



October 26, 2009

The Honorable Steven Chu  
Secretary  
U.S. Department of Energy  
1000 Independence Avenue, S.W.  
Washington, D.C. 20585-1000

Dear Secretary Chu:

The Renewable Fuels Association (RFA), the national trade association representing the U.S. ethanol industry, is writing to express our concern about the current operation and direction of the U.S. Department of Energy's (DOE) loan guarantee program. As an advocate for ethanol from all feedstocks and technologies, the RFA is greatly troubled that so few cellulosic ethanol biorefineries are qualifying for DOE loan guarantees, and believe there are systemic issues with DOE's evaluation of these emerging technologies that must be addressed immediately if we are to meet the targets for advanced biofuels production and use established by the Energy Independence and Security Act of 2007.

The technology exists today to process ethanol from cellulose and other biomass feedstocks and dedicated energy crops; however, the commercialization of next generation biofuels has been crippled by access to capital issues exacerbated by the global banking and economic crisis. That is why the DOE's loan guarantee program is so important, and must be redirected to reflect the intent of Congress that this program encourage emerging technologies by reducing market risk.

A fundamental flaw of the loan guarantee program is that DOE is weighing the applications of emerging technology projects such as cellulosic ethanol using the same criteria as mature technology projects, and against more mature technologies, such as wind and solar, that have been commercialized in other countries. The challenges facing next generation advanced biofuels are simply much different than those of the renewable power sector. For example, the renewable electricity market has a guaranteed rate-base into which to sell their product. Thus, it is inappropriate to evaluate these very different technologies and markets using the same criteria. **DOE must recognize the unique challenges of emerging biofuel technologies and establish criteria appropriate to them.**

The following are specific examples of how DOE's loan guarantee program should be quickly revised to reflect the needs of emerging biofuel technology companies and thus accelerate the commercialization of next generation ethanol and other advanced biofuels.

Off-Take Agreements: DOE is requiring applicants to provide a long-term (i.e., life of the loan) off-take agreement. But that is not how the U.S. transportation fuels market functions. It is not the general practice of the existing biofuels facilities to engage in long-term off-take agreements for

their fuel. Ethanol today is largely sold on a spot market or very short (30-day) contracts that track closely with the market price of gasoline. Under DOE's standard, applicants for the loan guarantee program that would have an opportunity to engage in a long-term off-take agreement would be limited to those that have investments by major oil refining companies. Smaller companies looking to the private capital markets for investors for emerging technology projects would not be afforded the same opportunity. **DOE should eliminate the off-take agreement requirement for emerging biofuels projects.**

A similar concern exists for the DOE's requirement for long-term (i.e., life of the loan) guaranteed pricing. Again, this is not how the marketplace – a commodity marketplace – functions for transportation fuels. In order to have life of loan guaranteed pricing, someone will have to accept the market risk in buying from or selling into volatile commodity markets. This will require a significant discount on product pricing and put new technologies at a huge competitive disadvantage.

Data Requirements: The DOE is requiring loan guarantee applicants to have financial and operational data at the commercial-scale level. This requirement is seemingly at odds with Title XVII Section 1703 of the Energy Policy Act of 2005, which states that the DOE is to "make guarantees only for projects that...employ new or significantly improved technologies compared to commercial technologies in service in the U.S." **The DOE should recognize that, by definition, emerging technologies may not have "commercial scale" data and adjust their expectations accordingly.**

Equity and Debt: The DOE appears to be requiring higher levels of equity from emerging technology companies than for projects with mature technology. This seems to turn the intent of the loan guarantee program on its head. Congress established the DOE loan guarantee program to facilitate technological innovations that would not meet the private sector financing requirements. The program was designed to provide the critical link to take higher risk emerging technologies from the pilot- to commercial-scale that commercial lenders are unwilling to underwrite.

Similarly, while the DOE appropriately requires applicants to demonstrate a "reasonable prospect of repayment of the principal and interest on the obligation by the borrower," the DOE has interpreted "reasonable" to mean that applicants must meet a debt rating standard higher than 63 percent of all U.S. corporate first-time debt issuers since 2007. The DOE, as advised by investment banks, has developed minimum threshold for loan guarantees of a "BB" or higher rating (prior to the guarantee). According to Standard & Poor's, 333, out of a total of 528 of all U.S. corporate first-time debt issues since 2007, failed to meet that standard. **The DOE should revise its equity and debt requirements to reflect the needs of emerging technologies and be consistent with the intent of Congress.**

Hours of Operation: During the application process, the DOE has also taken issue with cellulosic biomass projects over the lack of 1,000 hours of operation at pilot facilities to prove the technology that will be included in the cellulosic processing facility. To be clear, the RFA is not asking DOE to waive the 1,000-hour requirement; however, we believe the **DOE should consider allowing emerging technology companies to meet the 1,000-hour requirement by the time the Part II application is submitted** (three months after the Part I application is due). Without this flexibility, the DOE could limit the number of cellulosic biomass applicants that will qualify for a loan guarantee under the program.

NOx Emissions: Congress included language in the DOE loan guarantee program that sets a limit on nitrogen oxide (NOx) emission for petroleum coke gasification projects. It is the RFA's

understanding that the DOE has broadened the emission levels language in Title XVII Section 1703(3)(d) of the Energy Policy Act of 2005 to apply to *all* loan guarantees. This was not Congress's intent, and such arbitrary modification to the program will limit the ability of the cellulosic biomass projects to qualify for loan guarantees. All biofuels projects will have to meet strict emissions permitting requirements. **The DOE should apply the unique NOx limitation to coke gasification projects as Congress intended.**

Reapplication: The current process for applicants who cannot meet the requirements is to reject the application and put the applicant back into the queue to make a new application. The RFA believes it would be more efficient and effective for the DOE to work with applicants who have deficiencies that can be fixed, rather than delaying projects up to 12 or 18 months by sending them back through the entire application process. It requires an enormous amount of time and money to apply for a DOE loan guarantee -- \$75,000 to \$125,000. A minimum of two months and hundreds of professional staff hours are required to prepare an application; reviews by DOE take six months; and, due diligence for applications that are accepted take approximately an additional six months. Consequently, a rejection from the DOE could mean a project is delayed over a year if the applicant is willing to start over, submit a new application and pay a new application fee to begin the review process again.

**The RFA would recommend allowing a review of applications that have been declined to determine what fixes can be made to correct deficiencies in the applications.** If applicants can make the required fixes, allow them to demonstrate how the fixes would be made, determine if these fixes correct the deficiencies in the application, and if so, proceed to due diligence and negotiation, without requiring that a new application be submitted or payment of a new application fee.

Funding: The transfer of \$2 billion from the Title XVII loan guarantee program to the U.S. Department of Transportation from the "Cash for Clunkers" program resulted in the elimination of the \$500 million set aside for the loan guarantee program for cellulosic biomass facilities. While the cash for clunkers program had merit and the RFA supports efforts to improve fuel efficiency, it should not come at the expense of emerging technologies that will lead America away from petroleum altogether. **We strongly encourage the Administration to replace the \$2 billion borrowed at the first possible opportunity.**

Mr. Secretary, these are just a few of the many concerns we have heard regarding the Department's loan guarantee program. We would welcome the opportunity to meet with you or your staff to discuss our concerns in greater detail. The bottom line, however, is unless changes are made to DOE's loan guarantee program, few if any cellulosic biomass projects will be built to help meet the advanced biofuels targets set forth in the 36 billion gallon Renewable Fuels Standard, and the Administration's goal to create green jobs and increase the production of domestic, renewable sources of energy will be lost.

While not the jurisdiction of the DOE, it is important to note the RFA is also concerned that the U.S. Department of Agriculture's (USDA) new loan guarantee program for commercial and pre-commercial biorefineries to produce advanced biofuels established in the 2008 Farm Bill may be following a path very similar to DOE's program. The Office of Management and Budget has taken a very conservative approach to the Title IX Section 9003 Biorefinery Assistance Program, largely ignoring the language in statute that provides for loan guarantees of up to 90 percent and instead setting guarantee limits in the program's interim rule at 80 percent for loans up to \$80 million, 70 percent for loans of \$80 to \$125 million, and 60 percent for loans from \$125 to \$250 million. This is the same level of guarantees as provided in USDA's Business & Industry loan guarantee

program for projects that employ “commercially-proven” or “commercially-available” technologies, and it will not effectively advance emerging technologies.

We know you understand and appreciate the difficulty today’s financial climate creates for renewable energy companies that are trying to commercialize new technology. We encourage the DOE to provide all of the assistance for emerging technologies like cellulosic biomass Congress intended.

Sincerely,

A handwritten signature in black ink, appearing to read "Bob Dinneen". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Bob Dinneen  
President & CEO

cc: Tom Vilsack, Secretary, U.S. Department of Agriculture  
Peter Orszag, Director, Office of Management and Budget  
Carol Browner, Director, White House Office of Energy and Climate Change Policy