation Docket and Information Center
Environmental Protection Agency
Mailcode: 2822T
1200 Pennsylvania Avenue, NW
Washington, D.C. 20460

RE: Regulation of Fuels and Fuel Additives: Renewable Fuel Standards:
Docket ID No. EPA-HQ-OAR-2013-0479

The American Cleaning Institute® (ACI) is the trade association representing the \$30 billion U.S. cleaning products market. Our members include oleochemical producers; the formulators of soaps, detergents, and general cleaning products used in household, commercial, industrial and institutional settings; companies that supply ingredients and finished packaging for these products. ACI and its members are dedicated to improving health and the quality of life through sustainable cleaning products and practices. ACI's mission is to support the sustainability of the cleaning products industry through research, education, outreach and science-based advocacy and to assure free market access to the key raw materials for the industry. Since 1926, ACI has promoted health through personal hygiene and effective cleaning. More information about ACI can be found at www.cleaninginstitute.org.

We appreciate the opportunity to provide comments on the 2014 Standards for the Renewable Fuel Standards (RFS2) Program; proposed rule. ACI continues to be concerned with the RFS2's serious and significant impact on ACI member companies' ability to source animal fats for use as an oleochemical feedstock. EPA sets precedence in the proposed rule by lowering the cellulosic biofuel volume specified by the Clean Air Act and acknowledges structural problems within the RFS2.

We respectfully request that the EPA use its discretionary authority to lower the volume requirement for biomass-based diesel, or, alternatively, to exclude animal fats as a feedstock option. The proposed volumes would continue to divert large quantities of a finite inelastic supply of animal fats to the biofuels market, thereby critically disadvantaging the domestic oleochemical industry. The latitude to reduce these volumes is provided by statute, which indicates EPA's ability to reduce the applicable volume of advanced biofuel and total renewable fuel, specified for 2014 and 2015, if it is determined that the projected volume of cellulosic

biofuel production for that year falls short. Therefore, the volumes of advanced biofuel and total renewable fuel for 2014 and 2015 should also be reduced. This will prevent an over reliance on certain fuels over others, especially biomass-based biodiesel, which uses the same animal fats as feedstock.

Executive Summary

- The price of animal fats has increased 116 percent since 2006 under the combined policies of the RFS2 and tax incentives for biofuels
- Biofuel production consumes a significant amount of the total supply of animal fats and current policies threaten not only the price but the availability of animal fats for oleochemical production
- Since 2011 (a historical first) the price of animal fats have exceeded that of Malaysian palm oil
- Switching to palm oil by the oleochemical industry threatens 20,000 U.S. jobs
- EPA must use all its available discretion to exempt or minimize the use of animal fats under the RFS2 mandates and include the Proposed Rule's impact on the oleochemical industry in its analysis of impacts on other sectors and industries; specifically, EPA must address the potential job loss in collateral industries
- Agency mandates should not choose winners and losers. EPA has a responsibility, if not duty, to equally protect all industries that rely on animal fats to produce goods

The supply of animal fats is inelastic

Animal fats are a co-product of livestock slaughter, not a demand driver. Consequently, there is no reasonable prospect that their production will increase significantly; farmers and ranchers do not raise or slaughter animals for their fats. Historically, animal fats have provided domestic oleochemical producers a competitive raw material cost advantage over foreign-sourced palm oil and have had a robust market supplying the broader oleochemical industry. The production of rendered products experience minimal change from year-to-year (Table 1). This demonstrates the inelastic nature of rendered products and demonstrates the need for EPA to reduce the 2014 and 2015 volumes of renewable fuels that use animal fats as a feedstock.

Table 1.

| U.S. Production of Rendered Products (000 Metric Tons) | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 |
|--|----------------|----------------|----------------|----------------|----------------|----------------|
| Tallow | 2,538.9 | 2,424.4 | 2,364.5 | 2,338.8 | 2,373.5 | 2,265.1 |
| Inedible tallow | 1,727.5 | 1,610.7 | 1,531.1 | 1,511.2 | 1,486.8 | 1,453.2 |
| Edible tallow | 811.4 | 813.7 | 833.4 | 827.6 | 886.7 | 812 |
| White grease | 559.5 | 595.5 | 586.4 | 572.7 | 580.7 | 593.9 |
| Choice white grease | 499.5 | 531.7 | 523.6 | 511.3 | 518.4 | 530.3 |
| Lard | 60 | 63.8 | 62.9 | 61.4 | 62.2 | 63.7 |
| Yellow grease/used cooking oil | 910.2 | 920 | 872.9 | 868.8 | 906.4 | 885 |
| Poultry fat | 624.8 | 659.3 | 458 | 471.4 | 475.2 | 474.8 |
| Subtotal | 4,633.4 | 4,599.2 | 4,281.8 | 4,251.8 | 4,335.7 | 4,218.8 |
| Year to Year Difference | N/A | -34.2 | -317.4 | -30.0 | 83.9 | -116.90 |
| Percent of Supply Change | N/A | -0.74% | -6.9% | -0.7% | 1.97% | -2.7% |

Source: Render Magazine, April 2013

Feedstock Availability is a Consideration in Proposed Rule

ACI is encouraged that on page 71764 of the proposed rule, EPA considered the impact of feedstock prices and availability on biodiesel production:

Production of biodiesel in 2014 is likely to be impacted significantly by feedstock prices. Since their peak in August and September of 2012 during the height of uncertainty about the effects of the 2012 drought, prices of soybeans and soybean products have been trending downward.

The proposed rule notes the 2012 drought and subsequent soybean price peak in August and September of that year. Historic users of oleochemicals have also experienced price spikes that have been caused by increased demand for animal fats based on the RFS2. Unlike soybeans, farmers and ranchers do not plant additional acres to produce more animal fats to meet demand. An event such as a historic drought or crop blight could, because of feedstock prices, force biodiesel producers to increase their reliance on animal fats, driving up the those prices and limiting the availability of the raw material.

The proposed rule states that EPA anticipates other renewable fuel shortages to be made up by an increase in the production of biomass-based diesel. "...additional volumes of biomass-based diesel may be used, along with other advanced biofuels, to satisfy the volume requirements for advanced biofuel and total renewable fuel." The proposed rule continues to say that "greater use of biomass-based diesel would be a recognized compliance path for the advanced and total renewable fuel volume obligations being proposed today." (pg. 71753) Any additional or excess capacity a biomass-based diesel production facility has should not simply be given an increased mandate but face the same market forces as the domestic oleochemical industry.

EPA's suggestion that biomass-based diesel can make up for volumetric shortfalls of other renewable fuels greatly threatens the availability of animal fats. EPA must limit the amount of a single feedstock that could be used to fill a mandated fuel and the Agency's suggestion that biomass-based diesel be used to satisfy the shortcomings of other renewable fuels would further skew the market against historic users of animal fats.

Without a limit, renewable fuels could consume, at some point, the entire available supply of animal fats. The resulting consequence would force the oleochemical industry to use alternative feedstocks, specifically foreign-sourced palm oil, whose impact on the environment has made it ineligible as a renewable fuel feedstock.¹ Again, ACI respectfully requests that EPA use its discretionary authority to lower, rather than raise, the volume requirements for biomass-based diesel and advanced biofuel, or, alternatively, to exclude animal fats as a feedstock option.

Feasibility of Proposed Rule Relies on Reauthorization of Tax Credits

In the proposed rule, EPA acknowledges that even with the guaranteed market provided by the RFS2, the biomass-based biodiesel industry cannot survive. "One of those factors is the federal tax credit for biodiesel that was most recently extended through the end of 2013...parties that produce a mixture of biodiesel and diesel fuel can claim a \$1.00-per-gallon credit against their tax liability....**this tax credit has enabled biodiesel to be more competitive with other advanced biofuels**....(emphasis added)" Furthermore, EPA requests comment on the "degree to which the presence of the biodiesel tax credit in 2014 would affect [EPA] projections of the volumes that could be reasonably available in 2014." (pg. 71763)

The existence of the biodiesel tax credit should not be a factor in the proposed rule for the consideration of volumetric levels of biomass-based diesel. Biodiesel producers are given the guaranteed market of the RFS and the tax credits give producers extraordinary market leverage in the purchase of animal fats. Their ability to meet the requirements of the RFS2 should not hinge on additional government market subsidies, especially those that harm historic users of the same feedstock.

Prior to passage of the "American Jobs Creation Act of 2004" (AJCA) "animal fats" were purchased in an unsubsidized, free, competitive market. Implementation of the Volumetric Ethanol Excise Tax Credit (VEETC) provisions of AJCA changed all that by creating a \$1 per gallon tax credit for the production of biodiesel, including that produced from animal fats. This

¹ EPA ruled that renewable diesel produced from palm oil is ineligible for the RFS program because it does not meet the minimum 20% lifecycle GHG reduction needed to qualify. (CRS Renewable Fuel Standard (RFS): Overview and Issues, March 14, 2013)

was followed by similar subsidies created for other categories of biofuels also using animal fats as a raw material.

Oleochemical manufacturers experience the negative effects of the biodiesel producer tax credit via increased raw material prices. Table 1 showed the minor year-to-year changes in the production of rendered products and Table 2 shows the year-to-year price fluctuation. The massive price shifts are a result of biodiesel producers receiving a tax credit for using animal fats as a feedstock. Historic users of this raw material are not provided the same market leverage.

Table 2.

| Average Yearly Price (Cents/Lb) | BFT(tallow): Delivered Chicago | Palm Stearin FOB Malaysia | BFT(tallow): Delivered Chicago- Palm Stearin | Technical Tallow | Technical Tallow-Palm Stearin |
|--|---|--------------------------------------|---|-----------------------------|--|
| 2006 | \$0.19 | \$0.20 | -\$0.01 | \$0.19 | -\$0.01 |
| 2007 | \$0.28 | \$0.33 | -\$0.05 | \$0.29 | -\$0.04 |
| 2008 | \$0.34 | \$0.37 | -\$0.03 | \$0.37 | \$0.00 |
| 2009 | \$0.25 | \$0.28 | -\$0.03 | \$0.28 | \$0.00 |
| 2010 | \$0.33 | \$0.39 | -\$0.06 | \$0.39 | \$0.00 |
| 2011 | \$0.50 | \$0.47 | \$0.03 | \$0.57 | \$0.10 |
| 2012 | \$0.44 | \$0.42 | \$0.02 | \$0.51 | \$0.09 |
| 2013 | \$0.41 | \$0.34 | \$0.07 | \$0.44 | \$0.10 |

Source: The Jacobsen

A guaranteed market, combined with a tax credit, has made the price of Malaysian palm oil cheaper than animal fats. As foreign-sourced palm oil has become less expensive than animal fats, it has developed into an attractive alternative in product formulation considerations. The price difference is a direct result of policies that have been created to entice and encourage the production of biodiesel and renewable diesel, at the expense of the domestic oleochemical industry. The fact is that the higher prices caused by increased demand for animal fats cannot be offset by increased supply. This is the inelastic economic dilemma for oleochemical manufacturers.

Table 3.

| Year | RFS2 Mandate | \$1/gal biodiesel producer tax credit | BFT price change from previous year | Technical Tallow price change from previous year |
|-------------|--------------|---------------------------------------|-------------------------------------|--|
| 2011 | YES | YES | +\$0.17 | +\$0.18 |
| 2012 | YES | NO; retroactively applied | -\$0.06 | -\$0.06 |
| 2013 | YES | YES | -0.03 | -\$0.07 |

Source: The Jacobsen

When the tax credit or RFS2 mandate are absent, animal fats become an affordable feedstock for oleochemical manufacturers. This same raw material is only used by biodiesel producers when they receive government subsidies. Indeed, the proposed rule states that “without the tax credit in place, demand for biodiesel substantially beyond the required volume is uncertain.” (pg. 71768) The proposed rule continues: “2013 biodiesel production volumes are occurring in the context of a \$1/gal tax credit. While they provide a clear indication of the production capabilities of the industry, they do not provide an accurate indicator of the volumes that would be produced in the absence of the tax credit.” (pg.71764) There is no indication that without the tax credit the biodiesel industry can meet the proposed volumes, and EPA argues that the volumes do not appear to be a financially viable proposition.

The proposed rule recognizes the need for the biodiesel industry to have the tax credit in addition to the mandated volumes provided by the RFS2 to remain financially viable. The tax credit makes the use of this raw material viable to fulfill RFS2 mandates while pricing out historical users and forcing the domestic oleochemical industry to find cheaper and more plentiful foreign-sourced palm oil, which, over time, will drive this industry overseas.

Discretion must be applied

Government policies have driven the price of tallow above that of palm oil and as a result, the domestic oleochemical industry stands to be driven offshore to Southeast Asia to be near any new raw material source, i.e. palm oil. While it is somewhat difficult to tease out industry specific numbers from the Standard Industry Codes (SIC) or Dunn and Bradstreet, our best estimate is that the oleochemical industry currently directly supports 20,000 breadwinner jobs in the United States.

Long term usage and reliance on animal fats to produce biofuels is not viable. There simply is not enough production volume to meet the growing required demand for biodiesel and there is little likelihood that the supply of animal fats will dramatically increase. Eventually biodiesel producers will depend on feedstocks other than animal fats. This inevitability should cause EPA to exclude their usage in 2014 and beyond to drive the use of more sustainable, expandable feedstock supplies. This would go a long way toward protecting the continued viability of the U.S.-based oleochemical industry. Without a consistent and adequate supply of animal fats as a

feedstock for the production of oleochemicals, the industry will need to turn to other non-US sourced feedstocks, which over time could result in the US losing this industry.

EPA must use its discretionary authority to ensure adequate supply of these feedstocks for all industries, not just biofuels. EPA should limit the percentage of the animal fat supply that can be used in the production of biofuels or eliminate animal fats as a feedstock option. It is unfair to place such a heavy burden on a source that is as inelastic as animal fats. By doing so, EPA is deciding which industry wins and which one loses. The domestic oleochemical industry has provided decades of economic strength and security. Consequently, we urge EPA to use its discretionary power to limit, rather than expand, the use of animal fats under the RFS2 by lowering the volume requirement or excluding animal fats as a feedstock. The future of a longstanding domestic industry is at stake.

Respectfully submitted,



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Appendix A

Representative Oleochemical Uses

Daily toiletry care

Soap (liquid/bar)
Toothpaste
Shaving Cream
Moisturizing body Cream
Mouthwash
Cosmetic creams
Shampoo
Hair conditioner
Make-up
Body washes
Hand lotions
Nail Care products

Clothing Care

Detergents
Fabric softener
Stain removers

Cleaning/homes/buildings

Hard surface cleaners &
sanitizers
Dish detergent (hand/machine)
Glass cleaner
Candles
Air fresheners

Other Uses:

Tires
Various rubber products
Pharmaceuticals
Building materials - foams
Lubricants
Mattresses
Automobiles - car dashboards
Inks
Paints
Textile fiber finishing
Fragrances (carriers)
Adhesives
Resins
Plastics
Water treatment materials
Paper Processing
Hydraulic Fluids
Corrosion inhibitors
Dairies - food processing
Agriculture-dispersing agent