

United States Senate  
WASHINGTON, DC 20510

May 7, 2020

President Donald J. Trump  
The White House  
1600 Pennsylvania Ave, NW  
Washington, D.C. 20500

Dear Mr. President,

We are writing to urge you to uphold the Renewable Fuel Standard (RFS) and immediately reject the requests for a waiver of the RFS under Section 211(o)(7) of the Clean Air Act recently received by the Environmental Protection Agency (EPA) from five state governors<sup>1</sup>. Across our states, biofuels lower fuel prices, create hundreds of thousands of jobs in the new energy economy, many of which are in rural areas, provide an important market for farmers, cut our reliance on foreign oil, reduce emissions and harmful air pollutants, and provide critical inputs to our food supply.

Our nation is facing unprecedented challenges as a result of the global health pandemic caused by COVID-19, with the impacts being felt across all of society. Waiving the RFS would cause further harm to the U.S. economy, especially our most vulnerable rural communities. It would also exacerbate the effects experienced by the biofuel sector as a result of COVID-19, causing far-reaching detrimental impacts on employment, farmers, food security, fuel prices, and the environment. The resiliency of America's renewable fuel industry has already suffered as a result of the EPA's drastic expansion of the small refinery waiver program in recent years.

The U.S. Department of Homeland Security identified the biofuels sector as an essential critical infrastructure workforce during the COVID-19 response. However, as motor fuel demand has plummeted, prices have slumped to record lows and producers are suffering heavy losses. At this point more than 70 ethanol facilities with an annual production capacity of 6.1 billion gallons have been fully idled, and approximately 70 more plants have reduced their operating rates by a combined amount of 1.9 billion gallons annualized. At least 46% of the ethanol industry's total production capacity is now idled, and eight biodiesel and renewable diesel facilities remain offline. Highly-skilled jobs across the country are being lost at an alarming rate.

Biofuel plant closures have ripple effects through the U.S. economy. Farm income is directly linked to the health of the renewable fuel industry. Plant shutdowns are causing commercial CO<sub>2</sub> supply shortages and inhibiting the ability of meatpackers and other food sectors to refrigerate, preserve, and supply food and beverages at current, affordable rates. Ethanol plants also produce low cost, high-protein animal feed (distillers grains). Supply shortages as a result of biofuel plant closures are impacting livestock feed procurement, rations, and prices. Biodiesel producers provide value to surplus and waste oils, fats and greases from food, feed and other biofuel

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<sup>1</sup> Letter from Texas Governor Greg Abbott, Utah Governor Gary Herbert, Oklahoma Governor Kevin Stitt, and Wyoming Governor Mark Gordon to EPA Administrator Andrew Wheeler (April 15, 2020).  
Letter from Louisiana Governor John Bel Edwards to EPA Administrator Andrew Wheeler (April 7, 2020).

production. Without the biodiesel industry, excess feedstocks will clog the supply chain, causing livestock producers to potentially raise prices for consumers. Removing biofuels from gasoline and diesel will also lead to an increase of greenhouse gas emissions, particulate matter, and toxics – causing degradation to our air quality.

Recent requests for a waiver of the RFS are unjustified and clearly do not satisfy the rigorous requirements necessary for EPA consideration. RFS waivers can only be granted by EPA if there is a demonstration of “severe harm” to the economy or environment of a state, region or the United States that is directly caused by the RFS. None of these standards are met today and the following reasons clearly demonstrate the case for rejecting the waiver requests:

- Challenging market conditions in the oil sector are the direct result of oversupply from international competitors combined with falling gasoline, diesel and jet fuel demand as a result of the COVID-19, not the RFS.
- The RFS already accommodates demand reductions and provides flexibility to reflect the reality of motor fuel demand. EPA translates the annual RFS requirements into a percentage share of gasoline and diesel. Thus, the existing structure of the RFS regulations already results in an oil refiner’s renewable volume obligations being proportionally reduced if overall motor fuel demand drops over the year.
- EPA has repeatedly found that RIN prices do not negatively impact refiners, a position reinforced by the 10<sup>th</sup> Circuit court in January<sup>2</sup>. In addition, a record-large supply of RINs is available to refiners today, largely as a consequence of EPA’s abusive expansion of the small refinery exemption program, so the threat of high RIN prices is currently non-existent.

We urge you to direct the EPA to reject all calls to waive the RFS. The RFS is more important now than ever as farmers, the biofuel sector, and rural America struggle to remain operating amid the COVID-19 crisis.

Sincerely

Tina Smith  
United States Senator

Joni K. Ernst  
United States Senator

Debbie Stabenow  
United States Senator

Charles Grassley  
United States Senator

Gary Peters  
United States Senator

Roy Blunt  
United States Senator

Richard J. Durbin  
United States Senator

Deb Fischer  
United States Senator

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<sup>2</sup> Renewable Fuels Assn. v. EPA, No. 18-9533 (10th Cir. 2020)

Tammy Duckworth  
United States Senator

Josh Hawley  
United States Senator

Jeanne Shaheen  
United States Senator

M. Michael Rounds  
United States Senator

Sheldon Whitehouse  
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Mazie K. Hirono  
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Patty Murray  
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