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June 12, 2023

The Honorable Michael Regan
U.S. Environmental Protection Agency
1200 Pennsylvania Ave NW,
Washington, D.C. 20004

Re: Proposed Rule for Renewable Fuel Standards

Dear Administrator Regan:

As the sole Representative from the State of Wyoming, one of the largest energy-producing centers in the nation, I am writing to urge the Environmental Protection Agency (EPA) to withdraw its proposed rule regarding Renewable Fuel Standards (RFS) for 2023, 2024, and 2025 under the RFS program.

The RFS program was initially created under the guise of reducing U.S. reliance on imported oil while also working to expand the nation's renewable fuels sector and reduce greenhouse gas emissions.¹ While I believe there is room for reform under this program as is, I have serious concerns regarding the proposed rule and its creation of an electric renewable identification number (e-RIN) in addition to other embedded politically motivated provisions that lack any sort of ostensible benefits to either the energy market or the American people. Such an effort to impose an e-RIN requirement also exceeds the EPA's authority under the Clean Air Act.

The establishment of e-RINs runs contrary to the creation and intent of the RFS program that was approved by Congress. Under the Supreme Court Ruling "*West Virginia v. EPA*", the EPA is now required to reference and identify Congressional authorization for the power that it claims to have.² This landmark decision put a stop to the ever-expanding effort by federal agencies to implement numerous destructive and illegal agendas, such as the so-called Clean Power Plan (CPP) as proposed by the Obama administration. As relevant here, the statute that was cited for the creation of the RFS program never mentions or references any extensions of the RIN system to include renewable electricity generation. This conclusion can be easily reached by examining the finer points within the RFS program provisions. The EPA cannot, in other words, continue to ignore the plain language of a particular statute when drafting regulations that are designed to impose dramatically new requirements on the American public.

The RFS program as approved by Congress was specifically designed and calibrated for liquid fuels as the designated unit of measurement was based on volumetric standards. These volumetric units would simply not be applicable to measuring electricity generation under this program. Furthermore, any sort of conversion between liquid fuel and electricity generation would be exceedingly difficult to calculate and enforce. This would ultimately leave significant room for bureaucratic waste, fraud, and abuse within the RIN market. Lastly, the creation and utilization of e-RINs would inevitably be monopolized by the

¹ <https://www.epa.gov/renewable-fuel-standard-program/overview-renewable-fuel-standard>

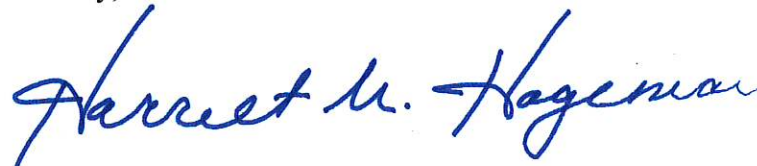
² https://www.supremecourt.gov/opinions/21pdf/20-1530_n758.pdf

electric vehicle industry. There was never any Congressional intent to create a system that would ultimately act as a subsidy for electric vehicle manufacturers.³⁴

In addition to the e-RINs proposed rule, I have major concerns with the onslaught of rules coming out of the EPA that are clearly designed to push a political agenda rather than enacting positive reforms that benefit America's energy market and that are actually within EPA's purview. One such recent example is the EPA's proposed Regulations for Greenhouse Gas Emissions from Passenger Cars and Trucks, commonly referred to as the "tailpipe rule." This proposed rule would essentially mandate that over 60 percent of vehicles be EVs by 2032 – damaging consumer choice for vehicles and forcing Americans to purchase vehicles they do not want and cannot afford. It is no coincidence that the Biden Administration's EPA continues to issue rules such as these that are purely politically motivated, harm our domestic energy production, and beholden us to the resources of foreign adversaries such as China. It is also fair to say that such a mandate is well outside of EPA's authority, would have extremely negative consequences for the American economy, and is entirely infeasible.

Pursuing sound energy policies should be a top priority for every public servant. Energy bills are too expensive and green energy improvements have yet to yield quality benefits for the American taxpayer and consumer. By pursuing regulations that not only lack Congressional approval but also support agendas that are tied to wasteful and abusive government spending, it is clear that the EPA is going down the wrong road. In short, the e-RIN rule is not in the best interest of protecting our environment, the nation's energy market, or the American people. I respectfully request that you withdraw this proposed rule as it will ultimately result in a greater number of energy problems and wasted American taxpayer dollars.

Sincerely,



Harriet M. Hageman
Member of Congress

³ <https://www.morganlewis.com/blogs/powerandpipes/2022/12/rfs-auto-manufacturers-win-the-battle-for-erin-credits-in-epas-proposed-rule>

⁴ <https://www.natlawreview.com/article/us-epa-rule-making-set-grants-exclusive-e-rin-production-right-to-ev-automakers>