

House Ways & Means Committee
Tax Policy Subcommittee
Hearing on Post Tax Reform of Recently Expired Tax Provisions
March 14, 2018

Good morning, Chairman Buchanan, Ranking Member Doggett, and Members of the Subcommittee. My name is Ed Hubbard and I am General Counsel for the Renewable Fuels Association (RFA), the national trade association representing the U.S. ethanol industry.

The RFA is the leading trade association for America's ethanol industry. Its mission is to advance the development, production, and use of fuel ethanol by strengthening America's ethanol industry and raising awareness about the benefits of renewable fuels. Founded in 1981, RFA's 300-plus producer and associate members are working to help America become cleaner, safer, energy independent and economically secure.

On behalf of RFA's membership and the U.S. ethanol industry as a whole, I am honored to come before you and testify in support of several key tax incentives that have been, and are, critical to the growth and evolution of our nation's biofuel industry.

For more than 30 years, the U.S ethanol industry has worked to provide Americans with a clean, renewable, homegrown, and cost-competitive, liquid fuel alternative to, and additive for, petroleum based gasoline. With the help of the U.S. ethanol industry, Americans have been afforded a valuable and low-cost source of octane to help their engines run efficiently, a clean and non-toxic additive to oxygenate their fuel to help meet Clean Air Act requirements, and a reliable, value added market for grain that continues to rejuvenate rural communities. Today, the U.S. ethanol industry leads the world in the production of ethanol, producing over 15 billion gallons annually, which has helped our nation reduce its need for oil imports. Even more significant, American-made ethanol has grown to become the lowest cost, highest octane fuel additive in the world, and is very cost competitive against petroleum based gasoline, even at today's historically low oil prices.

1. The Second-Generation Ethanol Incentives Must Be Extended Prospectively to Provide Certainty to Support Growth and Innovation in the Biofuel Industry

While the U.S. grain-based ethanol industry has been able to grow and mature into an efficient and highly competitive fuel and fuel-additive supplier, the cellulosic and second-generation ethanol industry is a much younger sector of the ethanol industry, and has struggled to overcome immense financial and commercial obstacles that have prevented it from growing and developing as fast as hoped. But, in recent years, with the help of existing tax incentives designed to drive investment to the industry, and to help provide a glide path to profitability for

early movers in the technology, the U.S. cellulosic and second-generation ethanol industry has been able to successfully produce second generation biofuels at a commercial scale.

For more than a decade, the cellulosic and second-generation ethanol industry has struggled to secure investments for its “first of its kind” technologies, and to achieve wide-spread, commercial scale development. Despite promising advances in technology over the years, and the discovery and testing of new production processes in the industry, the anticipated wide-spread development and commercialization of second generation ethanol has taken much longer than expected. However, in the last 3 years, the industry has finally been successful in breaking through at a commercial scale. Over that period we have seen the dramatic expansion in the use of “bolt-on” technologies that have allowed existing grain biorefineries to produce ethanol from the cellulosic fibers found in the corn kernel. With this technology in place, these facilities can produce both cellulosic ethanol and starch-based ethanol from the same feedstock. And, with the success of this “bolt on” technology, today (not tomorrow) the U.S ethanol industry is producing EPA-certified gallons of cellulosic ethanol, and selling them to the U.S. fuel market, proving that this is no longer just a future fuel, but instead achievable today.

However, if we hope to continue this technological growth and innovation in the U.S. cellulosic and second-generation ethanol industry, it is critical that we have a steady and reliable policy undergirding the industry. Like all other nascent industries, there must be policies that show the government’s commitment to the industry, which have been key for these companies to secure financing and investment. In addition, there must be time afforded to these new industries to allow them to develop and improve production efficiencies and lower production costs to the point that their fuel is competitive with other comparable fuels.

Two key tax incentives supporting the growth of the second-generation ethanol industry are the Second-Generation Production Tax Credit (“PTC”) and the Accelerated Depreciation Allowance for Second-Generation Biomass Plant Property. The PTC allows producers of biofuels to take a tax credit in the amount of \$1.01 for every gallon of cellulosic ethanol produced, and the accelerated depreciation allowance permits producers of cellulosic biofuel to take 50% depreciation in the first year for property used to produce cellulosic ethanol.

While these two incentives were only first enacted in 2008, and were designed to have a multiyear authorization, they have been treated as an extender since originally expiring at the end of 2013. And, although the industry has regularly sought a multiyear extension since the provisions originally expired, the industry has been forced to accept short, 1 and 2-year extensions with the understanding that a long-term extension would be addressed in time as part of a larger tax reform effort. However, despite promises and protestations that the reform of this credit would be included in the larger context of comprehensive tax reform, no such opportunity for reform of the credit was forthcoming. And, as part of the most recent tax reform effort to pass Congress, while other energy incentives were addressed for oil and gas, and even wind and solar, once again there was no effort made to reform or otherwise extend the incentives for biofuel, including the above incentives. It was instead reported that there was

a deal among Congressional negotiators on the tax bill that these provisions would be addressed as part of an upcoming spending bill.

Congress finally provided an extension of the Second-Generation PTC and the Accelerated Depreciation for Second Generation Biomass Plant Properties as part of the last spending bill; however, the extension was only retroactive. Despite the understanding that the incentives would be extended at least 1 year prospectively, Congress only extended the incentives for 2017, leaving the incentives without any prospective benefit for its users. By failing to extend the credit for 2018, Congress is assuring that these incentives are no longer effective in encouraging industry investment, and are not expected to be available to help early movers survive in the marketplace while economies of scale are being realized.

In an effort to provide greater certainty for the industry, we have previously called for the Second-Generation PTC to be modified to allow for a set, 10-year period of credit eligibility, such as the tax incentive offered to renewable electricity Section 45. In addition, we recommended that the eligibility period for the PTC should be triggered upon the beginning of construction, as found in Section 45, as well. Finally, the accelerated depreciation allowance should be extended similarly for multiple years. By doing so, the tax code could provide more certainty to investors that the credit will be around for a set period of time, and that the credit will not be subject to the annual tax extension exercise that normally occurs at every year end in Congress. However, anything short of that, we recommend that the tax incentives be extended no less than one year prospectively, so that they maintain their prospective benefit for the industry.

These incentives are not costly. They have been scored at only \$11 million for 2018, and only \$300 million for a 10-year authorization. Moreover, the incentives are critical for our industry to secure financing and investment. If they are going to be effective, they must be able to level the playing field and remove inherent inequities that exist between the biofuel industry, whose incentives expire year after year, and its competing oil and gas incumbents that have permanent incentives under the tax code.

Therefore, we hereby call for the immediate extension of the Second-Generation PTC and Accelerated Depreciation for at least 2018, and moving forward, we further call for the credits to be reformed to provide for a longer term, more effective incentive that allows for a set period of eligibility.

2. Incentives for Retail Infrastructure Must be Modified and Extended to Encourage Expanded Market Access

The ethanol industry also continues to struggle with market access due to the need for infrastructure enhancements at the retail level. In order to compete with gasoline at the pump, drivers need the ability to choose between alternatives using market based drivers such as price, mpg, octane, etc. However, it has been difficult to encourage many small and medium fuel retailers to invest in infrastructure upgrades to offer greater fuel choices to consumers, when they regularly have limited funds available for such upgrades.

Today, out of a total of 160,000 retail stations nationwide, there only exists 4000 stations with the infrastructure sufficient to offer higher level blends of ethanol. And, this is true despite the existence of the Alternative Vehicle Refueling Property Credit, which provides a tax credit in an amount equal to 30 percent (up to \$30,000) of the cost of any qualified alternative fuel vehicle refueling device.

To date, this credit has not been very effective in pushing infrastructure improvements related to ethanol, despite additional money limits temporarily added in connection past stimulus efforts. We believe the reason that it has been ineffective is due to the fact that it has not kept up with the growth trends in the retail fueling business. Moreover, it is insufficiently designed to accommodate the technological growth that is occurring at today fueling stations, which have increasingly been moving toward blender-style pumps which allow for blending to occur at different levels at the pump.

To improve the effectiveness of this credit, Congress needs to be focused on expanding eligibility. For example, the credit requires that retailers use the credit to install E85 infrastructure, when instead it should be modernized to focus on higher level blends. Rather than require the infrastructure to deliver fuel with a minimum of 85% ethanol, it could be permitted for high level blends such as E50 and above.

Another much needed modification would be to allow the credit for dual use property (retail infrastructure that delivers both conventional and renewable/alternative fuel). This would allow for the continued growth trend toward the use blender pumps. Currently, the credit is limited to providing an incentive for single use, dedicated pumps, despite the fact that retail providers are moving in a different direction.

Therefore, we hereby call for a multiple year extension of the Alternative Vehicle Refueling Property Credit, with minor modifications to make it responsive to the contemporary fuel retail market.

Once again, I thank you for the opportunity to voice our industry's concerns on this important issue.