

August 30, 2019

Mr. Andrew Wheeler  
Administrator  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, NW  
Washington, D.C. 20460

*Submitted via regulations.gov*

**RE: Comments on the U.S. Environmental Protection Agency's Proposed Rule - "Renewable Fuel Standard Program: Standards for 2020 and Biomass-Based Diesel Volume for 2021, Response to the Remand of the 2016 Standards, and Other Changes," 84 Federal Register 36762 (July 29, 2019); EPA-HQ-OAR-2019-0136**

Dear Administrator Wheeler:

The Clean Air Task Force (CATF) seeks to help safeguard against the worst impacts of climate change by working to catalyze the rapid global development and deployment of low carbon energy and other climate-protecting technologies, through research and analysis and public advocacy leadership.

CATF has reviewed and commented on numerous proposals concerning the Environmental Protection Agency's (EPA) implementation of the Renewable Fuel Standard (RFS) since 2009, with a particular focus on the policy's impact on global climate change. Previous detailed comments (some of which were submitted jointly alongside other organizations) can be found here: <https://www.catf.us/resource/biofuels/>.

CATF appreciates the opportunity to comment on EPA's proposed rule concerning the "Renewable Fuel Standard Program: Standards for 2020 and Biomass-Based Diesel Volume for 2021, Response to the Remand of the 2016 Standards, and Other Changes," 84 Fed. Reg. 36762 (July 29, 2019); EPA-HQ-OAR-2019-0136. Similar to our past Renewable Volume Obligation (RVO) comments, we urge EPA to consider the following issues when finalizing its 2020 RVO rule:

- **Conventional biofuels are environmentally damaging:** As EPA detailed in its Second Triennial Report to Congress on the environmental impacts of the RFS, conventional biofuels such as corn ethanol and soy biodiesel are environmentally damaging.<sup>1</sup> While the RFS was intended to spur the development of climate-beneficial biofuels, it has instead largely been met with conventional biofuels. The expansion of food-based biofuel production since 2007 has resulted in increased food prices<sup>2</sup> and a wide range of negative environmental outcomes, including declines in water quality<sup>3</sup> and quantity,<sup>4</sup> soil<sup>5</sup> and air<sup>6</sup> quality, ecosystem health,<sup>7</sup> endangered species<sup>8</sup> and other biodiversity, not to mention the loss of carbon-rich grasslands<sup>9</sup> and increased greenhouse gas (GHG) emissions.<sup>10</sup> EPA should therefore limit the consumption of conventional, environmentally-damaging biofuels by setting RVOs for total renewable fuel, advanced biofuel, and biomass-based diesel at the minimum levels allowed under Section 211(o) of the Clean Air Act.
- **Backfilling gaps in advanced biofuels mandates would only worsen environmental impacts of the RFS:** As the Agency has once again acknowledged, backfilling gaps in cellulosic and advanced biofuels mandates with conventional biofuels would only

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<sup>1</sup> US Environmental Protection Agency (EPA), Biofuels and the Environment: Second Triennial Report to Congress (hereinafter "EPA Second Triennial Report") (2018)

([https://cfpub.epa.gov/si/si\\_public\\_file\\_download.cfm?p\\_download\\_id=536328&Lab=IO](https://cfpub.epa.gov/si/si_public_file_download.cfm?p_download_id=536328&Lab=IO)).

<sup>2</sup> See, e.g., International Food Policy Research Institute, Biofuels and Food Security: Balancing Needs for Food, Feed, and Fuel (2008) (<http://www.ifpri.org/publication/biofuels-and-food-security>); US Government Accountability Office (GAO), Biofuels: DOE Lacks a Strategic Approach to Coordinate Increasing Production with Infrastructure Development and Vehicle Needs (June 2007) (<https://www.gao.gov/assets/270/261771.html>).

<sup>3</sup> EPA Second Triennial Report at 73.

<sup>4</sup> EPA Second Triennial Report at 83.

<sup>5</sup> EPA Second Triennial Report at 97.

<sup>6</sup> EPA Second Triennial Report at 64-65.

<sup>7</sup> EPA Second Triennial Report at 92.

<sup>8</sup> See, e.g., Joint comments from ActionAid USA, et al. on the U.S. Environmental Protection Agency's Proposed Rule - "Renewable Fuel Standard Program: Standards for 2019 and Biomass-Based Diesel Volume for 2020" 83 Federal Register 32024 (July 10, 2018) (EPA-HQ-OAR-2018-0167), at 8-9

([https://www.catf.us/wp-content/uploads/2018/10/CATF\\_Filing\\_Biofuels\\_JointNGOFullComments.pdf](https://www.catf.us/wp-content/uploads/2018/10/CATF_Filing_Biofuels_JointNGOFullComments.pdf)).

<sup>9</sup> Lark, et al. 2015. Cropland Expansion Outpaces Agricultural and Biofuel Policies in the United States. Environmental Research Letters 10(4): 1-11. DOI: 10.1088/1748-9326/10/4/044003 (<https://iopscience.iop.org/article/10.1088/1748-9326/10/4/044003/pdf>).

<sup>10</sup> See, e.g., Lester Lave, et al. 2011. Renewable Fuel Standard: Potential Economic and Environmental Effects of U.S. Biofuel Policy 221 (Report by the National Research Council Committee on Economic and Environmental Impacts of Increasing Biofuels Production) (internal citations omitted) ([http://www.nap.edu/openbook.php?record\\_id=13105](http://www.nap.edu/openbook.php?record_id=13105)).

increase costs and exacerbate the negative environmental impacts of the RFS.<sup>11</sup> We therefore support the Agency's proposal to forgo backfilling, thus curbing increased consumption of food-based biofuels such as soy biodiesel and corn ethanol.

- **Failure to adequately enforce renewable biomass definitions in the RFS has led to damaging land use changes:** EPA's failure to strictly implement renewable biomass definitions in the RFS has led to environmentally-damaging land use change from increased biofuel production.<sup>12</sup> While Congress required that biofuel feedstocks be produced on land that was already in production as of 2007,<sup>13</sup> EPA implemented an "aggregate compliance" methodology that has failed to properly implement this important land use protection. EPA should abandon its current methodology and replace it with an approach that certifies acres used to produce biofuels feedstocks – such as corn and soybeans – have not recently come under the plow in violation of the Energy Independence and Security Act (EISA) of 2007.

Thank you for the opportunity to provide comments. We hope that our remarks provide useful guidance for EPA's final decision. We appreciate your consideration and look forward to working with the Agency over the coming months as EPA proposes the statutorily obligated "reset" of future RFS volume mandates, fully considering the environmental damage that has been tied to the RFS since 2007.

Respectfully submitted,

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<sup>11</sup> 84 Fed. Reg. 36777/2.

<sup>12</sup> Earthjustice and Clean Air Task Force, Amended Petition to US EPA to Amend its "Aggregate Compliance" Approach to the Definition of "Renewable Biomass" Under the Renewable Fuel Standard in Order to Prevent the Conversion of Native Grassland (January 18, 2019) ([https://earthjustice.org/sites/default/files/files/Amended-Aggregate-Compliance-Petition\\_1-18-19.pdf](https://earthjustice.org/sites/default/files/files/Amended-Aggregate-Compliance-Petition_1-18-19.pdf)).

<sup>13</sup> See Clean Air Act §211(o)(1)(I) (defining "renewable biomass").