August 17, 2018

Honorable Andrew Wheeler
Acting Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Re: Docket ID No: Docket ID No. EPA–HQ–OAR-2018-0167

Dear Acting Administrator Wheeler,

Edeniq, Inc. appreciates the opportunity to provide these written comments in response to the U.S. Environmental Protection Agency’s (EPA’s) Proposed Standards for 2019, and Biomass-Based Diesel Volume for 2020.

Edeniq, Inc. ("Edeniq" or "the company") is a leading biotechnology company headquartered in Visalia, California, with an office in Omaha, Nebraska. The company develops processes for producing and measuring cellulosic ethanol from corn kernel fiber through its Intellulose technology.

Edeniq’s comments below focus on the issue of recent excessive registration processing time for new registration applications submitted to EPA proposing to produce cellulosic ethanol from corn kernel fiber using Edeniq’s approved technology, as well as the harmful impact of these delays on cellulosic biofuel growth contrary to the intent of the Renewable Fuel Standard law ("RFS"). As a general matter, however, Edeniq aligns itself with the written comments submitted by the various trade associations of which the company is a member, including the Biotechnology Innovation Organization ("BIO"), Growth Energy, the Advanced Biofuels Business Council ("ABBC") and the Renewable Fuels Association ("RFA").

The proposed 2019 cellulosic renewable volume obligations ("RVOs") and EPA’s assumptions and analysis for the production of liquid cellulosic fuel next year are flawed in such a way that they will negatively impact Edeniq, its customers, and the cellulosic biofuels industry as a whole. For instance, EPA estimates only 24 million gallons of liquid cellulosic biofuels for 2019, including volumes of cellulosic ethanol from corn kernel fiber made using Edeniq’s technology. This projection assumes production from only those six Edeniq customers with prior approval. Thus, the agency appears to be stating that it will not approve any additional registrations for new production that would be available to meet the RFS RVOs next year. This assumption is problematic for several reasons.
First, EPA has already demonstrated that its staff may, and can, adequately evaluate, analyze and approve individual registration applications for the production of cellulosic ethanol from corn kernel fiber using Edeniq’s technology. Edeniq’s technical experts worked closely with EPA technical staff in 2015, 2016 and 2017 to provide all required data for the agency to process and approve our customers’ registration applications. Given the intent of the RFS to help facilitate and promote increasing volumes of cellulosic biofuels (as well as volumes of biofuels in the other categories) used in the U.S. transportation fuel supply each year, it makes no sense for the agency to stop or pause processing new cellulosic ethanol registration applications, especially in light of its demonstrated ability to do so, and the fact that the EPA already approved a number of Edeniq customers for production of cellulosic ethanol.

Should agency leadership wish to pursue the establishment of a national reference standard for measuring cellulosic ethanol from corn kernel fiber, it should do so while continuing its work to evaluate new registration applications on a case-by-case basis. Doing anything less would amount to abdicating the agency’s legal responsibility under the RFS. Moreover, the 2014 EPA rule establishing ethanol made from corn kernel fiber as qualified cellulosic ethanol does not include any reference to, or requirement that, EPA have or use any reference standard in its evaluation of new registration applications for the production of cellulosic ethanol from corn kernel fiber. Perpetually withholding review and approvals of cellulosic ethanol registrations are therefore unnecessary.

Second, the EPA’s assumption that it will not approve any new registrations will improperly lead to millions of potentially available gallons of qualified cellulosic ethanol avoided, which would lead to the systematic underestimation of the 2019 cellulosic RVOs and potentially all future cellulosic RVOs. Of the six Edeniq customers that have received registration approvals to produce cellulosic ethanol from corn kernel fiber using Edeniq’s technology, three of the approvals occurred during the Obama Administration and three during the Trump Administration. In 2017, EPA was processing and approving new cellulosic production registration applications using Edeniq’s previously approved technology every six to eight weeks. The last such application was approved in November of 2017. Several new registrations for cellulosic production using Edeniq’s already approved technology have been sitting before the agency for its review for more than six months already, even though EPA staff have indicated that no outstanding technical issues exist that would prevent their approvals. These applications represent millions of new cellulosic biofuel gallons already avoided during 2018, which are therefore not being considered as part of the 2019 RVO analysis.

EPA should be vigorously reviewing, approving and encouraging the production of all potentially available gallons of cellulosic biofuels to enable industry to come as close as possible to meeting the ambitious annual RVO levels set by Congress in the 2007 RFS statute. Unless the final 2019 cellulosic RVO accounts for the aforementioned lost 2018 gallons and includes a
revised assumption of additional registrations for next year, EPA would be essentially holding down potential commercial production of new cellulosic volumes in 2019 through the effect of the market signal the agency would send. The agency would send an overly pessimistic—and thus damaging—signal to cellulosic producers and investors. Industry has the demonstrated ability and goal to produce increasing, qualified commercial volumes of cellulosic ethanol in 2018 and 2019. EPA needs to send the appropriate market signal in the final 2019 RFS rule to allow for this production next year.

Third, under the RFS, EPA has the duty to administer the RFS law in such a way that promotes the production and use of cellulosic biofuels into the nation’s transportation fuel supply to the annual, increasing volumetric levels included in the law. For this reason and those stated above, we believe that EPA should immediately resume fully processing and approving new registration applications for the production of qualified cellulosic biofuels, especially those applications proposing to produce the fuel using technology previously approved by EPA (including under the current Administration). The agency should also set the final 2019 cellulosic RVOs at an appropriate level that accurately encompasses actual expected volumes that take into account (1) volumes avoided by delays in such processing this year, and (2) volumes that are projected to come online next year under a restored, efficient approval process that would accurately project actual expected cellulosic volumes.

Edeniq’s current customers alone (not counting other producers in the industry)—that have approved registration applications and have submitted new registration applications to EPA proposing to use already-approved technology—could produce 25 million gallons in 2019. If EPA immediately resumes reviewing and approving qualified applications in accordance with the intent of the RFS and EPA’s demonstrated ability to lawfully do so, the agency should adjust the final 2019 cellulosic RVO attributable to cellulosic ethanol by up to 50 million gallons (from the current 24 million in the proposed rule). It may be possible for Edeniq’s customers alone to produce this volume next year. These potential gallons will only be realized, however, if the agency approves new cellulosic production registrations in a timely manner as it has in the past. We stand ready to work with agency staff to answer any questions or provide any data necessary for such approvals.

Sincerely,

Brian D. Thome
President & CEO