



COMMONWEALTH OF PENNSYLVANIA  
OFFICE OF THE GOVERNOR

May 11, 2020

The Honorable Andrew Wheeler  
Acting Administrator  
United States Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W.  
Washington, D.C. 20460

Dear Acting Administrator Wheeler:

I write to reiterate my request of November 2, 2018, that you exercise the waiver authority in Clean Air Act Section 211(o)(7)(A)(i) to reduce the nationwide Renewable Fuel Standard (“RFS”) volume mandates to provide relief to refiners in Pennsylvania and elsewhere that are struggling to remain operational given the current and proposed volume requirements. The statutory deadline for a response to my petition passed almost fourteen months ago, and, in the interim, EPA has finalized both 2019 and 2020 RFS volume requirements that further underscore the urgent need for a severe-economic-harm waiver. In addition, a recent decision of the United States 10<sup>th</sup> Circuit Court of Appeals has placed the EPA’s small refinery waivers program – which has been crucial in recent years in keeping a semblance of control on RINs prices – in jeopardy.

As explained in my waiver petition, the ever-increasing volume levels set by EPA are severely harming the economies of both the Commonwealth of Pennsylvania and the entire East Coast region. Merchant refiners such as those in Pennsylvania are struggling to maintain viability under current volume requirements. These refineries face RFS compliance costs that exceed their payroll costs, and, as a result, refiners have laid off employees, reduced benefits, and delayed capital projects. The economic burdens imposed by the RFS volume requirements are unsustainable for refiners operating on tight margins.

In addition to the struggles Pennsylvania is already facing, our industry continues to be impacted by the novel coronavirus known as COVID-19. 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.<sup>1</sup> 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, Pennsylvania, and the U.S. refining sector, will face real and substantial difficulty.

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<sup>1</sup> 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>

The EPA must immediately act to avoid the precise severe economic harm this waiver provision is designed to address. 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, including Pennsylvania, and the Nation as a whole.

As you know, the Clean Air Act states that the Administrator “shall approve or disapprove a petition for a waiver...within 90 days after the date on which the petition is received.” 42 U.S.C. § 7545(o)(7)(B). That deadline elapsed for my petition on January 31, 2019, more than one year ago. Accordingly, I again respectfully request that EPA exercise the waiver authority granted to you in the Clean Air Act to mitigate the ongoing severe economic harm that the RFS volume requirements are inflicting on the Commonwealth and surrounding region, compounded by the global COVID-19 pandemic.

Thank you for your consideration.

Sincerely,



TOM WOLF  
Governor