



February 4, 2022

The Honorable Michael Regan, Administrator
U.S. Environmental Protection Agency
EPA Docket Center - Air Docket
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Washington, DC 20460

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**RE: Docket ID No. EPA-HQ-OAR-2021-0324; Renewable Fuel Standard Program:
Renewable Fuel Standard Annual Rules (86 Fed. Reg. 72436; Dec. 21, 2021)**

Dear Administrator Regan:

The Ohio Farm Bureau Federation appreciates the opportunity to provide comments concerning the U.S. Environmental Protection Agency's (EPA) proposed rule regarding proposed Renewable Volume Obligations (RVO) for 2021 and 2022, as well as EPA's proposal to retroactively adjust the already-finalized RVO for 2020 (86 Fed. Reg. 72436; Dec. 21, 2021).

Renewable fuels have been a tremendous success story for the country and the rural economy. The Renewable Fuel Standard (RFS) has reduced our country's dependence on foreign crude oil, reduced air pollution, increased farm incomes and provided good-paying jobs in rural America.

Following the implementation of the RFS2 in 2007, the U.S. experienced tremendous growth within the agricultural sector. U.S. farmers responded to these new market signals by expanding crop production by 3 billion to 4 billion bushels of corn and over 1 billion bushels of soybeans. These crops are used to produce corn-based ethanol and soybean oil biodiesel made from methyl ester.

With the exception of the proposal to reopen the final 2020 standards, Farm Bureau believes the proposed rule represents an important and long-awaited step toward restoring order, integrity and stability to the RFS. Farm Bureau supports the proposed volumes for 2022 for all categories of renewable fuel, and we specifically commend EPA for proposing to set the implied requirement for conventional renewable fuels at the statutory level of 15 billion gallons.

We also support EPA's proposal to account for projected exempt volumes from small refineries when setting RVO percentages. And, Farm Bureau agrees with EPA that, "in the interest of transparency," the Agency should release basic information about entities seeking exemptions from RFS compliance. While we understand EPA's proposed denial of 65 pending small refinery exemption petitions is not the subject of this docket, we also want to voice our strong support for that decision.

As for the 2021 RVO and the proposed revision to the 2020 RVO, we have serious concerns about EPA's questionable use of its "reset" authority. While we understand EPA has a statutory obligation to consider resetting future RFS volumes when certain thresholds are met, it does not appear that Congress intended for EPA to use its reset authority for the purpose of retroactively addressing unforeseen market anomalies like COVID or weather-related disasters. Indeed, Congress gave EPA other waiver authorities to address such events, but only when certain stringent criteria are satisfied. Moreover, we fail to see how the required analysis of certain statutory factors conducted by EPA relates to, or justifies, the proposed revisions to the RVOs for 2020 and 2021.

Notwithstanding our concerns about EPA's potential misuse of its reset authority, the proposed conventional renewable fuel requirement of just 13.32 billion gallons for 2021 is far below "actual use." The Energy Information Administration's latest data suggest 13.73 billion gallons of conventional ethanol were consumed domestically in 2021; and EPA's own data show that, through November, net generation of conventional (D6) RINs was on pace for more than 14.1 billion in 2021. The latest data justify a much higher conventional renewable fuel requirement for 2021, and we were pleased to see that EPA is committed to revising the 2021 RVO based on more current data.

Our most significant concern is EPA's proposal to retroactively revise the 2020 RVO. EPA issued the final 2020 RVO more than two years ago. In response to that final rule, renewable fuel producers, most obligated parties, farmers, fuel retailers and other market participants made necessary investments and developed plans to achieve compliance. Revising the 2020 RVO now would unfairly penalize those market participants who invested and acted in good faith in times of unprecedented disaster to comply with the original RVOs, while only benefitting those oil refiners who avoided blending sufficient volumes of biofuel or purchasing RIN credits during the pandemic. Those refiners argue that an adjustment to the 2020 RVO is necessary because COVID caused a substantial drop in gasoline and diesel consumption during the 2020 calendar year. However, by converting volumetric obligations to percentage standards, the annual RVO process already includes a self-correcting mechanism that causes actual renewable fuel volume requirements to adjust lower with reduced gasoline and diesel consumption. Thus, EPA's proposal actually goes a step further and penalizes biofuels producers, and their farmer customers, for reacting to the market forces created by government intervention during the pandemic.

A retroactive revision to a final RVO rule would set a dangerous precedent and would be wholly inconsistent with the Agency's past practices and statements. EPA has repeatedly stated that "Congress...did not provide a means for correcting the percentage standards after November to ensure that the applicable volumes of renewable fuel are exactly met in a given compliance year." The Agency has also previously taken the position that "...periodically and retroactively altering the standards would...inappropriately render the standards a moving target." Farm Bureau believes the proposal to revise the 2020 RVO should be eliminated from the upcoming final rule, and obligated parties should be required to comply with the 2020 standards that were finalized in 2019.

The RFS2 plays a critical role in improving the energy security of the United States. Prices for crude oil have historically been volatile, influenced by the complex interplay of economic and political variables. Developing a comprehensive, domestic energy source is a critical hedge against foreign sources of energy market volatility and keeping the RFS2 as it is in the 2007 Energy Independence and Security Act (EISA) serves as a key component to achieving this overall goal. The petroleum industry's unwillingness to offer higher blends must not be taken as evidence that

the RFS2 is unworkable. Rather, it is evidence that they are unwilling to adapt to policies enunciated by Congress. But making space in the market for alternative fuels that contribute to energy independence, environmental improvement, and economic development is exactly the point of RFS2.

In conclusion, EPA's current proposal fails to set the conventional ethanol blending targets in 2021 at the statutory minimum of 15 billion gallons and retroactively rolls back 2020 requirements. We appreciate the agency's proposed requirements for 2022, action on SREs, and growth in advanced biofuels. However, EPA's current proposals for 2020 and 2021 show a lack of appreciation for farmers who did not stop producing for the U.S. in the midst of the pandemic and would only add to the uncertainty now facing farmers and biofuel producers. These proposed requirements undercut the growth of homegrown biofuels and hold back our efforts to revitalize rural communities, create clean energy jobs, and reduce emissions of the transportation sector. Now more than ever, it's vital that EPA set strong biofuel requirements as soon as possible.

Thank you for the opportunity to comment on this extremely important issue, as producing and accomplishing domestic, comprehensive energy sources remains a priority issue for Farm Bureau.

Sincerely,

A handwritten signature in black ink that reads "Brandon E. Kern". The signature is written in a cursive, flowing style.

Brandon E. Kern
Senior Director, State and National Policy
Ohio Farm Bureau Federation