United States Senate

WASHINGTON, DC 20510

October 19, 2022

The Honorable Michael S. Regan
Administrator
Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Dear Administrator Regan:

We write to request that the Environmental Protection Agency (EPA) establish robust and expanded renewable volume obligations (RVOs) in its forthcoming "Set" rule under the Renewable Fuel Standard (RFS). Through this rulemaking, EPA will determine blending volumes according to a set of environmental and economic factors in the statute. Strong RVOs will be bolstered by numerous incentives and investments that are poised to increase biofuel blending and further reduce the carbon intensity of these fuels. Additionally, we request that EPA take supportive actions to provide regulatory certainty and afford new opportunities for these homegrown fuels to deepen their contribution to America's evolving energy landscape. Through this rulemaking, EPA has a historic opportunity to not only reinforce its efforts to restore integrity to the RFS, but chart a new course for biofuels that will help meet America's diverse energy demands while further decarbonizing numerous sectors of our economy.

Previous RVOs, backed by statutory volumes, established blending requirements for biofuels and sent an important signal to all levels of the renewable fuel value chain. Unfortunately, many of these RVOs were undercut by small refinery exemptions (SREs), and we appreciate EPA affirming the Tenth Circuit's decision and finding that RFS compliance does not cause disproportionate economic hardship and that the RFS has a negligible influence on fuel prices. With this matter settled, we hope we can look to the impending Set rule with confidence that future-year RVOs will not be eroded by SREs, but left to stand and maximize EPA's ability to drive higher utilization of these cleaner fuels.

In setting RVOs for 2023 and beyond, EPA can justify ambitious blending targets by leveraging recently extended and expanded incentive structures, including the second generation biofuel and biodiesel tax credits.[1] As you know, these credits will parallel a new sustainable aviation fuel (SAF) credit before they merge into an emissions-based clean fuel credit. Fuel credits will be complemented by expanded credits to capture and sequester carbon dioxide, including from biofuel production facilities, and additional support for ongoing agriculture production practice improvements, driving more value toward America's biofuel and farm economies. Together, these credits will incentivize continued low-carbon renewable fuel blending, providing significant value to consumers while maintaining a critical market for our farmers and generating a key source of high-quality animal feed and other value-added co-products.

[1] P.L. 117-169

However, it bears clarifying that new fuels like SAF, as well as other new pathways for RFS compliance, such as electricity generated from biogas that may be proposed for so-called electric renewable identification numbers (e-RINs), must be accommodated in a fashion that is additive to existing fuel technologies and previous blending targets. They must also be subject to the same rigorous transparency, integrity, and lifecycle analysis standards as other renewable transportation fuels. Failure to do so will displace biofuels that have been foundational to decarbonizing the transportation sector, leave additional environmental gains on the table, and hinder industry growth. In order to guard against sidelining decades of investment and the diverse workforce that supports biofuels, we request that EPA set the conventional target above 15 billion gallons, set advanced biofuel volumes that account for increased production capacity of fuels like SAF and renewable diesel, and ensure that RINs for emerging technologies and e-RINs are additive to existing volumes.

EPA can also justify ascending RVOs by recognizing the technological advances made by the biofuels sector and approving long-pending RFS fuel registration applications and pathway petitions. By rendering timely decisions for prospective advanced fuels, including those derived from corn kernel fiber that have already proven their efficacy and safety in states like California, EPA would add value to the bottom line of many biofuel operations and enable them to generate more fuel per bushel of feedstock while further reducing the carbon intensity of each gallon. Similarly, EPA can help scale-up SAF production by addressing in the Set regulatory barriers that deny certain biointermediates entry to SAF. Such actions would permit these biofuel producers to use at scale the investments they have made, access low-carbon markets, and pave the way for the next generation of renewable fuel innovation.

When setting forward-year RVOs, EPA must also consider how record investments in biofuel blending infrastructure will facilitate meeting progressively higher blending targets by making higher blends more readily accessible to consumers. As you know, the U.S. Department of Agriculture (USDA) announced in August $100 million in cost-sharing grants for blending infrastructure such as fuel pumps, dispensers, and storage tanks for blends above E10 and B5 through the Higher Blends Infrastructure Incentive Program (HBIIP). This round of funding follows $5.6 million in funding in April 2022 for blending infrastructure in California, Delaware, Illinois, Maryland, New Jersey, New York, and South Dakota, which EPA projected would "increase the availability of biofuels by 59.5 million gallons per year" across recipient states, as well as over $60 million delivered through other HBIIP awards made since 2020. Increased consumer access to higher blends will also be supported by $500 million for biofuel infrastructure and agriculture product market expansion.[2]

Of course, the most efficient way to promote higher blends is to provide the marketplace the certainty that fuels like E15 may be sold year-round, removing the costly deterrent of fuel switching. The president was correct to ensure uninterrupted sales of E15 during 2022 to provide consumers driving approximately 96 percent of light-duty vehicles a lower-cost fuel option while displacing Russian oil. Even during this time of sustained energy challenges, E15 was sold for as much a 96 cents cheaper per gallon than E10 under the emergency waiver. We encourage EPA to utilize any authority at its disposal to extend year-round E15 into the future. When paired with

[2] P.L. 117-169

$2.8 billion in recently announced USDA funding[3], it would help ensure biofuels are able to maximally contribute to America's energy and climate needs from field to tailpipe.

In addition to setting robust blending targets, we request that EPA use the Set rulemaking as a timely opportunity to insert greater certainty and efficiency in the regulatory landscape of the RFS. As previously addressed, accurate and standardized lifecycle emissions modeling will not only assign appropriate tax credit values and motivate continued decarbonization of biofuels, but updated lifecycle emissions values also justify growth in RFS volumes to accelerate transportation decarbonization. Contemporary carbon intensity scoring will help settle recurring questions regarding the net environmental benefit of biofuels, permitting stakeholders to readily compare the carbon footprint of biofuels against other technologies. Finally securing reliable, EPA-endorsed lifecycle analysis will encourage increased use of biofuels in domestic low-carbon fuel markets and expand export opportunities to the growing number of countries turning to biofuels to meet their energy needs and climate action goals, such as Canada, India, and Japan. Accordingly, we urge you to culminate the stakeholder engagement conducted via EPA's public workshop on biofuel greenhouse gas emissions by formally adopting the Department of Energy Argonne National Laboratory's GREET model for lifecycle analysis in the Set rule.

We agree with you that biofuels are ready to meet the moment and serve as a key element of American energy security, economic opportunity, and climate response. We greatly appreciate the actions and commitments the president provided last spring, which provided an emergency waiver for the sale of higher ethanol blends like E15. Steps like these not only allow for more homegrown ethanol to be sold across the United States in order to increase fuel supply, but they also provide consumers options for more affordable gasoline options at the pump. As such, we urge you to build upon these prior commitments and use the historic opportunity of the Set rule to establish robust forward-year RVOs and take the necessary accompanying regulatory steps to further realize the environmental and economic benefits of our biofuels sector. We look forward to working with you.

Sincerely,

John Thune (R-SD)
United States Senator

Dick Durbin (D-IL)
United States Senator

Chuck Grassley (R-IA)
United States Senator

Sherrod Brown (D-OH)
United States Senator

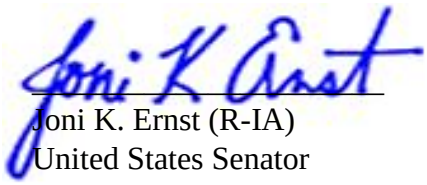
Deb Fischer (R-NE)
United States Senator

Amy Klobuchar (D-MN)
United States Senator

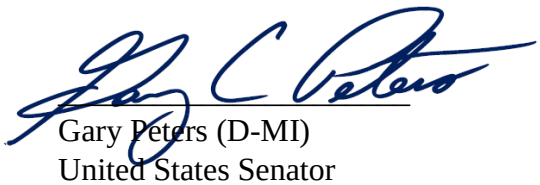
[3] https://www.usda.gov/sites/default/files/documents/partnerships-climate-smart-commodities-project-summaries.pdf

M. Michael Rounds (R-SD)
United States Senator

Tammy Baldwin (D-WI)
United States Senator

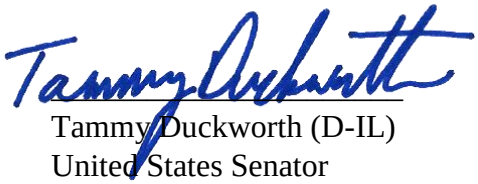


Joni K. Ernst (R-IA)
United States Senator



Gary Peters (D-MI)
United States Senator

Roger Marshall, M.D. (R-KS)
United States Senator



Tammy Duckworth (D-IL)
United States Senator

Tina Smith (D-MN)
United States Senator