



Tuesday, May 24, 2022

US Environmental Protection Agency
EPA Docket Center, WJC West Building, Room 3334
1301 Constitution Avenue NW
Washington, D.C. 20004

[Submitted electronically via regulations.gov]

Attn: Biofuels and the Environment: Third Triennial Report to Congress (RtC3). Docket ID No. [EPA-HQ-ORD-2020-0682]

Re: Renewable Fuels Association Comments on Peer Review Candidates for Renewable Fuel Standard Third Triennial Report to Congress, (87 Fed. Reg. 27,634; May 9, 2022)

The Renewable Fuels Association (RFA) appreciates the opportunity to submit these comments regarding the U.S. Environmental Protection Agency's (EPA) proposed pool of twenty (20) candidates for the external peer review of the Biofuels and the Environment: Third Triennial Report to Congress (RtC3).

RFA is the leading trade association for America's ethanol industry. Its mission is to drive expanded demand for American-made renewable fuels and bioproducts worldwide. Founded in 1981, RFA serves as the premier organization for industry leaders and supporters. With over 300 members, we work every day to help America become cleaner, safer, and more economically vibrant.

RFA recognizes that EPA is conducting the RtC3 triennial review process as part of its obligation under Section 204 of the Energy Independence and Security Act (EISA). We welcome the use of the peer-review process to scrutinize the triennial review report, solicit expert feedback, and guide decision-making. RFA is confident that a truly objective and science-based examination of the RFS would show that the program has yielded significant environmental benefits, including reduced emissions of greenhouse gases and criteria air pollutants. An impartial and fact-based analysis would also show that the biofuels used under the RFS reduce impacts on soil and water in comparison to the petroleum-derived fuels they replace.

However, for the peer review process to be productive and informative, the reviewers must be fully committed to impartiality, objectivity, and independence. EPA should select reviewers who are free of ideological bias, funding conflicts, and controversial or inflammatory views that fall outside of the accepted scientific

consensus. Furthermore, the viewpoints and fields of study represented on the panel should collectively create balance and not over- or under-represent any particular discipline or perspective.

Accordingly, RFA's comments below fall into three categories. First, we provide specific comments on some of the individuals listed as candidates for the peer review. Some of these candidates have long-standing histories of ideologically biased statements and positions, dubious scientific work, and conflicts in sources of funding that may lead to sponsorship bias. These candidates should be removed from further consideration by EPA and its contractor, ERG. Second, RFA provides comment on the overall composition of the candidate pool. RFA finds the proposed list to include a disproportionate number of candidates representing certain issue-areas and RFA has concerns about the group's ability to complete a thorough review without complete and balanced representation. Third, and finally, our comments encourage EPA to bring transparency and public participation into the peer review process.

I. Objections to Certain Nominees

RFA objects to the inclusion of the following individuals on the peer review panel due to their obvious ideological bias, disputed scientific work, failure to earnestly respond to peer critiques of their work, and/or conflicts created by outside funding or sponsored research.

- **Tyler J. Lark, University of Wisconsin-Madison.** Dr. Lark should be excluded from the external expert panel for two reasons. First, given that his work was cited extensively in the EPA's Second Triennial Report to Congress and that members of EPA staff have subsequently coauthored [research](#) with him, it seems likely that his recent research may be featured in the Third Triennial Report. It would be inappropriate for Lark to serve as a reviewer of his own work, and his presence on the panel would likely lead to a less robust review of his work and its possible inclusion in the Third Triennial Report.

Second, his previous work related to biofuels has suffered from known flaws and inaccuracies, which have been willfully repeated by Lark in subsequent works. Lark's studies inappropriately use error-prone satellite data to misclassify certain land cover types (e.g., misclassifying grass hay or even grain crops as 'native prairie'). The studies also purposely misapply carbon emissions factors from land types with high carbon storage (e.g., forest and native grassland) to modeled conversions of land types that actually have much lower carbon storage profiles (cropland, CRP, pasture). Further, the work simplistically attributes purported cropland expansion to corn ethanol usage under the Renewable Fuel Standard, ignoring or downplaying the role of other drivers. Experts from Southern Illinois University Edwardsville (SIUE) conducted an extensive [assessment](#) of studies in which Dr. Lark was involved that were featured in the Second Triennial Report,

and they concluded that “there are major concerns regarding both the data and the methods that were used by the researchers, which call their findings into question.” The review particularly noted shortcomings in Lark’s misuse of satellite-based imagery.

Subsequently, the SIUE researchers [addressed](#) the continued flaws in the use of satellite-based imagery in a 2020 paper by Lark. Nevertheless, Lark has continued to use similar methods, most recently for a 2022 paper published in the *Proceedings of the National Academy of Sciences*. The paper has been reviewed by scientific peers, and wide-ranging flaws were pointed out in [comments](#) written by experts from Argonne, Purdue University, and the University of Illinois system and in a [rebuttal](#) by the RFA.

Also problematic is the fact that Lark and his colleagues have received significant funding from the National Wildlife Federation (NWF), a politically active organization that has repeatedly advocated for repeal or reform of the RFS and co-sponsors an anti-biofuel group called “Rethink Ethanol.” NWF has routinely used Lark’s studies in its campaign against the RFS, and the most recent Lark study has also been cited as a favorite talking point by representatives of the oil industry who oppose the RFS.¹

In summary, Dr. Lark continues to knowingly use a flawed approach (that has been criticized by his peers) for estimate purported land use changes and related emissions associated with the Renewable Fuel Standard. His presence on the panel could inject bias and deter other peer reviewers from ensuring that problems with his methodology are fully discussed and accurately portrayed in the Third Triennial Report.

- **Jason D. Hill, University of Minnesota.** Dr. Hill should be excluded from the external expert panel for a similar history of bias, unwillingness to respond to legitimate critiques of his work, and unsupported and provocative statements about the RFS and corn ethanol. Based on his public statements, Hill has clearly already made up his mind about the RFS and ethanol, and he cannot be considered impartial or unbiased.²

His [commentary](#) on the newest Lark et al. study entitled “The Sobering Truth About Corn Ethanol” should, by itself, disqualify him from further consideration. In this commentary, Hill suggests that Lark et al.’s GHG calculations “represen[t] a

¹ See, for example, statement by LeeAnn Johnson Koch, Partner, Perkins Coie, LLP, [representing](#) “the petroleum refining industry and particularly small refineries.” [Hearing](#) of the Committee on Environment and Public Works, U.S. Senate. Feb. 16, 2022. (“As we have been talking about, the recent studies suggest that ethanol could be 24 percent higher emitting of greenhouse gas emissions than petroleum-based fuels.”)

² Hill has repeatedly expressed his contempt for the RFS, corn farmers, and the ethanol industry on social media and in media interviews.

floor, not a ceiling,” without providing any meaningful evidence or analysis to support this statement. His suggestion that a discredited study should have further exaggerated its findings demonstrates additional disregard for fact-based and erudite academic discourse. There is also evidence that Dr. Hill appears primarily motivated by publicity and exposure, as demonstrated in a recent [tweet](#), reading in part “A‘maize’d to see that my new paper ‘The sobering truth about #corn #ethanol’ just passed 4,000 downloads!” Hill also [tweeted](#) that he was “Psyched to see my recent paper on corn #ethanol quoted in this Sunday’s @washingtonpost editorial...” and he [applauded](#) the host of an HBO talk show for mentioning the paper.

Incidentally, this sort of mainstream media placement and coverage of arcane, technical, and abstruse academic work is typically the result of a well-funded and coordinated public affairs strategy.

- **Chris Malins, Cerulogy Consulting, UK.** Dr. Chris Malins should be excluded from the external expert panel. As a private consultant, it is unclear what organizations and companies provide financial support for Dr. Malins’ work, and it is unknown whether his funding sources may create sponsorship bias. Further, it does not appear that any of the private consultants nominated or recommended by agriculture and biofuel groups are on the list of final candidates; if well-qualified consultants with clients in the biofuels and agriculture sectors are excluded from candidacy, then, as matter of fairness and balance, private consultants with clients in the environmental NGO and petroleum sectors should also be excluded.

In addition, during his tenure at ICCT, Malins demonstrated a clear bias against crop-based biofuels and authored or co-authored highly questionable analyses regarding certain parameters and elasticity values that drive land use change results in the Purdue University Global Trade Analysis Project (GTAP) model.

- **Timothy D. Searchinger, Princeton University.** Timothy Searchinger should be excluded from the external expert panel. Searchinger’s work on land use change has been thoroughly refuted and rejected by the scientific community. Due to the use of dubious assumptions and outdated data, his grossly inflated estimate of land use change emissions hypothetically related to corn ethanol is four to 14 times larger than the majority of all other estimates. This specious outlier result should not be part of the conversation in the RtC3 Review. In addition, Searchinger’s controversial and indefensible views on the carbon neutrality of biomass, the additionality concept, “competition” between biofuels and food, and his devotion to promoting solar energy at the expense of any other energy source mean he cannot be considered impartial or fair-minded.

- **Aaron Smith, University of California, Davis.** Dr. Smith should be excluded from the external expert panel. Smith was a co-author of the controversial Lark et al. study discussed above; as with Lark, if Smith was selected, he would likely be charged with “peer-reviewing” characterizations of work funded by the National Wildlife Federation that he conducted himself. In particular, Smith worked on the Lark study’s erroneous commodity price projections and estimates for increases in renewable fuel volumes, two highly deficient points in the study. RFA believes Dr. Smith should not be considered for participation in the RtC3 review.
- **Steven T. Berry, Yale University.** Dr. Berry should be excluded from the external peer review panel, as his previous work on the response of crop yields to changes in crop prices was fundamentally flawed and did not stand up to the scrutiny of his peers on the California Air Resources Board Expert Work Group. His [report](#) for the International Council on Clean Transportation (ICCT) illogically suggests that farmer productivity (i.e., crop yields) is not affected at all by the prices they receive for their crops. Other academic research—and real-world experience—clearly show a linkage between crop yield growth and crop prices. If Dr. Berry is included, EPA should ensure that the opposing viewpoint on the responsiveness of crop yields to prices changes is represented on the panel.

II. Comments On Overall Candidate Pool

In addition to the above concerns and questions regarding the impartiality and scientific integrity of particular candidates, RFA would like to comment on the overall composition of the candidate pool. RFA believes that several of the candidates are adequately qualified and have backgrounds that will benefit the Triennial Review process. However, RFA has concerns that the pool of candidates selected may not have the balance and breadth needed to conduct a comprehensive review. Due to these concerns, RFA would encourage that the review includes transparency measures to control for imbalance or blind spots that could arise during the process.

RFA has concerns about the number of the candidates whose academic work focuses primarily on the issues of water quality and cellulosic biofuels. While these are important topics that warrant consideration, the expertise and academic backgrounds of many of the candidates appear disproportionately weighted toward these issues, while other principal issues and fields of study appear to be missing. For example, the list appears mostly devoid of agronomists and crop scientists who can speak to the significant productivity and efficiency improvements experienced over the past 15 years in the production of corn, soybeans, grain sorghum, and other crops commonly used for biofuel production. It appears that very few of candidates listed have experience or expertise in issues like intensification vs. extensification; macro nutrient use efficiency, technology, and environmental fate; conservation tillage and other modern conservation measures; soil carbon sequestration in modern cropping systems; and other important issues.

The list is also missing experts who can impartially review the triennial report's discussion of current and emerging biofuel production/conversion technologies and processes and their impacts on the environment. While RFA agrees that there should be panelists who can speak to alternative feedstocks, cellulosic pathways, novel and future biofuel production technologies, and water quality issues, the panel should represent the appropriate balance of feedstocks and pathways given current and reasonable future projections of fuel and feedstock utilization under the RFS.

Given that very few of the candidates appear to have experience and knowledge in the production practices and technologies currently employed in today's biofuels industry, RFA strongly recommends that Stephen Kaffka and Farzad Taheripour be selected to the final peer review panel. From a review of their curricula vitae and previous publications, Kaffka and Taheripour are among the only candidates who appear knowledgeable and experienced with contemporary biofuel production methods and markets.

III. Transparency and Public Participation

Given that the list of peer review panel candidates is generally lacking experts with knowledge in contemporary agricultural feedstock and biofuel production methods, we strongly encourage EPA to ensure that representatives of the existing biofuels industry are allowed to provide their perspective and feedback on both the triennial report *and* the peer review process. We believe biofuel producer groups, farmers, and other members of the public should be allowed to observe the peer review process as it occurs, including any virtual or in-person meetings or conferences, as well as access to written correspondence between the peer reviewers and EPA (and its contractor, ERG). We also strongly encourage EPA to fully and earnestly utilize the expertise at USDA and DOE during this process, as directed by EISA.

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In conclusion, RFA appreciates the opportunity to provide these comments on the RtC3 process. We hope that EPA carefully considers our input and excludes those candidates with obvious ideological biases, a lack of relevant experience, a history of refuted and rejected academic work, or conflicts of interest created by funding and sponsorship. RFA also urges caution regarding the balance of the list and encourages the use of transparency measures to ensure a thorough, fair, and productive review.