TAXPAYERS for COMMON SENSE

August 8, 2025

Re: Renewable Fuel Standard (RFS) Program: Standards for 2026 and 2027, Partial Waiver of 2025 Cellulosic Biofuel Volume Requirement, and Other Changes

90 Federal Register 25784 (June 17, 2025)
Agency/Docket Number: EPA-HQ-OAR-2024-0505

Dear Administrator Zeldin:

Taxpayers for Common Sense (TCS) appreciates the opportunity to comment on the notice of proposed rulemaking published in the Federal Register on June 17, 2025, regarding the "Renewable Fuel Standard (RFS) Program: Standards for 2026 and 2027, Partial Waiver of 2025 Cellulosic Biofuel Volume Requirement, and Other Changes." [1]

Our comments address the following issues: (1) the 2026 and 2027 renewable fuel RFS mandates, particularly advanced biofuel and biomass-based diesel volumes; (2) the cellulosic biofuel waiver for 2025; (3) a potential RFS pathway for renewable jet fuel produced from corn ethanol; (4) potential RFS policy changes on carbon capture and storage and low-carbon farming practices related to alcohol-to-jet and other fuels; and (5) changes to RFS renewable biomass definitions and related issues.

Introduction

TCS has long been a critic of the federal Renewable Fuel Standard (RFS) program and other federal biofuel subsidies due to their increased costs for consumers and taxpayers. TCS has commented on past Environmental Protection Agency (EPA) Renewable Volume Obligation (RVO) proposed rules, including joint comments on the federal biofuel mandate's 2023-2025 annual volumes [2] and, most recently, on proposed changes to the

[1] Environmental Protection Agency (EPA), "Renewable Fuel Standard (RFS) Program: Standards for 2026 and 2027, Partial Waiver of 2025 Cellulosic Biofuel Volume Requirement, and Other Changes," Federal Register Vol. 90, No. 115, pages 25784-25871, June 17, 2025. https://www.govinfo.gov/content/pkg/FR-2025-06-17/pdf/2025-11128.pdf.

[2] Taxpayers for Common Sense (TCS), National Taxpayers Union, and R Street Institute, "Comments to the Environmental Protection Agency (EPA) on the Renewable Fuel Standard Program: Standards for 2023-2025

2025 cellulosic biofuel mandate.[3] For years, TCS has highlighted the RFS's market distortions, increased food[4] and fuel[5] costs, and its impact on crop production decisions that have led to the conversion of millions of acres of carbon-rich wetlands, grasslands, and forests into biofuel feedstock production, with negative impacts on soil and water quality.[6]

In 2007, the Energy Independence and Security Act (EISA, P.L. 110-140) expanded the RFS biofuels mandate. The RFS2, as it is known, required 36 billion gallons of renewable fuels to be blended into U.S. transportation fuel by 2022. Not only did the U.S. fail to meet that 2022 target, but EPA's proposed rule for the 2026 and 2027 RFS biofuel mandates signals the U.S. will again fall short—by nearly 40 percent in both years.[7] EPA's proposed mandates are estimated to require 22.1 and 22.37 billion gallons of U.S. renewable fuel consumption in 2026 and 2027, respectively, while Congress's 2022 mandate was 36 billion gallons.[8]

Congress originally envisioned that six out of every ten gallons of renewable fuel under the RFS would be derived from advanced biofuels (non-corn-starch ethanol) by 2022. If finalized, EPA's proposed advanced biofuel mandates for 2026 and 2027 would comprise only 38 and 39 percent of the overall RFS mandate in those years—just four out of every ten gallons.[9] EPA expects cellulosic biofuels, derived primarily from manure- and landfill-based biogas used to generate renewable natural gas, to meet less than ***six percent*** of the 2026 renewable fuel target. By contrast, Congress envisioned cellulosic biofuels accounting for ***44 percent*** of the overall RFS mandate by 2022. At 13.78 and 13.66 billion

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and Other Changes," February 8, 2023. https://www.taxpayer.net/agriculture/joint-comments-to-environmental-protection-agency-on-2023-2025-biofuels-volumes/.

[3] TCS, *et al*. "Renewable Fuel Standard (RFS) Program: Partial Waiver of 2024 Cellulosic Biofuel Volume Requirement and Extension of 2024 Compliance Deadline," January 21, 2025. https://www.taxpayer.net/energy-natural-resources/comments-to-the-epa-on-renewable-fuel-standard-cellulosic-biofuel-waiver/.

[4] EPA, "Renewable Fuel Standard (RFS) Program - Standards for 2026 and 2027: Draft Regulatory Impact Analysis," EPA-420-D-25-001, Table 9.4-3, page 389, June 2025. https://www.epa.gov/system/files/documents/2025-06/420d25001.pdf.

[5] Congressional Budget Office (CBO), "The Renewable Fuel Standard: Issues for 2014 and Beyond," page 20, June 2014. https://www.cbo.gov/sites/default/files/113th-congress-2013-2014/reports/45477-Biofuels2.pdf.

[6] EPA, "Biofuels and the Environment: Third Triennial Report to Congress," EPA/600/R-24/343F, page IS-11, January 2025. https://ordspub.epa.gov/ords/eims/eimscomm.getfile?p_download_id=550520.

[7] EPA, "Renewable Fuel Standard (RFS) Program: Standards for 2026 and 2027, Partial Waiver of 2025 Cellulosic Biofuel Volume Requirement, and Other Changes," Table I.A.1-3, page 25787, June 17, 2025. https://www.govinfo.gov/content/pkg/FR-2025-06-17/pdf/2025-11128.pdf

[8] *Ibid*.

[9] *Ibid*.

gallons, respectively, EPA expects corn ethanol to meet the remainder of the RFS mandates in 2026 and 2027.[10]

The RFS—coupled with its failure to meet volumetric targets and its heavy reliance on soy biomass-based diesel and corn ethanol—has failed to achieve meaningful greenhouse gas (GHG) reductions.[11] It has instead driven up food and fuel costs for consumers, degraded soil and water quality, and contributed to the loss of wildlife habitat.[12] Billions in higher fuel and food costs each year are borne by consumers, while billions more in taxpayer costs flow through federal tax breaks, infrastructure subsidies, loan guarantees, annual payments, and other federal supports.[13]

Background

The Renewable Fuel Standard (RFS) is a federal mandate requiring specific volumes of biofuel to be blended into U.S. transportation fuels, such as gasoline and diesel, each year. The EPA regulates compliance with the RFS using a tradable credit system. Obligated parties—fuel refiners and importers—can fulfill their obligations by either blending the required biofuel volumes or purchasing excess Renewable Identification Number (RIN) credits from other entities.

When the RFS was expanded in EISA in 2007, Congress envisioned the creation of a robust market for advanced biofuels by 2022—primarily cellulosic ethanol derived from non-food perennial grasses, corn stover, and forest residues. The advanced biofuel mandate can also be met with sugarcane ethanol and biomass-based diesel, including biodiesel and renewable diesel. In EISA, Congress capped the conventional renewable fuel mandate, composed mainly of corn-based ethanol, at 15 billion gallons annually. Biomass-based diesel received a minimum 1 billion gallon mandate each year. Cellulosic biofuels were intended to meet a 16-billion-gallon annual target by 2022. Advanced biofuels as a whole—including biomass-based diesel and cellulosic biofuels—were intended to reach a 21-billion-gallon mandate by 2022.

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[10] *Ibid*.
[11] CBO, "The Renewable Fuel Standard: Issues for 2014 and Beyond," page 3, June 2014. https://www.cbo.gov/sites/default/files/113th-congress-2013-2014/reports/45477-Biofuels2.pdf.
[12] Lark, Tyler, "Interactions Between U.S. Biofuels Policy and the Endangered Species Act," *Biological Conservation*, Volume 279, March 2023. https://www.sciencedirect.com/science/article/pii/S0006320722004220
[13] TCS, "Top Ten Bioenergy Budget Busters in Reconciliation Bill," July 28, 2022. https://www.taxpayer.net/energy-natural-resources/top-bioenergy-budget-busters-in-reconciliation-bill/.

Since EISA's enactment, the RFS has failed to meet its goals of spurring widespread development of non-food-based advanced biofuels, achieving significant reductions in GHG emissions, and enhancing long-term U.S. energy security. Congress never intended for the RFS to rely heavily on food- and feed-based biofuels that increase food and fuel costs for consumers and worsen climate change.

We urge EPA to minimize harm to consumers, taxpayers, and the environment by ensuring that the final RVO rule does not encourage additional production or consumption of food- and feed-based biofuels—such as corn ethanol and soy-based biodiesel—and other fuels that cause market distortions.

2026 and 2027 Renewable Fuel Mandates Increase Taxpayer and Consumer Costs

EPA's proposed rule projects 2026 and 2027 advanced biofuel mandates of 8.32 billion gallons and 8.71 billion gallons, respectively.[14] If realized, these mandates would represent a significant increase over the 5.85-billion-gallon mandate in 2025.[15] Most of the additional volume is projected to come from expanded production of soy-based biodiesel and renewable diesel, along with other biomass-based diesel fuels.

An increasing share of U.S. soybean oil has been diverted to biofuel uses over the past decade,[16] creating cascading cost increases for livestock producers and consumers. The U.S. Department of Agriculture's (USDA) World Agricultural Supply and Demand Estimates (WASDE) July 2025 report projects that more than half of U.S. soybean oil production will be used for biofuel production in the 2025-2026 marketing year, an increase over prior years.[17] EPA's own analysis assumes that diverting more food and livestock feed to fuel will result in higher food[18] and fuel[19] prices—at a time of already high costs for consumers.

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[14] EPA, "Renewable Fuel Standard (RFS) Program: Standards for 2026 and 2027, Partial Waiver of 2025 Cellulosic Biofuel Volume Requirement, and Other Changes," Table I.A.1-3, page 25787, June 17, 2025. https://www.govinfo.gov/content/pkg/FR-2025-06-17/pdf/2025-11128.pdf.

[15] *Ibid*.

[16] Some biodiesel and renewable diesel are produced from non-food used cooking oil, animal fats rendered from deceased livestock, and corn oil.

[17] U.S. Department of Agriculture, "World Agricultural Supply and Demand Estimates," July 2025. https://www.usda.gov/oce/commodity/wasde/wasde0725.pdf

[18] EPA, "Renewable Fuel Standard (RFS) Program - Standards for 2026 and 2027: Draft Regulatory Impact Analysis," page 389, June 2025. https://www.epa.gov/system/files/documents/2025-06/420d25001.pdf

[19] EPA, "Renewable Fuel Standard (RFS) Program - Standards for 2026 and 2027: Draft Regulatory Impact Analysis," page 472, June 2025. https://www.epa.gov/system/files/documents/2025-06/420d25001.pdf

EPA also expects negative environmental impacts and greater GHG emissions as a result of expanded biofuel mandates, which work at cross purposes with other federal programs aimed at reducing climate costs and environmental impacts.[20]

At the same time, increased mandates for advanced biofuels and biomass-based diesel will increase taxpayer expenditures through subsidy programs like the 45Z Clean Fuel Production Credit. EPA's draft Regulatory Impact Analysis (RIA) details how the 45Z credit, first enacted in the Inflation Reduction Act (IRA) of 2022, is expected to cost taxpayers anywhere from $0.20-$0.70 per gallon for biodiesel in 2026 and 2027.[21] However, EPA's estimates were completed prior to passage of the FY25 budget reconciliation bill, the One Big Beautiful Bill Act (OBBBA, P.L. 119-21), which significantly expanded the 45Z tax break by eliminating consideration of indirect land use change (ILUC) in biofuel carbon intensity calculations. The credit's overall cost is now expected to soar, with the Joint Committee on Taxation estimating the recent extension will cost an additional $10.5 billion in FY29 alone.[22]

Federal biofuel subsidies directly influence industry decisions and consumption levels. EPA's draft RIA acknowledges U.S. tax policy's distortion of biomass-based diesel markets, stating, "The historic data indicates that the biodiesel tax policy in the U.S. can have a significant impact on the volume of biodiesel and renewable diesel used in the U.S. in any given year."[23]

Simultaneously subsidizing and mandating the production of food-based biofuels in the U.S. hurts both consumers and taxpayers. Unless EPA's final advanced biofuel and biomass-based diesel RVOs are set at levels that do not distort markets, both groups are likely to face higher costs—exacerbated by the recent expansion of federal tax breaks for mature biofuels. Also, the higher EPA biofuel volumes are set, the higher the 45Z cost to taxpayers since the 45Z tax break is contingent on per-gallon biofuel production levels.

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[20] EPA, "Renewable Fuel Standard (RFS) Program - Standards for 2026 and 2027: Draft Regulatory Impact Analysis," June 2025. https://www.epa.gov/system/files/documents/2025-06/420d25001.pdf
[21] EPA, "Renewable Fuel Standard (RFS) Program - Standards for 2026 and 2027: Draft Regulatory Impact Analysis," page 473, June 2025. https://www.epa.gov/system/files/documents/2025-06/420d25001.pdf
[22] Joint Committee on Taxation (JCT), "Estimated Revenue Effects Relative to the Present Law Baseline of the Tax Provisions in "Title VII - Finance" of the Substitute Legislation as Passed by the Senate to Provide for Reconciliation of the Fiscal Year 2025 Budget," JCX-35-25, July 1, 2025. https://www.jct.gov/publications/2025/jcx-35-25/.
[23] EPA, "Renewable Fuel Standard (RFS) Program - Standards for 2026 and 2027: Draft Regulatory Impact Analysis," page 284. https://www.epa.gov/system/files/documents/2025-06/420d25001.pdf

If EPA finalizes overall renewable fuel mandates at levels that artificially incentivize increased production of food-based biofuels, taxpayers, consumers, the environment, and the climate will all bear the cost. Utilizing biomass-based diesel to backfill gaps caused by the lack of non-food-based cellulosic biofuel production—within both the advanced and overall renewable fuel mandates—will only worsen the negative impacts outlined above and in EPA's draft RIA. Similarly, artificially increasing corn ethanol mandates under the conventional RFS mandate to levels that exceed what U.S. infrastructure, vehicles, and off-road engines are designed to absorb, will not further the RFS's goals—nor will it reduce consumer prices or the taxpayer costs of subsidizing biofuels.

The RFS continues to impose significant costs on taxpayers, American consumers, and the environment. To best protect taxpayers and consumers, EPA should eliminate the RFS mandate.

Cellulosic Biofuel Waiver Volumes for 2025 Must Not Increase Corn Ethanol or Soy-Based Biodiesel Production

In the proposed rule, the Agency states:

> *"EPA is proposing to partially waive the 2025 cellulosic biofuel volume requirement and revise the associated percentage standard due to a shortfall in cellulosic biofuel production."*[24]

In joint comments submitted to EPA in January 2025, TCS and other organizations raised concerns about the cellulosic biofuel waiver, arguing that EPA failed to provide sufficient evidence in its proposed rule to justify the use of the inadequate domestic supply waiver authority.[25]

> *"By lowering the 2024 cellulosic biofuel volume requirement without similarly reducing the advanced biofuel or total renewable fuel volume requirements, the EPA's proposed rule will require an additional 210 million RINs of non-cellulosic advanced biofuel. Since soy-based biodiesel accounted for 25% of advanced biofuel consumption under the RFS in 2022, it is likely that this 210-million-RIN gap*

[24] EPA, "Renewable Fuel Standard (RFS) Program: Standards for 2026 and 2027, Partial Waiver of 2025 Cellulosic Biofuel Volume Requirement, and Other Changes," page 25787, June 17, 2025. https://www.govinfo.gov/content/pkg/FR-2025-06-17/pdf/2025-11128.pdf

[25] TCS, *et al*. "Comments to the EPA on Renewable Fuel Standard Cellulosic Biofuel Waiver," January 21, 2025. https://www.taxpayer.net/energy-natural-resources/comments-to-the-epa-on-renewable-fuel-standard-cellulosic-biofuel-waiver/

will be filled by soy-based biodiesel. This shift would impose significant costs on taxpayers, consumers, and the environment.

We recommend the EPA adopt a final rule that does not increase the production or consumption of feed- and food-based biofuel, particularly corn ethanol and soy-based biodiesel. While our policy preference is for the EPA to terminate the RFS program altogether, if the agency chooses to move forward with the proposed rule, we strongly urge it to minimize harm to taxpayers, consumers, and the climate. This can be achieved by reducing both the advanced biofuel volume requirement and the total renewable fuel volume requirement by an amount equal to the reduction in the cellulosic biofuel volume requirement in the final rule."[26]

The RFS has failed to stimulate meaningful production of cellulosic biofuel, instead providing a market guarantee for the well-established corn ethanol and soy biodiesel industries. The EPA must ensure that any final cellulosic biofuel waiver does not increase the production or consumption of corn ethanol or soy-based biodiesel.

EPA Should Reject Potential RFS Pathway for Renewable Jet Fuel Produced from Corn Ethanol

In its proposed rule, EPA requests comment on whether new production of renewable jet fuel derived from corn ethanol should qualify as an RFS-eligible fuel. Specifically, the proposed rule states:

"…several companies are developing new technologies intended to produce renewable jet fuel from ethanol or other alcohols, through a technology often referred to as the ''alcohol-to-jet'' (or ''ATJ'') process… We request comment on the potential production volume of such renewable jet fuel through 2027 and any technical and economic data that would help inform our understanding of the potential impacts of the production of renewable jet fuel through the ATJ process on the statutory factors."[27]

Renewable jet fuel derived from corn starch should not be eligible under the RFS. Congress never intended the RFS advanced biofuels mandate to be filled with corn ethanol or corn

[26] *Ibid*.
[27] EPA, "Renewable Fuel Standard (RFS) Program: Standards for 2026 and 2027, Partial Waiver of 2025 Cellulosic Biofuel Volume Requirement, and Other Changes," page 25798, June 17, 2025. https://www.govinfo.gov/content/pkg/FR-2025-06-17/pdf/2025-11128.pdf

ethanol-derived fuels. The Clean Air Act §211(o)(1)(B)(i) defines advanced biofuel as a renewable fuel "other than ethanol derived from corn starch." The fuel must also achieve lifecycle GHG emissions that are at least 50 percent lower than baseline fossil fuel emissions. Clean Air Act §211(o)(1)(B)(ii)(I, II, and VII) further defines advanced biofuel to include ethanol derived from cellulose, hemicellulose, lignin, sugar, or starch—or other fuels derived from cellulosic biomass. The definition specifically excludes ethanol derived from corn starch. While the definition does not explicitly state that renewable jet fuel derived from corn ethanol is ineligible, corn ethanol itself does not qualify as an advanced biofuel under the RFS.

Beyond eligibility concerns, allowing significant volumes of corn ethanol-derived jet fuel to qualify for RFS credits would likely distort markets and drive up costs for taxpayers and consumers. Greater demand for corn could worsen water and soil quality, reduce water availability, increase land conversion—including of lands not eligible under EISA—and drive up GHG emissions. These outcomes run counter to the RFS's statutory goals. They could also increase food and fuel prices and negatively affect other factors EPA must assess post-2022, such as the supply and price of agricultural commodities.

EPA should reject proposals to expand RFS eligibility to fuels tied to a long history of negative consequences for consumers, taxpayers, the environment, and the climate.

Carbon Capture & Storage and Low-Carbon Farming Practices Fail to Reduce GHG and Create Additional Costs

In addition to seeking comment on a "general pathway for the production of renewable jet fuel from corn ethanol," [28] EPA also requests comment on ways to "reduce emissions for this pathway such as the use of carbon capture and storage, renewable natural gas for process energy emissions… and low-carbon farming practices."[29]

Not only may carbon capture and storage (CCS) and low-carbon farming practices fail to meaningfully reduce GHG emissions, but broadening RFS eligibility to include more fuels through these pathways would create significant new costs for taxpayers and consumers. In fact, broader use of CCS and low-carbon farming practices—driven by the RFS

[28] EPA, "Renewable Fuel Standard (RFS) Program: Standards for 2026 and 2027, Partial Waiver of 2025 Cellulosic Biofuel Volume Requirement, and Other Changes," page 25788, June 17, 2025. https://www.govinfo.gov/content/pkg/FR-2025-06-17/pdf/2025-11128.pdf
[29] *ibid*

mandate—would generate additional costs and liabilities for taxpayers by expanding the volume of fuels produced and those eligible for the 45Z tax break in particular.

Carbon Capture & Storage

CCS is an unproven emissions reduction strategy and should not be considered a valid method for reducing a fuel's GHG emissions. Additional federal support for CCS—including allowing it to qualify fuels under the RFS—would increase taxpayer costs through federal subsidy programs, infringe on private property rights via eminent domain, and pose long-term risks to public safety and community well-being.

There is no widely deployable commercial use of captured carbon other than enhanced oil recovery (EOR), a technique the oil and gas industry has used since the 1970s to extract more oil by injecting carbon into depleted wells. Roughly 95% of U.S. commercially captured carbon is used for EOR.[30] Globally, 91% of captured carbon is used for EOR.[31] It remains unclear whether CO_2-EOR actually leads to any net reduction in emissions, as it prolongs oil and gas production and its associated infrastructure.

For decades, the federal government has provided billions in direct and indirect subsidies to support CCS, including R&D funding, loan guarantees, and, most notably, the 45Q tax credit. The credit was recently expanded by Congress in OBBBA. According to the Joint Committee on Taxation, the expansion will cost taxpayers an additional $14.2 billion from FY2025 to FY2034—on top of the original $36 billion price tag, per Treasury estimates. Including CCS in RFS eligibility would increase deployment and drive even greater subsidy costs.

CCS development also threatens private property rights. Many CCS developers claim "common carrier" status to justify the use of eminent domain—seizing privately owned land for CO_2 pipelines and storage sites, often against the will of landowners. In many cases, property owners receive minimal compensation and have little meaningful recourse. Any federal policy that drives CCS expansion also risks fueling abuses of eminent domain and undermining landowner rights.

[30] TCS calculation assumes facilities capture at full capacity. Facility capture capacity data from Global Status of CCS. Global CCS Institute, "Global Status of CCS Report 2023," November 2023. https://status23.globalccsinstitute.com/.

[31] K. Novak Mavar, N. Gaurina-Medimurec, L. Hrnčević, "Significance of Enhanced Oil Recovery in Carbon Dioxide Emission Reduction," Sustainability, Table 1, February 2021, https://doi.org/10.3390/su13041800

The infrastructure itself also poses serious health and safety risks. In 2020, a CO_2 pipeline operated by ExxonMobil-owned Denbury Resources ruptured near Satartia, Mississippi, releasing a cloud of CO_2 that sickened dozens of people and forced emergency evacuations.[32] In 2024, ADM's flagship CCS facility in Decatur, Illinois, suffered a major leak due to corrosion in a monitoring well, raising fears of contamination in the Mahomet Aquifer, which supplies drinking water to nearly one million residents.[33] These incidents underscore the inherent risks of transporting and storing CO_2—risks that will only grow as more projects come online without robust oversight or emergency response capacity.

Low-Carbon Farming Practices

As for low-carbon farming practices tied to alcohol-to-jet or other RFS biofuel pathways, EPA must recognize that the science remains uncertain and the real-world outcomes highly variable. While practices like cover cropping, reduced tillage, and precision fertilizer application may offer environmental benefits in certain conditions, their carbon, soil, and water impacts vary significantly by region, farm, and year. Soil carbon testing remains expensive and is not widely implemented.

In theory, if well-understood, documented, measurable, and durable carbon benefits could be achieved from certain agricultural practices, taxpayers and consumers might benefit. But "additionality" concerns arise when those practices are already in use and don't represent new carbon savings. Permanence is also an issue, as practices may be discontinued by future landowners or tenants.

In other words, marginal GHG reductions "on paper" may not translate into real-world carbon sequestration. Some conservation practices, like no-till, are also linked to higher herbicide use. EPA must not award GHG or carbon credits for agricultural practices that are unverifiable, unmeasurable, or short-lived. Tracking such practices at the farm level—along with corresponding carbon changes—would be nearly impossible without major upgrades in measurement and reporting infrastructure.

In sum, allowing CCS or low-carbon farming credits for practices that do not deliver actual, measurable GHG or carbon reductions would further steer the RFS away from its original

[32] Julia Simon, "The U.S. is expanding CO2 pipelines. One poisoned town wants you to know its story," NPR, September 2023. https://www.npr.org/2023/05/21/1172679786/carbon-capture-carbon-dioxide-pipeline
[33] TCS, "Taxpayer Liabilities from Carbon Sequestration: Archer Daniels Midland (ADM) Case Study," April 2025. https://www.taxpayer.net/energy-natural-resources/carbon-capture-and-storage/taxpayer-liabilities-from-carbon-sequestration-archer-daniels-midland-adm-case-study/

purpose: to achieve quantifiable emissions reductions through increased production of non-food-based biofuels.

Strict Definitions & Robust Tracking Will Better Protect Taxpayers and Consumers

In its proposed rule, EPA requests comment on the definition of renewable biomass and the following issues related to eligibility for wood-based biofuel feedstocks in the RFS, specifically:

> *"the extent to which the renewable biomass definition in 40 CFR 80.2 aligns with current wildfire risk potential and corresponds to wildfire ignition behavior science and how to best maximize the eligibility of woody biomass residues generated at sawmills and other forest products manufacturing businesses that have not been adulterated by chemicals or other non-wood contaminants."*[34]

EPA must ensure that statutory definitions are upheld in determining which woody biomass feedstocks qualify for the RFS mandate. When developing the definition of renewable biomass, Congress intentionally narrowed the scope to prevent activities such as clear-cutting trees in national forests for biofuel production. The Clean Air Act §211(o)(1)(I) defines which woody biomass feedstocks may be used to produce RFS-compliant fuels. EPA should not finalize conflicting definitions that would permit large-scale tree clearing or burning—practices that may fail to meet RFS GHG reduction requirements.

Although EPA does not specifically request comment on other portions of the renewable biomass definition, it retains a statutory obligation under Clean Air Act §211(o)(1)(I) to ensure that RFS feedstocks are derived from "planted crops and crop residue harvested from agricultural land cleared or cultivated at any time prior to December 19, 2007, that is either actively managed or fallow, and nonforested." In previous RVO final rules, EPA attempted to assess whether feedstocks like corn or soybeans were grown on noncompliant land, such as native grasslands.[35] EPA's prior approach—called "aggregate compliance"—must be scrapped in favor of a system that uses technology, satellite imagery, or other tools to ensure the RFS is not incentivizing the conversion of carbon-rich native grasslands, forests, or wetlands into biofuel cropland.

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[34] EPA, "Renewable Fuel Standard (RFS) Program: Standards for 2026 and 2027, Partial Waiver of 2025 Cellulosic Biofuel Volume Requirement, and Other Changes," page 25789, June 17, 2025. https://www.govinfo.gov/content/pkg/FR-2025-06-17/pdf/2025-11128.pdf

[35] EPA, "Renewable Fuel Standard Program: Standards for 2018 and Biomass-Based Diesel Volume for 2019," December 12, 2017. https://www.govinfo.gov/content/pkg/FR-2017-12-12/pdf/2017-26426.pdf

EPA also raises related concerns in the proposed rule regarding imported biofuels or those produced domestically using imported feedstocks. Regarding used cooking oil (UCO), for example, the rule notes: "Substantial challenges already exist regarding EPA's ability to verify whether the requirements for imported UCO under the RFS program have been satisfied." [36] EPA recognizes that tracking biofuel feedstocks to confirm compliance with statutory definitions is difficult. Its efforts should focus first on verifying compliance in high-risk areas, eventually scaling to a system-wide approach. This improved system should replace "aggregate compliance," which simply assumes that no noncompliant land—such as native grasslands—has been converted, as long as total U.S. agricultural acreage remains below a set threshold. [37]

In determining whether imported fuel or feedstocks should qualify for fewer RIN credits, EPA also requests comment on tracking the origin of biofuel feedstocks. Specifically, EPA proposes using the site where vegetable oil is extracted from the crop (e.g., a soybean crushing facility), or the location of the feedstock provider (e.g., a grain elevator).[38] However, soybeans delivered to a crushing facility may originate far beyond the immediate area, and grain elevators routinely source grain from more than 50 miles away, including from outside the U.S.

To ensure compliance with RFS statutory definitions, EPA must implement a more robust tracking system than the current one, which lacks field-level verification or any requirement for tracking, measurement, or quantification.

Conclusion

For the reasons outlined above, EPA's 2026–2027 RVOs should be set at levels that avoid market distortions leading to higher taxpayer costs, increased food and fuel prices, conversion of carbon-rich land, greater GHG emissions, degraded water and soil quality, and other negative outcomes borne by taxpayers and consumers. The final rule should also adhere strictly to the statutory definitions of renewable biomass and avoid approving

[36] EPA, "Renewable Fuel Standard (RFS) Program: Standards for 2026 and 2027, Partial Waiver of 2025 Cellulosic Biofuel Volume Requirement, and Other Changes," page 25839, June 17, 2025. https://www.govinfo.gov/content/pkg/FR-2025-06-17/pdf/2025-11128.pdf.
[37] National Wildlife Federation, "How EPA is Letting the RFS Become a Driver of Land Conversion," September 10, 2014. https://www.nwf.org/~/media/PDFs/Wildlife/RFS_factsheet_v3_09-10-14.pdf.
[38] EPA, "Renewable Fuel Standard (RFS) Program: Standards for 2026 and 2027, Partial Waiver of 2025 Cellulosic Biofuel Volume Requirement, and Other Changes," page 25840, June 17, 2025. https://www.govinfo.gov/content/pkg/FR-2025-06-17/pdf/2025-11128.pdf

new food-based biofuel pathways based on questionable estimates of CCS- and agriculture-related carbon savings.

The RFS continues to impose significant costs on taxpayers, American consumers, and the environment. It has failed to stimulate meaningful production of cellulosic biofuel, and instead provides a market guarantee for well-established corn ethanol and soy-based biomass diesel industries. The July 2025 passage of OBBBA, which included an estimated $25.7 billion[39] expansion of 45Z Clean Fuel Production Credit subsidies—primarily benefiting mature, food-based fuels—may further increase production of fuels already mandated by the RFS, with additional costs for taxpayers.

EPA's proposed rule and accompanying RIA[40] demonstrate that the RFS has failed to meet the goals set forth in the 2007 energy bill. EPA's final rule must ensure that federal mandates and biofuel subsidies do not artificially inflate the production and consumption of corn- and soy-based biofuels at the expense of taxpayers and consumers.

Thank you for your attention to this matter. We look forward to continued engagement on these important issues.

Sincerely,

Taxpayers for Common Sense

[39] JCT, "Estimated Revenue Effects Relative to the Present Law Baseline of the Tax Provisions in "Title VII - Finance" of the Substitute Legislation as Passed by the Senate to Provide for Reconciliation of the Fiscal Year 2025 Budget," JCX-35-25, July 1, 2025. https://www.jct.gov/publications/2025/jcx-35-25/.
[40] EPA, "Renewable Fuel Standard (RFS) Program - Standards for 2026 and 2027: Draft Regulatory Impact Analysis," EPA-420-D-25-001, June 2025. https://www.epa.gov/system/files/documents/2025-06/420d25001.pdf