December 16, 2014

Mr. Christopher Grundler
U.S. Environmental Protection Agency
Office of Transportation and Air Quality (6401A)
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Dear Mr. Grundler,

With the 2014 Renewable Fuel Standard (RFS) Required Volume Obligation (RVO) under further review and pending action in 2015, we would like to take the opportunity to express our concern about one facet of the program that we believe must be addressed as soon as possible to protect and enhance the commercial deployment of cellulosic biofuel.

With cellulosic biofuel beginning to come online at commercial scale, and D3 Renewable Identification Numbers (RINs) starting to move between producers and obligated parties, we are increasingly concerned about the efficiency, liquidity and transparency of the D3 RIN marketplace going forward. If not corrected administratively, the current D3 RIN market dynamic will create unnecessary supply chain risk for the cellulosic biofuel industry and curb the incentive to develop new cellulosic biofuel capacity.

More specifically, the Energy Independence and Security Act of 2007 envisioned a balanced market for D3 RINs, with general alignment between supply and demand and cellulosic biofuel waiver credits acting to balance prices and protect against unforeseen supply shortages. However, two emerging factors in the current marketplace are creating illiquidity, significant D3 RIN discounts and producers with stranded D3 RINs that may not be required for compliance under the law:

1. Producers are reporting that obligated parties are indicating that their compliance strategy is (and may continue to be) to secure D5 RINs and cellulosic biofuel waiver credits as opposed to D3 RINs – even if D3 RINs are available at lower cost; and,

2. Against the backdrop of new pressures on U.S. EPA to be more conservative in setting the annual RVOs for cellulosic biofuel, new cellulosic biofuel eligibility (e.g. biogas) and new cellulosic biofuel capacity creates an overarching risk (especially in early years) that D3 RIN production could exceed the annual RVOs on a year-to-year basis.

In basic terms, the RFS is designed to cure the most prevalent investment risk associated with providing alternatives to fossil fuel: that oil companies will block access to the market for alternative fuels, irrespective of their value proposition, because they cut into the oil industry's control of the marketplace. It is for this reason that those most interested in financing cellulosic biofuel facilities cite policy risk—not technical, operational, logistical, or any other type of risk—as the greatest impediment to immediate investment and the greatest threat to long range success. It is therefore absolutely critical that U.S. EPA not allow oil companies to frustrate the intent of the RFS and strand the first wave of investment in cellulosic biofuels by simply refusing to enter into contracts to offtake cellulosic biofuels.

In the RFS final rule (*Regulation of Fuels and Fuel Additives: Changes to Renewable Fuel Standard Program; Final Rule, March 26, 2010*), U.S. EPA recognizes a number of adverse market impacts that could arise from the availability of cellulosic biofuel waiver credits and the need to drive the blending of liquid gallons of cellulosic biofuels when available. We very much appreciate the agency's foresight and support the current set of constraints that U.S. EPA has placed on the issuance of waiver credits and its diligence in trying to be accurate in its forecasting of incoming cellulosic biofuel capacity.

However, we are beginning to see that the current approach needs to be augmented to prevent obligated parties from taking advantage of the availability of waiver credits and leveraging more overarching uncertainty in the D3 marketplace. We are confident that, with minor adjustments to the current waiver credit regime, U.S. EPA can improve the administration of the cellulosic biofuel waiver credit program to: (a) ensure the RFS2 delivers robust incentives for cellulosic biofuel production – with each D3 RIN generated being required for compliance without placing undue burden on obligated parties; and, (b) improve the year-to-year accuracy of the annual RVOs for cellulosic biofuel to restore a more balanced marketplace for cellulosic biofuel.

We very much appreciate U.S. EPA's strong record of addressing issues in the RIN markets when necessary, and look forward to the opportunity to provide further details about how to adjust the program administratively to facilitate the more rapid deployment of cellulosic biofuels.

Sincerely,

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

Brent Erickson
Executive Vice President
Industrial and Environmental Section
Biotechnology Industry Organization (BIO)