February 16, 2012

The Honorable Lisa P. Jackson
Administrator, Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Dear Administrator Jackson,

We are writing to urge you to deny the joint petition filed by the National Petrochemical & Refiners Association, American Petroleum Institute and Western States Petroleum Association requesting that the U.S. Environmental Protection Agency (EPA) retroactively waive the 2011 cellulosic biofuel Renewable Volume Obligation (RVO) under the federal Renewable Fuel Standard.

The Advanced Ethanol Council (AEC) represents worldwide leaders in the effort to develop and commercialize next generation ethanol fuels, ranging from cellulosic ethanol made from switchgrass, wood chips and agricultural waste to advanced ethanol made from sustainable energy crops, municipal solid waste and algae. AEC companies are developing technologies that will enable the production of ethanol from a wider variety of biomass resources, help existing biorefineries diversify feedstock and improve efficiency, and provide new economic growth opportunities for rural America. The executive members of the AEC include Abengoa Bioenergy, Beta Renewables, BlueFire Renewables, Coskata, Enerkem, Fulcrum BioEnergy, Inbicon, Iogen, Mascoma, Osage Bio Energy, Qteros and ZeaChem.

The amended federal Renewable Fuel Standard (RFS), established as part of the Energy Independence and Security Act of 2007 (EISA), was designed to promote the development, commercialization and use of domestically-produced renewable fuels. The RFS is a cornerstone policy for a U.S renewable fuels industry that is already an American success story, now displacing the need for about as much foreign oil as we import annually from Saudi Arabia. The advanced and cellulosic biofuels industry is now in the process of building new plants, innovating existing production facilities with emerging technologies, and introducing new product streams that will allow the renewable fuels sector to become more profitable, diversified and efficient. Several billion dollars have been invested in advanced biofuels development with the expectation that Congress and U.S. EPA will stay the course with regard to its commitment to the industry.

We are well-aware that the commercialization of cellulosic biofuels is behind the schedule set forth by the federal RFS. However, Congress anticipated the inevitable uncertainties and variability inherent with the commercialization of new technologies and set up a credit waiver system to account for variances from the established schedule for advanced biofuels. Given that this credit waiver program is already being enforced, and is the subject of the NPRA petition, we would like to offer several observations:
1. Petitioners seem to misunderstand the purpose of the federal RFS. The RFS was enacted to be forward-looking, and to drive the production and use of renewable fuels to mitigate the severe economic and environmental impacts of foreign oil dependence. U.S. consumers spent nearly $500 billion on gasoline in 2011, an outsourcing of capital that carries with it massive domestic job and economic activity losses that experts are crediting as the major cause of the slow economic recovery in the United States. This is the reason why the RFS requires U.S. EPA to forecast the capacity of the cellulosic biofuel industry in out years and implement flexibility provisions in the event that the targets are not hit, as opposed to simply setting the standard to reflect the market that already exists. This forward-looking element of the program provides a critical market signal to obligated parties to secure cellulosic biofuel gallons when available, instead of avoiding off-take agreements and stalling the program. Retroactive adjustments to the volumetric requirements would, in essence, short-circuit this market signal and slow the development of our industry.

2. The petitioners have, in essence, asserted that the compliance marketplace is devoid of any options to avoid a payment of $6.78 million for waiver credits. In reality, obligated parties have many opportunities available to them to meet their individual cellulosic volume obligations: (1) retire or purchase remaining RFS1 C-RINs (D code 1) to meet up to 20 percent of their obligation; (2) purchase a cellulosic waiver credit and retire an advanced RIN (D code 4,5,7); or, (3) defer their obligation for one year. Obligated parties satisfied the majority of their obligation in 2010 with 2010 vintage D1 RINS, and these RINs continue to be traded and available in 2011. And because obligated parties have the option of deferring their Renewable Volume Obligation to the following year, and because RINs have a lifespan of two years, retroactively relieving these obligations would undercut the market for cellulosic biofuels in 2012 and beyond. In essence, U.S. EPA has provided almost complete relief for obligated parties from the cellulosic biofuel blending requirements contained in the federal RFS for cellulosic biofuels in 2011, and there is extraordinary flexibility in the RIN markets to handle the remaining obligations. As is the case above, retroactive adjustments to the volumetric requirements would, in essence, short-circuit important market signals and slow the development of our industry.

3. In December 2007, Congress called on the advanced biofuel industry to ramp up commercialization of the most innovative fuels in the world. Part of their motivation was a recognition that the United States must compete in the $2.5 trillion global clean energy marketplace or risk being dependent on imports to fuel our economy, much as we are today. If this vision is realized, the U.S. economy and the environment will benefit for decades to come. However, one of the critical inhibiting forces in the marketplace is policy uncertainty, both perceived and real. It is absolutely critical to the future of our industry that U.S. EPA hold the line on this well-crafted and implemented waiver credit program. There is already extraordinary flexibility in RFS2 for obligated parties; back-tracking on this key piece of the regulation would send the wrong signal to obligated parties and the investment community charged with financing cellulosic biorefineries to meet the requirements of the RFS.

U.S. EPA has crafted and implemented a credit waiver program that finds the right balance between the clear Congressional intent to drive innovation in the transportation fuels marketplace while avoiding placing undue burden on obligated parties. Cellulosic biofuel
technology is ready and cellulosic ethanol producers are starting to break through commercially in very difficult economic times. Consistent and reasonable implementation of the RFS is the key point of stasis in the marketplace that will allow the vision embodied by the federal RFS to become a reality.

We appreciate the opportunity to comment on this important matter.

Sincerely,

R. Brooke Coleman
Executive Director
Advanced Ethanol Council (AEC)

The executive members of the Advanced Ethanol Council (AEC) include: