

**TESTIMONY OF THE
RENEWABLE FUELS ASSOCIATION
IN RESPONSE TO THE ENVIRONMENTAL PROTECTION AGENCY PROPOSED RULE:
“RENEWABLE FUEL STANDARD PROGRAM: EXTENSION OF COMPLIANCE AND
ATTEST ENGAGEMENT REPORTING DEADLINES”
(86 FED. REG. 67419; NOV. 26, 2021)
DOCKET NUMBER EPA-HQ-OAR-2021-0793**

My name is Geoff Cooper, and I am President and CEO of the Renewable Fuels Association, the leading national trade association for producers of low-carbon renewable fuels like ethanol. We appreciate the opportunity to comment on EPA’s proposed rule to delay compliance and attest engagement deadlines for 2019, 2020, and 2021 Renewable Volume Obligations under the RFS.

RFA opposes EPA’s proposal to extend, for a second time, the 2019 RVO compliance deadline for small refiners and the 2020 RVO compliance deadline for all obligated parties. We believe it is past time for EPA to decide unresolved 2019 and 2020 small refinery exemption petitions and require compliance with the 2019 and 2020 standards.

EPA has had ample time to decide pending 2019 and 2020 SRE petitions following the Supreme Court’s June 2021 decision in the *HollyFrontier v. RFA* case, which left intact two important holdings from the Tenth Circuit Court’s January 2020 decision in the *RFA v. EPA* case. We strongly encourage EPA to immediately decide the remaining 2019 and 2020 SRE petitions in a manner consistent with the unappealed holdings of the Tenth Circuit decision. And immediately upon deciding those petitions, EPA should require compliance with the final 2019 and 2020 standards.

We also urge EPA to resist pressure from the petroleum industry to reopen and revise the 2020 RVO, which was finalized and published in the Federal Register two years ago. Refiners argue that a retroactive revision to the 2020 standards is needed because of the impact of COVID-19 on fuel consumption; but as you know, EPA’s RVO is a percentage-based standard that already accommodates fluctuations in the actual consumption of gasoline and diesel fuel. No further adjustment to the 2020 RVO is necessary or legally permissible.

RFA fully understands that the previous administration left the RFS program in disarray and failed to meet its deadlines for deciding SRE petitions and issuing RVOs. Mismanagement of the RFS program under the previous administration created significant turmoil and uncertainty in the marketplace and undermined the purpose and intent of the

RFS. Extending the compliance deadlines again would only exacerbate the uncertainty and instability created by the past administration.

In addition, we strongly oppose EPA's proposal to change the way in which future RFS compliance deadlines are determined. Setting the compliance deadline for a given year based on the effective date of the subsequent year's RFS standards—rather than the annual compliance date of March 31—would give EPA a license to perpetually delay annual RVO rulemaking. This would result in a constantly moving target for RFS compliance, injecting even more uncertainty into the program.

Kicking the can again on compliance deadlines is not the way to get the RFS back on track. Rather, three simple steps by EPA would restore integrity to the RFS and help stabilize the marketplace:

1. Decide the pending 2019 and 2020 SRE petitions immediately, and ensure that those decisions comply with the requirements of the Tenth Circuit Court decision;
2. Upon deciding those SRE petitions, immediately require compliance with the 2019 and 2020 standards; and
3. Immediately issue the long-overdue proposals for 2021 and 2022 RVOs.

Thank you for the opportunity to comment and I look forward to your questions.