



August 28, 2019

Environmental Protection Agency  
William Jefferson Clinton Federal Building  
1200 Pennsylvania Ave., NW  
Washington, DC 20460  
Submitted via: [www.regulations.gov](http://www.regulations.gov)

RE: Docket No. EPA-HQ-OAR-2019-0136-0021

**Renewable Fuel Standard Program: Standards for 2020 and Biomass-Based Diesel Volume for 2021, Response to the Remand of the 2016 Standards, and Other Changes**

The American Soybean Association (ASA) appreciates this opportunity to comment on the proposal for the Renewable Fuel Standard (RFS) Program: Standards for 2020 and Biomass-Based Diesel Volume for 2021. The ASA is disappointed that the proposal provides for no growth in biomass-based diesel volumes and virtually no growth in total Advanced Biofuels. In addition, EPA has again failed to account for the significant gallons of biomass-based diesel demand lost due to Small Refinery Exemptions, which combined with the stagnant proposed volumes, results in an overall reduction for biomass-based diesel producers. EPA also fails to replace the 500 million gallons that the courts ruled were improperly waived in 2016.

Soybean farmers have a significant stake in the biodiesel market and we're proud of the leading role we've played in establishing and developing the industry. In addition to the benefits biodiesel provides toward diversifying our national fuel supply and reducing greenhouse gas emissions, it has also expanded markets for farmers and livestock producers and created new jobs and economic growth, especially in rural America.

The proposal put forth by EPA ignores the biodiesel industry's capacity for growth, fails to account for the small refinery exemptions, and directly defies a court ruling that EPA unlawfully waived 500 million gallons. The proposal sets the 2021 requirement for biomass-based biodiesel volumes at 2.43 billion gallons, which represents no growth over the 2020 levels. Total advanced biofuel volumes for 2020, which can be filled by biomass-based diesel, are increased minimally from 4.92 to 5.04 billion gallons. This proposal doesn't reflect the needs and capabilities of the domestic biodiesel and soybean farmers and doesn't seem to reflect the President's stated support and commitment to domestic biofuels and a strong RFS. U.S. soybean farmers have historically produced surplus volumes of soybean oil and will continue to do so as global protein demand increases.

We urge EPA to increase biomass-based diesel volume requirements for 2021 and increase Advanced Biofuel volumes for 2020. EPA should begin restoring the billions of gallons of demand that have been waived through the retroactive small refinery exemptions and EPA must also restore the volumes that the courts have determined were unlawfully waived in 2016 through improper use of the general waiver authority.

The zero-growth proposal put forth by EPA represents another missed opportunity to capitalize on the capabilities of domestic biodiesel producers and soybean farmers. The U.S. biodiesel industry can produce higher levels of domestic, renewable fuels that enhance energy diversity and security, promoting jobs and value for farmers and rural economies and helping the environment with reduced emissions. With U.S. soybean farmers shut out of China due to the trade war, we have record carryout of U.S. soybeans. Utilizing the crush capacity and oil utilization domestically would be a win for U.S. soybean farmers and suffering rural communities.

The biodiesel industry has provided many benefits, including more diversified fuel supplies, emissions reductions, expanded markets for farmers, jobs and economic growth in rural communities. The biodiesel industry has provided these benefits without any significant disruption or adverse impacts to consumers. Soybean farmers have annually advocated for modest and achievable growth in RFS volumes to provide value-added markets for the soybean oil we produce. The biodiesel industry has grown in modest steps and has always met or exceeded the targets established annually.

As EPA recognizes, soybean production is driven by global protein demand. Soybean oil is a co-product of the protein meal production, and biodiesel creates a value-added market for the co-product oil generated by the protein demand. A 2018 analysis by LMC International shows that increases in global meat consumption over the next decade will increase demand for soy meal protein resulting in additional supplies of soybean oil that will outpace soybean oil demand from the food sector. The analysis shows surplus soybean oil supplies reaching 2.6 billion pounds by 2025 and rising to over 5 billion pounds by 2030. As a sustainable crop, soybean yields continue to trend upward with U.S. soybean farmers producing more per acre with fewer inputs and greater efficiency.

One reason cited by EPA for not increasing biomass-based diesel volumes is a concern that soybean oil would be diverted from food use to biodiesel. Demand from biodiesel markets and the RFS have not caused the diversion of soybean oil from food use. In fact, soybean oil has been displaced from food markets due to the trans-fat issues. The biodiesel market has provided soybean farmers with a valuable replacement for that lost market. Since the trans-fat labeling requirements were announced in 2003, approximately four billion pounds of annual soy oil use has been displaced from the food market. A complete ban on the use of partially hydrogenated oils in food took effect on June 18, 2018.

Despite increasing soybean production and supplies, EPA continues to cite limitations and the potential for diversion of feedstocks from previous uses. This has not been the case and the data, trends, and other factors demonstrate that there will be additional soybean production and soybean oil stocks in the coming years.

The market outlet that biodiesel provides for soybean oil also benefits livestock production by improving the margins for soybean processing and lowering the cost of soy meal used for livestock feed. A 2015 analysis by Informa Economics showed that biodiesel resulted in lower feed costs for U.S. livestock producers that ranged from \$21 to \$42 per ton, totaling \$5.9 to \$11.8 billion in total value.

The jobs and economic impact of the biodiesel industry should also not be overlooked. The economic benefits contributed by the sector to the U.S. economy are significant, even under the weight of continuing low commodity prices. The biomass-based diesel industry currently supports over 65,000 U.S. jobs throughout the supply chain, \$2.5 billion in wages paid, and

\$17 billion in economic activity to the U.S. economy. A stronger RFS is especially important during this time when farm incomes are less than half of what they were five years ago, farm bankruptcies are up across the United States, and rural communities are suffering.

Despite the many benefits that domestic biodiesel provides, EPA continues to stifle the potential for biomass-based diesel production. In addition to no growth in the RFS volumes, EPA continues to grant a flood of refinery exemptions that heavily impact biomass-based diesel volumes. The waivers recently announced for the 2018 RFS compliance year combined with those issued for 2016 and 2017 brings the total number to more than 80 retroactive waivers, which significantly reduces biodiesel demand and results in billions of dollars in economic harm to the U.S. biodiesel industry, including soybean farmers.

EPA's failure to account for small refinery exemptions has a particularly significant impact on demand for biomass-based diesel. According to analysis from the University of Illinois, the number of Small Refinery Exemptions granted by EPA since 2016 have resulted in hundreds of millions of gallons of lost biomass-based diesel demand.<sup>1</sup> The analysis estimates that small refinery exemptions lowered demand for biomass-based diesel by over 900 million gallons in 2018 alone. The resulting economic harm is estimated at \$2 billion annually to the U.S. biodiesel industry alone. If continued, the damage for biodiesel could reach \$7.7 billion.<sup>2</sup>

Furthermore, in this proposed rule EPA fails to comply with the Circuit Court's findings in the case of *ACE v. EPA* in which the D.C. Circuit held that EPA had violated the RFS statute when it considered demand-side factors as part of the "inadequate domestic *supply*" prong of its general waiver authority. The D.C. Circuit therefore vacated EPA's decision to lower the 2016 renewable fuel volume by 500 million gallons and remanded to the agency. Nonetheless, EPA has declined to add the additional 500 million gallons to the 2020 standards.

Again, the ASA is very disappointed that the proposal provides for no growth in biomass-based diesel volumes and virtually no growth in total Advanced Biofuels while also failing to account for the significant gallons of biomass-based diesel demand lost due to Small Refinery Exemptions and failing to restore volumes improperly waived in 2016. We urge EPA to increase biomass-based diesel volume requirements for 2021 and increase Advanced Biofuel volumes for 2020.

We hope the EPA will put an end to its efforts to stifle the U.S. biomass-based diesel industry, recognize the many benefits and missed opportunities, and improve on its implementation of the RFS in the Final Rule.

Sincerely,



Davie Stephens  
President

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<sup>1</sup> Irwin, S. "[Small Refinery Exemptions and Biomass-Based Diesel Demand Destruction.](#)" *farmdoc daily* (9):45, Department of Agricultural and Consumer Economics, University of Illinois at Urbana-Champaign, March 14, 2019.

<sup>2</sup> *Ibid.*

