

Congress of the United States
House of Representatives
Washington, DC 20515

March 28, 2014

The Honorable Gina McCarthy
Administrator
U.S. Environmental Protection Agency
Room 300, Ariel Rios Building
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Dear Administrator McCarthy:

We greatly appreciate your willingness to meet with us to discuss the implementation of the Renewable Fuel Standard (RFS). Despite our past frustration that the Environmental Protection Agency (EPA) has failed to recognize the detrimental effects of the RFS, we appreciate that, under your direction, the EPA has proposed a slight reduction of the RFS for 2014.

Unfortunately, despite the best intentions, the RFS's premise and structure were based on many assumptions that no longer reflect the current market conditions, and the imposition of the statutory volumes will cause further economic and environmental harm. We appreciate that you have shown the EPA's willingness to use the authority Congress granted to it when crafting the RFS proposal for renewable fuel obligations for 2014. During our meeting, we discussed the EPA's views on statutory challenges and the inflexibility in the law when implementing the current RFS in 2014 and under the last waiver requests the EPA has denied.

We appreciate the EPA's recognition of the "blend wall" and taking action to provide short-term relief from the blend levels prescribed in the RFS. However, we recognize that any relief that the EPA may provide does not fix this broken policy. The RFS needs fundamental reform. Congress created an artificial market that is creating supply concerns, causing engine damage, sacrificing jobs across many U.S. industries, inflicting environmental damage, and raising families' food costs. We further understand that, ultimately, Congress must provide relief from its unintended consequences.

We will continue to lead the push for legislative solutions to reform the RFS. But as we debate these reforms, we encourage you to provide insight to the statutory challenges that limit the EPA's ability to consider influencing factors when setting the renewable fuel obligations or when considering a waiver request.

Would you please provide us with responses to the following questions:

1. Where in the statute is the EPA provided the authority to act now to reduce the renewable fuel obligations and what is the cause for action that is allowed under statute? The statute allows the Administrator to reduce RFS levels if "*implementation of the requirement would severely harm*

the economy or environment of a state, region or the United States.” Is this the justification used to develop the proposed rule?

2. If the EPA is acting under the assumption that severe harm would be brought about by the blend wall or other results of requiring the statutory levels of the RFS for 2014, can the EPA explain why similar actions were not taken in 2008 and 2012? The EPA’s own analysis said that had a waiver been issued in 2012 it would have provided relief of over \$80 million to the pork industry in Virginia and North Carolina. Is there a threshold at which the EPA feels the severe harm test is met to waive the RFS blend levels?
3. When setting the renewable fuel obligations, does the EPA consider the corn stocks-to-use ratio and the availability of corn for both food and fuel demands? Similarly, are those considerations factored in setting levels for Advanced Biofuels, which has been largely achieved through virgin soybean oil? Is this reflected in proposed obligations?
4. The dramatic expansion of corn ethanol has led to the conversion of millions of acres of sensitive wetlands and grasslands into production. According to the EPA’s analysis, the lifecycle emissions of corn ethanol in 2012 were higher than those of gasoline – and will be for years to come. Is the EPA able to use analysis of environmental damage when setting proposed obligations?
5. Does the EPA’s consideration of infrastructure capabilities for both conventional and advanced biofuel impact proposed obligations? If so, is lack of infrastructure to meet the mandate, particularly with the advanced biofuel mandate, an allowable consideration under the statute? To what extent does the EPA use this to set the renewable fuel obligation?
6. Under the statute, the applicable renewable fuel obligations should be set by November 30 of the proceeding calendar year. However, the recent trend has been for the EPA to miss this deadline. Can you explain the flexibility to miss the statutory deadline under the RFS? Is the EPA taking steps to correct this trend?

Again, we appreciate your leadership in reviewing and adjusting the Renewable Fuel Standard, and we encourage you to finalize the proposed rule in its current form as quickly as possible. We stand ready to work with you on fair and meaningful reform to the RFS. Thank you for your immediate consideration of this request and for taking the time to meet with us.

Sincerely,



Bob Goodlatte
Member of Congress



Jim Costa
Member of Congress



Steve Womack
Member of Congress



Peter Welch
Member of Congress