

September 12, 2019

The Honorable Sonny Perdue
Secretary of Agriculture
U.S. Department of Agriculture
1400 Independence Ave., S.W.
Washington, DC 20250

The Honorable Rick Perry
Secretary of Energy
U.S. Department of Energy
1000 Independence Ave., SW
Washington, DC 20585

The Honorable Andrew Wheeler
Administrator of the Environmental Protection Agency
Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

The Honorable Mick Mulvaney
Director of the Office of Management and Budget
The Office of Management and Budget
725 17th Street, NW
Washington, DC 20503

Dear Mr. Secretary,

The undersigned write to object to several of the proposals under consideration regarding the Renewable Fuel Standard (RFS). It is time for the special favors for the ethanol industry to end. The EPA has already illegally allowed E15 fuels to benefit from a year-round waiver from generally applicable clean air regulations, despite statute clearly granting such a waiver only to E10 blends.¹ This administration should not follow that handout with even more rule bending like the below proposals reportedly under consideration.

Reducing or rescinding small refinery exemptions (SRE):

Despite the claims of some politicians, the law is clear that exemptions for small refineries are not contingent on the size of the company that owns the refinery, the definition of small refinery only considers the size of individual refinery.² Thus the hardship calculation to determine

eligibility for an SRE is made only based on the conditions of the specific small refinery facing the hardship. This makes perfect sense given that SREs were intended to prevent the closure of small refineries due to RFS compliance burdens. A large company will not simply suffer the losses from a small refinery burdened by the RFS, it will close the refinery. Thus the exemption must be available to any small refinery, regardless of ownership, in order to achieve the purpose of the statute.

Reallocating ethanol volume obligations:

While it may be understandable that the ethanol industry and its political supporters would want to force other refiners to blend higher ethanol volumes to make up for SREs, this desire conflicts with the statutory language of the RFS. Nowhere in the RFS statute is EPA granted authority to reallocate volume obligations to other companies. Indeed, the RFS statute expressly prohibits imposing redundant obligations on other parties.³ New obligations on top of existing obligations are the definition of redundant. Non-exempt refiners facing greater obligations would be punished without due process of law.

Increasing the overall RFS mandate:

Congress stated that the intent of the RFS is among other things (1) to move the United States toward greater energy independence and security, (2) to increase the production of clean renewable fuels, and (3) to protect consumers.⁴ Increasing the RFS beyond its already high levels contradicts all three of these principles. The domestic ethanol industry does not have the capacity to meet some components of RFS mandates, meaning that biofuels are being imported to meet the mandates.⁵ Importing biofuel does not improve US independence or security, nor does it increase the production of domestic biofuels. Additionally, given that US domestic oil production continues to rapidly increase, foreign biofuel could end up displacing domestic energy production. As to protecting consumers, the Government Accountability Office recently determined that the RFS has raised fuel costs for most Americans.⁶

In conclusion, the RFS is a broken system. It mandates the purchase of a product that Americans don't need and most don't want. It imposes economic costs that come at the expense of all Americans to provide support for a privileged few ethanol companies. The proposals under consideration make this broken system even worse and should be comprehensively rejected.

[1] 42 U.S.C. §7545(h)(4)

[2] 42 U.S.C. §7545(o)(1)(K)

[3] 42 U.S.C. §7545(o)(e)(i)

[4] <https://www.epa.gov/laws-regulations/summary-energy-independence-and-security-act>

[5] <https://www.eia.gov/todayinenergy/detail.php?id=38532>

[6] <https://www.gao.gov/assets/700/698914.pdf>

Sincerely,

Tom Pyle
American Energy Alliance

Bethany Marcum
Alaska Policy Forum

David T. Stevenson
Caesar Rodney Institute

Norm Singleton
Campaign for Liberty

Craig Rucker
Committee for a Constructive Tomorrow

Donald Bryson
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Clear Energy Alliance

Myron Ebell & Ben Lieberman
Competitive Enterprise Institute

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