



VIA ELECTRONIC FILING
January 3, 2022

Administrator Michael S. Regan
U.S. Environmental Protection Agency
1200 Pennsylvania Ave. NW,
Washington, DC 20460

Docket ID # EPA-HQ-OAR-2021-0793

Re: Comments of the National Biodiesel Board on Extension of Compliance and Attest Engagement Reporting Deadlines Proposed Rule

Dear Administrator Regan,

The National Biodiesel Board appreciate the opportunity to comment on the Extension of Compliance and Attest Engagement Reporting Deadlines Proposed Rule.¹ The U.S. Environmental Protection Agency's (EPA) proposed rule continues to send the wrong signals on fuel availability and gas prices. The uncertainty that this proposal creates for the Renewable Fuel Standard (RFS) will undermine biodiesel and renewable diesel producers, blow up demand for cleaner fuels, and derail the nation's progress toward carbon reductions. Through this proposal, oil refiners are allowed to further avoid their overdue Renewable Fuel Standard obligations from 2019 and 2020, which the agency previously extended in April. At the same time, the agency has still not taken a firm decision on the pending small refinery exemptions despite clear guidance from the 10th Circuit. Additionally, citing the *HollyFrontier* decision as the rationale to delay compliance is no longer a viable justification as the ruling now came out over five months ago.

EPA already announced that they have changed course in granting small refinery exemptions going forward, making the April extension unnecessary. That statement alone should have been indicative that small refineries, and those who applied for small refinery exemptions, will not be receiving exemptions for 2019 and should plan to come into compliance. But the extended 2019 deadline – which EPA reset to November 30, a full 20 months past the statutory deadline – has come and gone. It is time now to bring refiners into compliance and end the illegal handouts.

Extending the compliance deadline for all obligated parties in 2020 compounds the problems facing the agency in putting the program back on track. If EPA continues to extend the compliance obligation

¹ U.S. Environmental Protection Agency, Extension of Compliance and Attest Engagement Reporting Deadlines Proposed Rule, EPA-HQ-OAR-2021-0793, 86 FR 67419 (November 26, 2021) available at <https://www.federalregister.gov/d/2021-25444>

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deadlines, obligated parties will continue to assume that they do not need to meet them, rendering the annual RFS volumes that EPA sets meaningless because they are not enforced in a timely manner or changed retroactively. Or worse, refiners will be provided new opportunities, such as this one, to skirt their obligations to blend renewable fuels.

Additionally, we remain concerned that EPA is using this proposal to sneak in an automatic delay in the compliance reporting and attest engagements for future years. This action, while may help EPA on the administrative back end, implies an admission that EPA will miss the statutory deadlines going forward, while making it easier to do so. With EPA's past history and delayed RVOs, coupled with this proposal, the agency is acting as if there is no statutory deadline for promulgating and enforcing the annual rules.

Let us remind you that the biodiesel industry not only relies on timely RFS rules as signals to continue making investments in new production capacity, increased efficiency, diversification of biofuel feedstocks, and fuel distribution infrastructure but relies on EPA to enforce the RFS. Continued instability caused by unnecessary changes to the RFS endangers small business' access to capital, threatening continued operations, the jobs of plant workers, and economic opportunities throughout the surrounding communities.

Thank you for the opportunity to provide comment. Timely implementation of the RFS and compliance in line with the statute supports the growth Congress intended to achieve with this program. We urge the agency to withdraw this proposed rule, maintain the annual compliance deadlines, and finalize the 2021 and 2022 RVO following the notice and comment period. This is the only way to put the RFS program on a sustainable path to achieving its principal goal – reducing greenhouse gas emissions by increasing use of renewable fuels.

Sincerely,



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National Biodiesel Board (NBB)