United States Senate
WASHINGTON, DC 20510

March 25, 2021

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

Dear Administrator Regan:

We write today to urge you to use your general waiver authority under Section 211(o)(7)(A)(i) of the Clean Air Act to waive or significantly reduce the renewable volume obligations (RVO) under the Renewable Fuel Standard (RFS). We request your timely consideration of this request as obligated parties under the RFS struggle with muted demand for refined petroleum products and skyrocketing compliance costs. In turn, the states and regions in which these obligated parties operate stand to suffer the precise severe economic harm the waiver provision is designed to prevent.

Since 2009, eight refineries have shuttered on the East Coast alone, including the region's largest refinery, Philadelphia Energy Solutions, which closed its doors in 2019. This rash of closures has taken a financial toll on state and local budgets, however, the most devastating consequence has been the thousands of blue collar jobs that have been lost in the process.

Unfortunately, the COVID-19 pandemic has exacerbated these challenging circumstances. Government-imposed lockdowns have resulted in a sharp decline in miles travelled by US motorists, and year-over-year commercial air passenger traffic is consistently down over 60 percent. Since the beginning of 2020, seven refineries across the US have shut down, idled, or repurposed their operations in the face of declining demand for refined products. Additionally, the Energy Information Administration's latest Short-Term Energy Outlook estimates that US gasoline demand will remain below pre-pandemic levels through at least 2022.

Plummeting gasoline consumption is doubly harmful for merchant refiners subject to the rigid and aspirational volume requirements imposed by the RFS. Decreased demand for refined products has constrained the supply of compliance credits — called RINs — and has dramatically increased costs for obligated parties. Since the beginning of 2020, prices for these artificial credits have risen over 2000 percent, approaching the highest levels since the RFS' inception. For some refiners, the cost of purchasing these credits exceeds the costs of payroll, and is second only to outlays for crude oil. One merchant refiner has seen its RIN compliance costs jump from $58M to $172M over the last year.

In response to this acute financial distress, a bipartisan group of six governors, as well as a number of small refineries, have petitioned the EPA requesting that the Administrator exercise the general waiver authority. The renewable fuels for the 2020 compliance year have already been produced and blended. Thus, a waiver presents no risk of harm to the biofuels industry. This necessary action would provide a degree of relief for these states and avert additional refinery closures and the ensuing economic ripple effects. If relief is not provided in a timely manner, more refineries will be forced to shut down and place thousands of workers on the unemployment rolls just as the economy is beginning to roar back.

Thank you for your consideration. We look forward to working with you to mitigate the harm caused by this ill-conceived mandate.

Sincerely,

Pat Toomey
United States Senator

John Barrasso, M.D.
United States Senator

Shelley Moore Capito
United States Senator

Steve Daines
United States Senator

Bill Cassidy, M.D.
United States Senator

James E. Risch
United States Senator

Cynthia M. Lummis
United States Senator

James Lankford
United States Senator

Michael S. Lee
United States Senator

John Kennedy
United States Senator

Ted Cruz
United States Senator

James M. Inhofe
United States Senator

Mike Crapo
United States Senator