



February 16, 2017

The Honorable Catherine McCabe
Acting Administrator, Environmental Protection Agency
Air and Radiation Docket and Information Center
Mailcode: 2822T
1200 Pennsylvania Avenue NW
Washington, DC 20460

Docket ID No. EPA-HQ-OAR-2016-0041

Dear Acting Administrator McCabe:

The Biotechnology Innovation Organization ("BIO") is pleased to comment on the U.S. Environmental Protection Agency's ("EPA's") recently published proposed rule, entitled **Renewables Enhancement and Growth Support Rule ("REGS")** ("proposed rule")¹ BIO supports EPA's ongoing efforts to improve the efficiency and effectiveness of the federal Renewable Fuel Standard ("RFS") program, which was created by Congress, with bipartisan support, in statutory provisions that President George W. Bush signed into law as part of the Energy Policy Act of 2005 and Energy Independence and Security Act of 2007.

BIO is the world's largest trade association representing biotechnology companies, academic institutions, state biotechnology centers and related organizations across the United States and in more than 30 other nations. BIO members are involved in the research and development of innovative healthcare, agricultural, and industrial and environmental biotechnology products. In the energy space, BIO represents over 70 companies leading the development of new technologies for producing conventional and advanced biofuels. Through the application of industrial biotechnology, BIO members are improving conventional biofuel processes, furthering advanced and cellulosic biofuel production technologies, and speeding development of new energy crops.

BIO thanks EPA for the opportunity to comment on the proposed rule, and submits the following high-level comments in the interest of further enhancing and improving the operation of the RFS program, and of efficiently meeting the goals mandated by Congress in the statutory provisions that create the program. Like all BIO comments, these comments are not intended to bind BIO's members in any way; nor are they intended to comprehensively recite all the specific concerns and issues, relevant to the detailed provisions of the proposed rule, which are of interest to the larger biofuels industry or all BIO members.

First, BIO supports EPA's efforts to facilitate inclusion of additional biofuels under the RFS program. To this end, we support EPA's proposed allowance of biofuels produced using a biointermediate developed at one facility which is then processed into renewable fuel at another. However, BIO and its members are concerned that the current proposal to allow for biointermediaries—including imposing the same registration and recordkeeping

¹ Renewables Enhancement and Growth Support Rule, 81 Fed. Reg. 80828 (Nov. 16, 2016), available at <https://www.gpo.gov/fdsys/pkg/FR-2016-11-16/pdf/2016-25292.pdf> ("Proposed Rule").



requirements on biointermediate producers as required of a renewable fuel producer—would be unnecessary and overly costly and burdensome, and would deter most biointermediate producers from partnering with renewable fuel producers. BIO, therefore, urges EPA to take a more practical and feasible approach and to allow renewable fuel producers to ensure that biointermediates meet the requirements of the RFS program without imposing a new regime of separate requirements on biointermediate producers.

Second, we support the inclusion of new pathways for the production of qualifying cellulosic fuels using short rotation hybrid poplar and willow trees as feedstocks. BIO encourages the EPA to continue working to approve additional pathways for qualifying fuels under the RFS.²

Third, an initial interagency draft³ of the Proposed REGS Rule included language that would explicitly expand the agency's interpretation of the term "algae" to include microorganisms and bioprocesses that perform similar carbon capturing functions to algae and cyanobacteria, including autotrophic organisms. However, this language was not included in the proposed rule. As was noted during the interagency review process, explicit expansion in this manner of EPA's interpretation of "algae" would be well within EPA's authority, would be well received, and would be seen as a means to make available additional feedstock for renewable fuel production, which will further the energy independence and greenhouse gas reduction objectives of the RFS statute and program⁴. For these reasons, we urge EPA to proceed with a separate request for comments on explicitly including autotrophic organisms as renewable biomass under algae, using the recommended language proposed for consideration during the interagency process.

Fourth, BIO supports EPA's proposal to update its fuel regulations to define fuel blends containing 16 to 83 volume percent ethanol as ethanol flex fuel ("EFF"). We believe this change would benefit consumers, while also helping to achieve the statutory goals of the RFS.

Fifth, BIO encourages EPA to revise its proposal concerning the use of certified natural gasoline blendstock. Natural gasoline is not available in quantities sufficient to meet Midwest demand that meets the proposed 10 ppm sulfur/0.62 benzene specifications.⁵ Yet, producers of natural gasoline blendstock have the ability to indicate to renewable fuel producers that they may blend certain specific percentages of the natural gasoline with denatured fuel ethanol ("DFE") or ethanol to produce a finished fuel that meets the 10 ppm/0.62 benzene requirements. Therefore, EPA should clarify in the final rule that ethanol

² For a more detailed statement of BIO's views on this important topic, see BIO Comments, Renewable Fuel Standard ("RFS") Program: Standards for 2017 and Biomass-Based Diesel Volume for 2018, at 28 (Jul. 11, 2016) ("To be blunt, EPA is simply too slow in making decisions on RFS pathway approvals, with damaging results."), available at <https://www.bio.org/sites/default/files/2016-07-11%20-%20%20BIO%20RFS%202017%20Comments%20--%20EPA-HQ-OAR-2016-0004.pdf>. "In sum, EPA should take immediate steps to expedite the pathway review and approval process, which will increase the available supply of advanced and cellulosic biofuels to meet the [Renewable Volume Obligations required by the statute]. EPA should devote new resources to clear its existing backlog, and should also make improvements to ensure that new pathway petitions are processed expeditiously on predictable timelines." *Id.* at 30.

³ EO12866 Review of EPA Renewables Enhancement and Growth Support Proposed Rule 2060-AS66- 6 21 2016 EPA-HQ-OAR-2016-0041 (Nov. 16, 2016) available at <https://www.regulations.gov/document?D=EPA-HQ-OAR-2016-0041-0013>

⁴ EO12866 Summary Comments on EPA Renewables Enhancement and Growth Support Proposed Rule 2060-AS66- 6 21 2016 EPA-HQ-OAR-2016-0041(Nov. 16, 2016) available at <https://www.regulations.gov/document?D=EPA-HQ-OAR-2016-0041-0013>

⁵ Proposed Rule at 80847.



producers should be able to demonstrate through product transfer documents that the finished fuel meets the 10 ppm/.062 benzene requirements.

Sixth, BIO recommends that EPA revises the proposal to remove the current limitation that natural gasoline blendstock may not exceed 30 percent of EFF since there is not evidence that the use of natural gasoline at higher percentages would cause issues with vehicle operability or emissions performance. EPA should also allow DFE to be used as a parent blend at a blender pump since there are ample methods available to ensure that DFE may be safely blended at a blender pump.

Finally, BIO encourages EPA to act expeditiously, without any unnecessary delay, to reconsider its position on E15 and to acknowledge that it may be safely sold during summer months in conventional markets. Accordingly, EPA should ensure that E15 will receive the same Reid Vapor Pressure ("RVP") treatment as E10 in those markets. This change would ensure that retailers could sell and consumers would continue to have access to E15 for use in their vehicles from June 1 to September 15.

Thank you for considering these comments.

Sincerely,

A handwritten signature in black ink that reads "Brent Erickson". The signature is fluid and cursive, with a prominent initial "B" and "E".

Brent Erickson, Executive Vice President
Biotechnology Innovation Organization (BIO)