

April 28, 2020

The Honorable Donald J. Trump
President of the United States
The White House
1600 Pennsylvania Avenue NW
Washington, DC 20500

Dear Mr. President:

We write in strong support of the swift action your administration has taken in order to remove unnecessary barriers and red tape to improve COVID-19 response and economic recovery. The pandemic has underscored the need for permanent regulatory reform in a variety of areas, and we agree that work to expand prosperity on behalf of the American people must continue.¹

One area that warrants immediate attention is the Renewable Fuel Standard (RFS).

Our organizations have consistently pointed out the clear shortcomings of the RFS, a market-distorting boondoggle that mandates consumer demand for politically connected biofuel companies at the expense of hard-working Americans and the environment. Inaccurate projections from 2005 and 2007, an inconsistent annual standard-setting and waiver process, and Congressional inaction, punctuated by agency infighting, underscores the need for repeal of the program.

COVID-19 and the government's response to it demonstrates the fundamental problem with the RFS, as this mandate exceeds the amount of biofuels that consumers want or need and will result in unnecessary economic harm. The pandemic demonstrates why it is so problematic to rely on short- or long-term biofuel projections by Congress or regulators and to require annual volumetric standards in a dynamic marketplace with ever-changing supplies and consumer demand.

Therefore, we urge you to revisit the recently established 2020 RFS volumes and direct the U.S. Environmental Protection Agency (EPA) to build upon recent waivers to ensure the availability of gasoline² by waiving these biofuel requirements for the remainder of 2020. Section 211(o)(7) of the Clean Air Act allows the EPA Administrator to waive RFS volumes if, after notice and opportunity for comment, he determines that there is inadequate domestic supply or that implementation of the RFS would severely harm the economy or environment of a state, a region, or the United States. This is clearly the case for four reasons.

First, 2020 RFS volumes will dramatically exceed consumer demand for biofuels, resulting in greater compliance costs, skyrocketing prices for Renewable Identification Numbers (RINs), and bureaucratic nightmares. When EPA finalized its 15 billion-gallon standards in December 2019 for these volumes, it assumed gasoline consumption of approximately 150 billion gallons. Their conclusions that these standards were "reasonably attainable in 2020" and that they would not cause or significantly contribute to "harm to an industry, or to a State, region, or the United States" were based on the Energy Information Administration's (EIA) projection of total gasoline demand in 2020 and the highest historical ethanol

¹ Paul Ray, Office of Information and Regulatory Affairs, [to agencies](#), March 23, 2020.

² U.S. EPA, "[EPA Announces Steps to Protect the Availability of Gasoline during COVID-19 Pandemic](#)," March 27, 2020.

concentration of just over 10.1 percent (a number guaranteed to be dramatically exceeded).³ These standards became effective on April 6, and the administration should reevaluate its conclusions based on the pandemic disrupting these underlying assumptions.

Consumers do not want or need, and the market cannot physically or legally bear, ethanol volumes above roughly 10 percent of the gasoline supply. Even with steady gasoline demand, 2020 RFS volumes were likely to exceed consumer demand by at least two billion gallons of ethanol, a problem compounded by uncertainty over EPA granting certain retrospective waivers. Recently, the ethanol industry has incorrectly claimed that EPA must adjust its annual percentage standards to require a full 15 billion gallons of ethanol or the Agency “will be violating the RFS statute which amounts to an illegal waiver of blending volumes.”⁴

Second, 2020 RFS volumes are based on gasoline demand assumptions that are clearly inaccurate. As a “result of the disruptions to economic and business activity because of COVID-19 and the strict containment measures that have dramatically reduced all forms of travel,”⁵ government and industry forecast dramatic reductions in gasoline demand for the bulk of 2020, with projections as high as a 20 percent year-over-year drop and a greater than 50 percent reduction in the short-run.⁶ EPA’s 2020 RFS volume requirement for conventional renewable fuel (ethanol) is an implied 15 billion gallons, despite these realities.

Third, affordable mobility is more important than ever in a time of social distancing, and increased prices or lack of availability of transportation fuel disproportionately impact low- and fixed-income individuals. According to AAA, an organization which has raised concerns that ethanol blends above 10 percent can damage vehicles and confuse consumers,⁷ gas prices in the continental United States continue to be very low but vary widely across different states. As the economy recovers, we are concerned that an unachievable mandate, along with production cuts, supply disruptions, or any future petroleum protectionism, could contribute to increased prices at the worst possible time.

Fourth, aided by the removal of certain barriers by the FDA, ethanol refiners have found new markets in producing hand sanitizer, a product demanded by hospitals, businesses, and citizens during the COVID-19 crisis.⁸ Failing to waive the 2020 RFS volumes could divert critical resources from needed sanitizer production to an irrational mandate in the face of falling demand.

It is not reasonable to expect RFS levels to be met this year. The current economic and health circumstances would make RFS compliance an additional burden to the American economy and slow the recovery once America is open for business. This experience should also inform the administration as it sets future RFS volumes, including under its authority and obligation to modify 2020 – 2022 targets (as a result of volume targets unmet) as well as after 2022.

³ EPA, “[Renewable Fuel Standard Program - Standards for 2020 and Biomass-Based Diesel Volume for 2021 and Other Changes: Response to Comments](#),” December 2019.

⁴ <https://ethanol.org/news/news/2020/04/16/ace-states%E2%80%99-rfs-waiver-request-illegitimate.-fuel-demand-drop-already-waiving-blending-volumes-and-epa-must-adjust-rvo-upward/>.

⁵ U.S. Energy Information Administration (EIA), [Short-Term Energy Outlook](#), April 7, 2020.

⁶ IHS Markit, “[COVID-19 Spares Nobody: Mobility Impacts of a Global Pandemic](#),” March 26, 2020; IHS Markit, “[How COVID-19 will affect global biofuels demand](#),” April 6, 2020; CSP, “[Opinion: 3 Ways COVID-19 Will Shape Fuel Demand](#),” April 3, 2020.

⁷ The American Automobile Association, “[New E15 Gasoline May Damage Vehicles and Cause Consumer Confusion](#),” November 30, 2012.

⁸ The Courier “[FDA changes boost alcohol for sanitizer from ethanol makers](#),” April 4, 2020.

We stand ready to work together in your regulatory reform efforts as we seek to keep removing barriers to opportunities for millions of Americans, especially the least fortunate in our society.

Sincerely,

Americans for Prosperity | Brent Wm. Gardner | Chief Government Affairs Officer
ALEC Action | Michael Bowman | President
American Commitment | Phil Kerpen | President
American Energy Alliance | Thomas Pyle | President
American Legislative Exchange Council | Lisa B. Nelson | President
Americans for Tax Reform | Grover Norquist | President
Center for Freedom and Prosperity | Andrew F. Quinlan | President
Center for the Study of Carbon Dioxide and Global Change | Craig D. Idso, Ph.D. | Chairman
Citizens Against Government Waste | Thomas Schatz | President
Competitive Enterprise Institute | Marlo Lewis | Senior Fellow
Competitive Enterprise Institute | Ben Lieberman | Senior Fellow
ConservAmerica | Brent Fewell | General Counsel
Eagle Forum | Eunie Smith | President
Energy and Environment Legal Institute | Craig Richardson | President
Ethan Allen Institute | Robert Roper | President
FreedomWorks | Adam Brandon | President
Heartland Institute | James Taylor | President
Heritage Action for America | Jessica Anderson | Executive Director
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The Mackinac Center for Public Policy | Jason Hayes | Director of Environmental Policy
Rio Grande Foundation | Paul Gessing | President
Taxpayers Protection Alliance | David Williams | President
Tea Party Patriots | Jenny Beth Martin | Honorary Chairman
Texas Public Policy Foundation | The Honorable Jason Isaac | Senior Manager and Distinguished Fellow,
Life: Powered
60 Plus Association | Saulius "Saul" Anuzis | President
60 Plus Association | James L. Martin | Chairman and Founder