

August 17, 2018

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

*Submitted via regulations.gov*

**RE: Comments from Action for Ecology and People’s Emancipation (AEER) Indonesia, ActionAid USA, ARA Germany, Biofuelwatch, Clean Air Task Force, Dogwood Alliance, Earthjustice, EcoNexus, Estonian Forest Aid, Fern, Global Forest Coalition, Mighty Earth, National Wildlife Federation, Partnership for Policy Integrity, Rainforest Action Network, Rainforest Rescue, Sawit Watch, and Sierra Club 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**

Dear Acting Administrator Wheeler:

As national and international environmental, conservation, and development organizations, we respectfully submit these joint comments on the Environmental Protection Agency’s (EPA) proposed rule “Renewable Fuel Standard Program: Standards for 2019 and Biomass-Based Diesel Volume for 2020” published in the Federal Register on July 10, 2018. Our groups represent millions of members who are concerned with fighting global warming, protecting human health, promoting human rights, preserving natural habitats, halting deforestation, and advocating for clean energy. We believe that setting appropriate volumes for the Renewable Fuel Standard (RFS) and effectively implementing both the Endangered Species Act (ESA) and habitat-conversion protections in the RFS are critical to achieving these goals.

Our comments are centered around five primary aspects of the proposed rule, which are listed below. More details on many of these issues can be found in joint comments that several of the undersigned groups submitted to EPA on previous proposed rules, which can be found here:

<http://www.catf.us/resources/filings/biofuels/>.

We urge EPA to consider the following issues when finalizing its 2019 Renewable Volume Obligations rule:

- **Reducing the mandated volume of corn ethanol:** Over the last decade, the expansion of food-based biofuel production, particularly corn ethanol and soy biodiesel, has resulted in negative environmental outcomes. As EPA’s Second Triennial Report to Congress acknowledges, these impacts include declines in water quality and quantity, soil and air quality, ecosystem health, and biodiversity, not to mention land use changes and increased greenhouse gas (GHG) emissions.<sup>1</sup> EPA should finalize volume amounts

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<sup>1</sup> Lester Lave, et al. 2011. *Renewable Fuel Standard: Potential Economic and Environmental Effects of U.S. Biofuel Policy* (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)); Clean Air Task Force (CATF), *Corn Ethanol GHG Emissions Under Various RFS Implementation Scenarios* (April 2013) (<http://www.catf.us/resources/whitepapers/files/20130405-CATF%20White%20Paper-Corn%20GHG%20Emissions%20Under%20Various%20RFS%20Scenarios.pdf>); Congressional Budget Office. 2014. *The*

that limit the consumption of corn ethanol, a biofuel that has not only resulted in numerous environmental problems but also constrained commodity markets. Increased demand for corn ethanol and substitute crops has been linked to food security risks due to volatile commodity prices.<sup>2</sup>

- **Limiting the growth of vegetable oil-based biofuels:** Under the RFS, hundreds of millions of gallons of soy and palm biodiesel have been imported to the United States from Argentina and Indonesia, even as these countries face ongoing and severe deforestation due to agricultural expansion for soy and palm crops, respectively. The continued and increasing diversion of domestically grown soy oil away from food and consumer products and into biofuel production also creates market space for additional palm and soy production in Southeast Asia and Latin America. Soy and palm biodiesel may lead to GHG emissions that are two to three times higher than those from fossil diesel, according to a 2015 report produced by Hugo Valin *et al.* for the European Commission.<sup>3</sup> For these reasons, EPA should reduce the 2020 volume of biomass-based diesel.
- **Implementing the severe environmental harm waiver:** The RFS includes an important safety valve: if the law is found to cause “severe environmental harm,” EPA is explicitly authorized to waive biofuel volumes below the minimum levels of the statute. The Second Triennial Report on the environmental impacts of the RFS found increased production of first-generation biofuels such as soy biodiesel and corn ethanol has caused a wide range of environmental problems for soil, water, air, and wildlife habitat, many of which have worsened since the last report was released in 2011.<sup>4</sup> EPA’s proposal to significantly increase the biodiesel volumes for 2020 will create additional demand for vegetable oil feedstocks, exacerbating these impacts and leading to increased GHG emissions that contribute to climate change, a severe environmental harm. EPA should thus use its waiver authority to reduce the total renewable fuel and advanced biofuel standards below the statutory minimum in 2019.
- **Ending unlawful RFS-induced land conversion and the destruction of native habitats:** EPA should stringently implement the statutory requirement that RFS biofuel feedstocks (both domestic and international) be derived from “renewable biomass,” as defined by the Energy Independence and Security Act of 2007 (EISA),<sup>5</sup> rather than feedstocks grown on recently cleared land. EPA’s Second Triennial Report found direct and indirect domestic and international land use impacts have been tied to the expansion of RFS biofuels consumption, resulting in “cropland expansion and natural habitat loss (including forests).”<sup>6</sup> EPA should end the practice of unchecked land conversion by effectively implementing the renewable biomass definitions.
- **Assessing impacts under the Endangered Species Act:** EPA should also evaluate the impacts to water and air quality and biodiversity that would result from the Agency’s proposed biofuel volumes.

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*Renewable Fuel Standard: Issues for 2014 and Beyond* (internal citations omitted)

(<https://www.cbo.gov/publication/45477>).

<sup>2</sup> 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>).

<sup>3</sup> Hugo Valin, *et al.* 2015. *The Land Use Change Impact of Biofuels Consumed in the EU: Quantification of Area and Greenhouse Gas Impacts*, at 39 (Fig. 15).

([https://ec.europa.eu/energy/sites/ener/files/documents/Final%20Report\\_GLOBIOM\\_publication.pdf](https://ec.europa.eu/energy/sites/ener/files/documents/Final%20Report_GLOBIOM_publication.pdf)).

<sup>4</sup> US Environmental Protection Agency (EPA), *Biofuels and the Environment: The Second Triennial Report to Congress* (2018 Final Report) (hereinafter “Second Triennial”), at 97

([https://cfpub.epa.gov/si/si\\_public\\_record\\_report.cfm?dirEntryId=341491](https://cfpub.epa.gov/si/si_public_record_report.cfm?dirEntryId=341491)).

<sup>5</sup> CAA §211(o)(1)(J).

<sup>6</sup> Second Triennial at 48.

Specifically, the Agency also must fulfill its ESA Section 7 duties by consulting with wildlife agencies (U.S. Fish and Wildlife Service and National Oceanic and Atmospheric Administration Fisheries) to ensure that any loss of habitat, including modification or pollution resulting from land use changes associated with the increased production of biofuels, does not jeopardize the continued existence of any federally-listed endangered and threatened species or cause the destruction or adverse modification of designated critical habitat.

In summary, the undersigned groups urge EPA to ensure that the 2019 Renewable Volume Obligations and those for biomass-based diesel for 2020 do not allow for the expansion of food-based biofuels, which have had numerous unintended consequences on our environment, not to mention impacts on food and feed prices. In addition to limiting volumes of corn ethanol, we urge EPA to alleviate demand for soy and palm biodiesel (and other market effects leading to greater demand for these vegetable oils), which have been linked to destructive land use changes, deforestation in countries such as Indonesia and Argentina, and other social and environmental problems. EPA can limit these impacts by finalizing a 2020 volume requirement for biomass-based diesel and 2019 volume requirements for advanced and total renewable fuels that do not incentivize increased production of food-based biodiesel and various vegetable oils. We also urge EPA to exercise its authority to reduce RFS volumes based on severe environmental harm, fulfill its ESA Section 7 duties, and give full effect to the “renewable biomass” definition in the RFS that was enacted to limit land use change from increased biofuel production both domestically and internationally as well.

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.

Respectfully submitted,

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