

July 24, 2017

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

Submitted via regulations.gov

RE: U.S. Environmental Protection Agency's "Renewable Fuel Standard Program: Standards for 2019 and Biomass-Based Diesel Volume for 2020" 83 Federal Register 132 (July 10, 2018) [EPA-HQ-OAR-2018-0167; FRL-9980-37-OAR]

Acting Administrator Wheeler:

The recently published proposal for 2019 standards for the Renewable Fuel Standard (RFS) poses unique challenges to meaningful public review and comment. As described in a recent analysis by Jonathan Coppess and Scott Irwin at the University of Illinois¹, the proposal is not what it seems. The EPA seeks comments on a proposal that claims to be raising biofuel mandates, but once the large recent increase in small refiner exemptions (SRE) is taken into consideration, EPA has actually been lowering the standard substantially.

This makes the analysis contained in the proposal qualitatively and quantitatively misleading. For example, the EPA discusses whether increased advanced biofuel mandates will lead to displacement of other users of fats and oils. This is an important consideration. However, based on EPA's recent practice towards SREs, the real-world impact of EPA's approach to the RFS is likely to reduce rather than increase demand for bio-based diesel feedstocks. EPA analysis in the proposal also assumes that the E10 blend wall will remain a binding constraint, but given SREs, the implied conventional ethanol mandate is actually below not just the 15-billion-gallon statutory level, but even the E10 blend wall. If the conventional mandate is below the E10 blend wall, imported ethanol may become the lowest cost means to meet the advanced mandate, further reducing demand for bio-based diesel.

It is not possible to provide meaningful comment on the proposal, which dwells extensively on the market impact of RFS policy implementation, while ignoring the larger policy intervention EPA is undertaking in these same markets through the SREs. EPA's failure to account for SREs in the calculation of 2019 standards is compounded by the specific admonition that "EPA is not soliciting comments on how small refinery exemptions are accounted for in the percentage standards formulas in 40 CFR 80.1405, and any such comments will be deemed beyond the scope of this rulemaking."

¹ Coppess, J. and S. Irwin. "EPA 2019 RFS Proposed Rulemaking: What You See Is Not What You Get." *farmdoc daily* (8):128, Department of Agricultural and Consumer Economics, University of Illinois at Urbana-Champaign, July 12, 2018. Available online at <https://farmdocdaily.illinois.edu/2018/07/epa-2019-rfs-proposed-rulemaking-what-you-see-is-not-what-you-get.html>

To remedy these problems EPA should issue a notice of supplemental information describing and justifying its proposed approach to small refinery exemptions going forward and evaluating the impact of these exemptions on biofuels markets. The comment period of the proposed 2019 standards should be extended for at least 30 days following the release of the supplementary information to allow for meaningful public notice and comment.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Martin", written in a cursive style.

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