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VIA ELECTRONIC MAIL

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Re: The D3 RIN Bank as a Market Stabilizing Mechanism and the Cellulosic Waiver Process

Assistant Administrator Goffman:

Thank you to you and your team for meeting with us last week. During our meeting, you and your team posed a few questions with respect to which we agreed to return with answers. We write today to provide feedback on those questions. It is important to note this letter builds on our prior letter to you in which we articulate our support for EPA's overall approach. Within that program, past episodes of downside RIN volatility had materially negative consequences for the pace of investment and growth in the least carbon intensive fuels. Our comments and suggestions remain narrowly focused on addressing the risks created by the potential for large surpluses in D3 RINs.

During our previous discussion your team asked the following:

- (1) Why doesn't the D3 RIN bank address our market stabilization concerns?
- (2) How does the cellulosic waiver process contribute to market stability? and
- (3) Does reallocation of SRE volumes sufficiently address the surplus created by SREs?

(1) Benefits and Risks of Maintaining a D3 RIN Bank

As EPA evaluates the role of the D3 RIN bank as a market stabilizing mechanism, it should weigh both the benefits and risks associated with its use. As Table 1 outlines below, the benefits of a D3 RIN bank primarily accrue to obligated parties and the risks to all those who benefit from growth in a domestic low carbon fuels industry.

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Table 1: Uses of a D3 RIN Bank – Benefits and Risks

Market Signal: RINs generated and owned in the market exceed the compliance obligation			
Function	Typical Use	Parties that Benefit	Parties that Bear Risk
D3 RIN Market Liquidity	Spot market purchases to close small D3 RIN compliance need	Increases available D3 supply, enabling obligated parties with small D3 compliance deficits to catch up inexpensively	Potential to depress prices, reducing investment in low carbon fuel production by D3 producers/investors D3 producers/investors need to sell RINs ratably to generate predictable cash flow for project operation and have limited ability to hold a bank of RINs until market conditions improve
Compliance Buffer	Holding owned D3 RINs not needed for current year compliance to use in following year	Reduces shortfall risk and need for cellulosic waiver, reducing compliance risk for obligated parties	Same as above
Compliance Cost Hedging	Banking D3 RINs for later use when a party expects D3 prices to rise before RIN expiration date	Enables obligated parties to manage/reduce compliance costs	Same as above

(2) The Cellulosic Waiver Process

Since the inception of RFS2, the cellulosic waiver process has performed a critical role in ensuring the stability and success of the program by enabling the D3 RIN market to operate in rough supply/demand balance. As [Table 2](#) illustrates, this has created benefits for both obligated parties and D3 producers/investors.

Table 2: Uses of the Cellulosic Waiver Process – Benefits and Risks

Market Signal: RIN supply and demand will rebalance in the event of an excessive deficit			
Function	Typical Use	Parties that Benefit	Parties that Bear Risk
Address Large RIN Shortfalls	D3 RINs available are well short of established RVOs	Provides a safety valve to address risk of programmatic instability if compliance obligations are infeasible Eliminates need for obligated parties to hedge fundamental risk of shortfall because a well-defined alternative is in place	Large scale issuances of cellulosic waiver credits could be characterized as a wasteful tax and undermine the program The <i>de facto</i> cap price could be insufficient to drive needed investment in low carbon fuels
Cap Compliance Costs	Market prices for D3 RINs have never risen above the price ceiling implied by the CWC price	Controls upside cost risk to obligated parties – reducing need to protect against shortfalls	Same as above
Set Target D3 Valuation	The CWC plus the D4 price creates an approximate value for D3 market prices	In times of approximate supply/demand balance, creates predictable pricing for all market participants	Same as above

However, the cellulosic waiver process has no mechanism to deal with a surplus. To be effective on both sides of the ledger, any market stabilizing mechanism needs to address D3 RIN shortfalls and D3 RIN surpluses once they develop.

(3) Reallocation and SRE-Driven Surpluses

Currently, the RFS program allows for the resolution of surpluses created by SREs through reallocation of waived volumes via adjustment of RVOs. This mechanism is a step in the right direction and illustrates the programmatic need for adjustment mechanisms to resolve unanticipated surpluses.

Surpluses can also develop if actual production growth exceeds the compliance targets, or if targets are inadvertently set too low. Therefore, we are requesting that the Set Rule include a mechanism(s) to annually clear surpluses regardless of the cause. We believe EPA should be the final arbiter of which approach will result in the best balance of market, legal, and regulatory implementation considerations.

The possible mechanisms to clear surpluses include:

- Annual direct final rulemaking that adjusts the cellulosic RVO to account for any RIN deficit or surplus that is meaningfully out of line with EPA projections;
- Adjusting the annual cellulosic waiver assessment required by the RFS to include an adjustment of the cellulosic RVOs up or down on a pro rata basis to address either shortfalls or surpluses of D3 RINs; and
- A formula included in the Set Rule that automatically increases the D3 RVO on a pro rata basis in the event that RIN surpluses exceed an established de minimis threshold.

We believe that any of the options outlined above would provide for a more balanced RFS program under the Set Rule and as such, support the objective of the RFS to incentivize the use of renewable fuels in transportation. We are happy to provide more detailed information regarding any of the topics discussed in this letter at your convenience.

Sincerely,

