

April 15, 2020

The Honorable Andrew Wheeler
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue NW
Washington, D.C. 20460

Dear Administrator Wheeler:

On behalf of our States, and in light of economic circumstances facing our States and the Nation as a whole, please expedite this request for a waiver of the renewable volume obligation (RVO) under the federal Renewable Fuel Standard (RFS) as authorized under Section 211(o)(7) of the Clean Air Act (CAA)(42 U.S.C. §7545(o)(7)) as amended by the Energy Independence and Security Act of 2007. Under this waiver provision for severe economic hardship, the U.S. Environmental Protection Agency (EPA) must assess the condition of the refining sector as it finds it under current circumstances; it must then determine whether the implementation of the current RVO, including costs associated with the recent tripling in the price of renewable identification numbers (RINs), present a clear threat to the industry under such circumstances; and then, upon determining whether harm inflicted on a sector as vital as refining and allied aspects of the refining supply chain, constitute an appropriate basis for granting a waiver under the cited provision.

Let us be clear: on Friday, March 13, 2020, President Trump declared a national emergency related to control of the novel coronavirus known as COVID-19. Previously, on Wednesday, March 11, 2020, the World Health Organization had declared COVID-19 a pandemic, citing impacts in over 110 countries and territories around the world. The macroeconomic impacts of COVID-19 have resulted in suppressed international demand for refined products, like motor fuels and diesel. The International Energy Agency (IEA) has cut its 2020 growth forecast for global oil demand, predicting the first quarterly contraction in more than 10 years. The IEA has also revised down the outlook for global refinery runs.¹ As the world economy responds to measures adopted to contain COVID-19, demand for refined products for air transportation, global delivery of goods, and petrochemicals decline - and any rebound of necessity will occur only after containment restores predictable economic growth. In the interim, the U.S. refining sector will face real and substantial difficulty.

Not only is EPA bound to act on this waiver request, it must do so immediately if it is to avoid the precise severe economic harm this waiver provision is designed to address. The current RVO made assumptions regarding the ability of the U.S. refining sector to blend renewable fuels that simply no longer obtain. As our country comes to grips with this national emergency, continuing to implement the current RVO imposes an added obligation that would “severely” harm the sector, and consequently harm the economy of the States and the Nation.

¹ Martin Menachery, Covid-19: Impact on refining and petrochemicals industry, *Refining & Petrochemicals*, March 1, 2020, at <https://www.refiningandpetrochemicalsme.com/petrochemicals/28211-covid-19-impact-on-refining-and-petrochemicals-industry>

In the past, EPA has failed to grant waivers at the request of Governors based on adequacy of documentation. However, current extraordinary circumstances represent a material change in condition since the last time EPA entertained such requests. To be clear, CAA does *not* require that the waiver we request be limited to situations in which the harm associated with RFS compliance is the *only* source of stress on the economy. Currently, significant harm to the energy economy is expected to result from depressed demand for transportation fuel. But the 2020 RFS compliance obligations, in their current form, risk transforming the current severe economic harm to existential harm for some of the refineries in our states. With the refining and petrochemical industries contributing some \$600 billion annually to the national economy and employing over three million industrial workers in some 33 states, a material threat to the refining sector clearly would constitute a severe economic harm to particular states, regions, and the Nation as a whole.

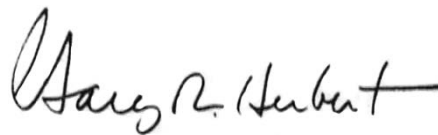
Therefore, we are formally requesting an appropriate waiver of the renewable volume obligation under the RFS consistent with Section 211(o)(7) of CAA in order to address severe economic harm compounded by the current national emergency.

We urge an expeditious answer to this request as sweeping economic impacts to industrial employment, consumer interests, and all aspects of the economy will be compounded by any delay.

Sincerely,



Governor Greg Abbott
Texas



Governor Gary Herbert
Utah



Governor Kevin Stitt
Oklahoma



Governor Mark Gordon
Wyoming