



May 31, 2023

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The Honorable Tom Tiffany  
Chair, Subcommittee on Federal Lands  
U.S. House Of Representatives  
Washington, DC 20515

Dear Mr. Chairman:

Thank you again for the opportunity to testify before the Subcommittee on May 16, on "Examining the Challenges Facing Forest Management, Wildfire Suppression, and Wildfire Firefighters Ahead of the 2023 Wildfire Year."

After the hearing you asked if I would send you follow up information on EPA's Renewable Fuels Standard (RFS) program and the exclusion of federal lands.

Specifically, revision of the standard is needed if we are going to build and support industry infrastructure to sustain communities, create high paying jobs, and utilize wood materials otherwise being burned after thinning. With the increased thinning of our forests, we have lots of material that could be processed and used for energy production, building, and for a whole suite of new and innovative products. But

without a change to the RFS for federal lands this won't be economical.

**Renewable Fuels Standard (RFS) program:**

*Need to Revise definitions as contained in Title 40, Section 80.1401 (Renewable Fuel Standard) of the Code of Federal Regulations as follows:*

- **Areas at risk of wildfire** - This term is not defined in statute and is instead defined in the Code of Federal Regulations (CFR) as “those areas in the wildland-urban interface”. Areas deemed to meet this criterion are determined based on modeling performed by the University of Wisconsin-Madison (2017). This modeling, which is based on historic data up to 2010 only, excludes large swathes of the west, which face severe present day threats of wildfire.
- Clarifying amendments be made to the definitions of “renewable biomass” and “slash” in the CFR. Specifically, we recommend that the preclusion of biomass beyond 200 feet be removed, which is arbitrary. The RFS program is a market-based federal program that provides incentives to low-carbon biofuels projects. The RFS program was created under the Energy Policy Act of 2005, and further amended under the Energy Independence and Security Act of 2007 (EISA). EISA requires that cellulosic biofuels be derived from “renewable biomass”. As it relates to forestry residues, EISA defines renewable biomass as “slash and pre- commercial thinning that is from non-federal forest lands”, as well as “biomass obtained from the immediate vicinity of buildings and other areas regularly occupied by people, or of public infrastructure, at risk from wildfire”.

In the *BioMass Power Association*, February 10, 2023, response to comment letter addressed to EPA’s Michael Regan Administrator - **Attention: Docket ID No. EPA-HQ-OAR-2021-0427**  
**Re: Comments in Response to the Proposed Rule: Renewable Fuel Standard (RFS) Program: Standards for 2023-2025 and Other Changes**

Underscores the importance of having the RFS standard changed to include Federal Lands. Their comments are in Parts IV & V.

“IV. EPA Should Allow All Biomass to Power Facilities to Co-Process Qualifying and Non-Qualifying Feedstock

*Section 80.110(l)(3) of the Proposed Rule would prohibit biogas closed distribution system facilities from co-processing non-qualifying and qualifying feedstock together while generating RINs. We strongly encourage EPA to reconsider this restriction and enable all biomass power facilities to participate in the eRINs program based on the proportion of qualifying feedstock that they are using to generate power, rather than requiring a facility to use 100% qualifying feedstock.*

*The existing regulations already have formulas found in Section 80.1426(f) to address situations where both non-qualifying and qualifying feedstocks are used to produce a qualifying renewable fuel. These regulations have been in effect since the inception of the second phase of the RFS in 2010. The regulated community is familiar with these formulas and has successfully applied them in many varied circumstances. Creating a unique carveout to these formulas such that a biogas closed distribution system is unable to generate RINs if some of its feedstock is non-qualifying is unnecessary and potentially confusing for the regulated community.”*

*“V. EPA Should Allow Materials Cleared Out of Forests at High Risk of Wildfire to Qualify for the RFS*

*By utilizing kindling cleared out of forests at high risk of wildfire, the biomass power industry plays a crucial role in reducing wildfire risk. The utilization of these materials to generate electricity, rather than open burning them or otherwise disposing of them, should be encouraged. Currently, biomass from federal lands can qualify as a Renewable Fuel Standard fuel only if it is cleared from within 200 feet of buildings and other areas regularly occupied by people, or of public infrastructure, in an area at risk of wildfire. We recommend expanding qualifying biomass to all areas at risk of wildfire based on wildfire hazard maps (instead of Wildland Urban Interface maps that EPA pointed to in RFS2) and any high priority wildfire landscape areas and firesheds already identified by The U.S. Forest Service and in the future.”*

The RFS is an essential economic incentive to expand biofuels production and support biomass power. Successful revision of the RFS to include more of the federal land base will financially incentivize removal of hazardous fuels and biomass and expand the use of materials otherwise heading to burn piles.

If you have any questions or wish to discuss these comments with our organization, I can be reached at **rmcnair4953@gmail.com** or 208-660-4994. We appreciate your attention to this matter and look forward to continued progress in addressing the challenges faced in forest management, wildfire suppression and the utilization of biomass resources.

Sincerely,

*Ranotta McNair*

Ranotta McNair, Board Member  
National Association of Forest Service Retirees (NAFSR)