February 3, 2022

Re: Comments to the Environmental Protection Agency (EPA) on the Renewable Fuel Standard Program: Renewable Fuel Standard Annual Rules

86 Federal Register 72436 (Dec. 21, 2021)
Docket No: EPA-HQ-OAR-2021-0324-0002

Dear Administrator Regan:

National Taxpayers Union (NTU), R Street Institute, and Taxpayers for Common Sense (TCS) provide the following comments to the Environmental Protection Agency (EPA) on its proposal entitled "Renewable Fuel Standard Program: Renewable Fuel Standard Annual Rules," which was published at 86 Federal Register 72436 on Dec. 21, 2021. Our organizations support free markets and policies that serve the best interests of American taxpayers.

Thank you for the opportunity to offer comments on this proposed rule, which will dictate the level of biofuels consumed in our nation's fuel supply in 2022 and retroactively set volumes for 2020 and 2021.

Our organizations have long been critics of the Renewable Fuel Standard (RFS) program, because of the federal mandate's increased costs for taxpayers and consumers, which were highlighted in comments on previous Renewable Volume Obligation (RVO) proposals. In addition, in 2019, NTU and TCS commented on the once-finalized but later halted expansion of 15 percent ethanol (E15). We have opposed biofuels and biomass subsidies due to their market distortions and failure to meet intended goals, such as significantly reducing greenhouse gas (GHG) emissions. Numerous other long-term liabilities and costs have been spurred by the RFS and other biofuels subsidies including: 1) picking winners and losers, 2) driving up food and fuel costs, and 3) influencing crop production decisions. The latter has led to the conversion of millions of acres of carbon-rich wetlands, grasslands, and forests to biofuels feedstock production.

We appreciate EPA's recognition of some of these costs and long-term liabilities in the proposed RVO rule (and corresponding draft Regulatory Impact Analysis (RIA)), but the following comments provide reasons why RFS volumes should be further reduced:

- **Climate risks:** One of the primary goals of the RFS was to reduce GHG emissions. However, EPA's own draft RIA found that proposed 2022 volumes would ***increase***, rather than decrease, GHG emissions. EPA should reduce final 2022 biofuels volumes so that government mandates aimed at reducing climate risks are not having the opposite impact. After nearly fifteen years, the non-food-based advanced and cellulosic biofuels that EPA and Congress predicted would come to fruition have failed to become a reality. EPA's final RVO volumes should reflect this instead of proposing to make more room for mature, first-generation biofuels in 2022 that do more harm than good for the climate. Independent analysts ranging from the Congressional Budget Office to the National Academies of Sciences, in addition to EPA's own analysis, show that current biofuels consumption is a dead-end for the climate.

- **Loss of carbon-rich acres to crop production:** Peer-reviewed studies have documented the loss of millions of acres of carbon-rich wetlands, grasslands, and forests to crop production, primarily corn and soybeans that are then used for biofuels production. EPA rightfully recognizes this reality in its proposed RVO, but 2022 volumes should be reduced further or the RFS will spur more market distortions, influencing crop prices and land use decisions. A government mandate incentivizing the conversion of carbon-rich land to biofuels feedstock production, which later do more harm than good for the climate, is not what Congress intended when the Energy Independence and Security Act (EISA) was enacted. The government should not promote policies or incentives that work at cross purposes with other federal programs aimed at climate mitigation, such as agricultural conservation programs, for instance, that pay farmers to plant grassed buffers, retire sensitive land, restore wetlands, etc.

- **Higher crop prices and food price volatility:** The RFS has a history of increasing crop prices, which in turn impacts global food price volatility. With 35 percent of the U.S. corn crop used for ethanol and an increasing portion of soybean oil used for biofuels, crop prices and land use decisions will only be further influenced by government biofuels policies in 2022 and subsequent years. The percentage of soybean oil used for biofuels is expected to increase from 33 percent to 43 percent for the 2021/22 marketing year, according to the December 2021 U.S. Department of Agriculture's (USDA) World Agricultural Supply and Demand Estimates (WASDE) report. Agricultural economists are expecting the portion of soybean oil being diverted to renewable diesel, biodiesel, and other biofuels production to only increase in the future, putting more pressure on not just soybean prices, but other commodity prices as well. EPA's final RVOs should be set at levels that do not cause market distortions that could lead to further loss of carbon-rich land to crop production, more volatile food prices, and other impacts.

- **Higher fuel costs and additional infrastructure spending:** In the past, EPA itself estimated and detailed some costs and negative impacts of greater biofuels consumption. In its current proposed rule, EPA estimates its 2021 and 2022 biofuels volumes, if finalized, would increase fuel costs by $2.3 billion as compared to 2020 (including the supplemental standard). As EPA notes, fuel costs could increase further if commodity prices (primarily for corn and soybeans) rise. While we appreciate EPA's recognition of some of these costs – for instance, higher fuel costs for consumers – EPA has acknowledged these estimates provide only a small glimpse of the full picture. As the Agency noted, these past assessments do not include other taxpayer or consumer costs associated with increased biofuels use, such as federal cellulosic and biodiesel tax credits, which amount to more than $3 billion annually. USDA also recently announced another $100 million for biofuels infrastructure programs, which would bring total USDA spending on these special interest projects to $303 million. These negative impacts and higher taxpayer and consumer costs should be fully considered in EPA's final decision on the RVO rule.

For these and other reasons, we urge EPA to lower biofuel volumes for 2022 to levels that do not impose additional costs or burdens on taxpayers or consumers. Otherwise, not only will the RFS's goals fail to be met, but the mandate will do more harm than good for the climate, water and soil quality, wildlife habitat, and much more, as EPA is beginning to recognize. This will place additional burdens on consumers and taxpayers and expand the negative impacts of a program that works at cross purposes with other federal initiatives aimed at climate mitigation, agricultural conservation, and other public goals. Furthermore, forcing more biofuels into the marketplace leads to other taxpayer costs, such as biofuels infrastructure subsidies which do nothing to mitigate long-term climate risks.

We thank you for considering our comments on the 2020-2022 proposed RVOs. These comments should also be taken into account as EPA contemplates future RVOs. Please let us know if you have any questions.

Sincerely,

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