



GOVERNORS' BIOFUELS COALITION

- Minnesota Gov. Tim Walz, Chair
- South Dakota Gov. Kristi Noem, Vice Chair
- Executive Director, Larry Pearce

October 30, 2019

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

Docket Number: ***No. EPA-HQ-OAR- 2019-0136, Comments on Renewable Fuel Standard Program: Standards for 2020 and Biomass-Based Diesel Volume for 2021, and Response to the Remand of the 2016 Standards; Supplemental Notice of Proposed Rule-making***

Dear Administrator Wheeler:

These comments are submitted on behalf of the Governors' Biofuels Coalition, a group of twenty-one of the nation's governors who believe that increasing the use of clean-burning biofuels can decrease the nation's dependence on imported energy resources, improve public health and the environment, and stimulate state economies.

The Coalition states are home to over 200 biorefineries that are producing tens of thousands of jobs, sequestering tons of carbon, saving millions of barrels of foreign oil, and making enormous financial contributions to our states' and the nation's economies. However, the states' biofuels future is at risk if this proposed supplemental rule is not amended to reflect the agreement that was reached with the White House and the nation's agriculture community and ethanol producers.

Background

Since 2016, EPA has approved 85 refinery waivers, representing a loss of over 4.3 billion gallons of renewable fuels.

Every waiver EPA approves negatively affects our farmers, biofuels producers, and the thousands of residents who benefit directly or indirectly from our states' biofuels industry. EPA chose to approve these waivers at a time when farmers and biofuel producers were already hurt by adverse weather conditions, flagging export market opportunities, and chronically low commodity prices. Approving these waivers when the agriculture economy was struggling represented a callous disregard for the economic interest our nation's farmers. This supplemental rule ignores the agreement President Trump reached with the nation's biofuels producers and further demonstrates that EPA is oblivious to the harm it has caused. Today, at least 30 biofuel

plants remain closed. This rule does not provide the certainty needed to allow those facilities to reopen and permit employees to return to work.

Negotiations and Agreement

In September, President Trump reached an agreement with the nation's farm representatives to ensure that the 2020 RFS blending requirements require actual blending of at least 15 billion gallons of conventional renewable fuel. It was agreed that this would be achieved by redistributing future expected gallons in 2020 by using a three-year rolling average of actual gallons waived under the Small Refinery Exemption program.

In early October, EPA announced an agreement to ensure that more than 15 billion gallons of conventional ethanol would be blended into the nation's fuel supply beginning in 2022 and that the volume requirements for biomass-based diesel would be met. The biofuels and agriculture representatives praised the agreement but pointed out that EPA must follow through with a proposed rule that accurately implements the agreement. President Trump also praised the agreement, saying, "We've come to an agreement and it's going to be ... getting close to 16 billion [gallons]." As a Coalition, we praised this agreement for helping to mitigate the future effects of small refinery waivers.

Disappointingly, on October 15, you issued a proposed supplemental rule that represents a complete abrogation of the agreement President Trump announced only weeks earlier. The rule proposes to use a three-year average of the Department of Energy's recommendations for exempted volumes, rather than the actual gallons waived by EPA.

This is not acceptable because EPA's actual exemptions have been roughly twice the amount recommended by DOE in the past three years. If EPA finalizes this rule and then grants the same number of exemptions it has granted in the past three years, the EPA will not achieve a blending requirement of 15 billion gallons. This is wholly inadequate to provide the stability and reassurance that farmers and producers need.

The solution is to use the three-year rolling average of actual exempted gallons as the basis to project 2020 exempted volumes. This would ensure actual blending of at least 15 billion gallons of conventional renewable fuel. We urge EPA to amend its proposed rule to specify a three-year rolling average of actual exempted volumes.

Thank you for the opportunity to submit these comments.

Sincerely,



Tim Walz, Chair
and Governor of Minnesota



Kristi Noem, Vice Chair
and Governor of South Dakota

cc: The Honorable Sonny Perdue, Secretary of Agriculture
The Honorable Doug Hoelscher, Special Assistant to the President, White House
Office of Intergovernmental Affairs
The Honorable Francis Brooke, Special Assistant to the President for
Energy and Environmental Policy
Member Governors