RENEWABLE FUELS ASSOCIATION

September 24, 2019

Julia Burch, Environmental Protection Agency
Office of Air and Radiation
1200 Pennsylvania Ave. NW
Washington, DC 20460

RE: Section 610 Review of "Regulation of Fuels and Fuel Additives: Changes to Renewable Fuel Standard Program" (84 Fed. Reg. 44804; Docket No. EPA-HQ-OAR-2019-0168)

To Whom it may Concern:

On behalf of the members of the Renewable Fuels Association and the U.S. ethanol industry, I am writing to support the Agency's conclusion that enforcement of the Renewable Fuels Standard imposes no unique burden on small businesses, specifically small refineries. Specifically, the Agency correctly concluded, "the impact on small entities from implementation of this rule will not be significant."

In reaching this conclusion, the Agency reviewed all available information which conclusively demonstrated "that obligated parties, including small entities, are generally able to recover the cost of acquiring the RINs necessary for compliance with the RFS standards through higher sales prices of the petroleum products they sell than would be expected in the absence of the RFS program."[1] Indeed, numerous analyses, including those completed by Harvard, MIT, University of Michigan, Iowa State University, refiners like Marathon, and the API all agree that refiners recoup any RIN costs through higher wholesale prices for refined products. EPA OTAQ's analysis pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996 found that the cost-to-sales ratio of RFS compliance on small refiners – *based on the small refineries' own CBI* – was .02% to .08%.[2]

Moreover, as ethanol is ~$0.40 cheaper than gasoline at the terminal today, meeting RFS obligations by blending ethanol rather than purchasing RIN credits actually reduces costs. Ethanol is the lowest-cost source of octane on the market today; and blending it in place of

[1] Federal Register, Vol. 83, No. 237, December 11, 2018, 63742.
[2] Docket EPA-HQ-OAR-2019-0136, Memo from Burkholder & Parsons, Screening Analysis for the Proposed RFS Standards for 2020, May 15, 2019.

other octane sources most certainly provides gasoline blenders—many of whom are small businesses—with financial savings.

It is not clear, however, that the Agency considered the impact on other small business entities impacted by the RFS program – farmers. Clearly, the agriculture economy is significantly impacted by EPA's enforcement (or lack thereof) of the Renewable Fuels Standard. The EPA granted 54 small refinery exemptions for compliance years 2016 and 2017, relieving refiners of RFS blending obligations totaling 2.61 billion ethanol-equivalent gallons. On August 9, 2019, the EPA announced another 31 exemptions for compliance year 2018, waiving an additional 1.43 billion gallons of renewable fuel usage obligations.[3]

Demand destruction has already occurred as a result of the exemptions that were granted for 2016 and 2017. Domestic ethanol consumption fell in 2018—the first year-over-year decline in over 20 years. Moreover, ethanol's share of the U.S. gasoline pool, referred to as the "blend rate," also fell for the first time since comparable statistics became available in 2009.

Ethanol consumption in 2018 was far below expectations at the start of the year. In its *Short-Term Energy Outlook* published in January, the U.S. Energy Information Administration's (EIA) forecasts of ethanol and gasoline consumption implied a blend rate of 10.26 percent for 2018, representing a continuation of the consistent growth that had occurred in prior years. Had this blend rate been achieved, 276 million gallons more ethanol would have been used in 2018 than occurred, given the actual level of gasoline consumption. The situation would have been worse if ethanol prices had not fallen to a steep discount to gasoline prices for most of the year as the market adjusted to the reduction in demand.

The demand destruction that has occurred has negatively impacted the ethanol industry. Since the widespread granting of exemptions began, three ethanol production facilities have closed permanently and another 15 have been idled. This has affected more than 3,400 jobs and more than 350 million bushels of corn on an annualized basis. In addition to the plants that have been idled or closed, many more have been running well below capacity.

Given the widespread granting of exemptions for each of the last three compliance years and the associated demand destruction for these small entities, the EPA should consider the impact of its RFS rulemakings on farmers. Failure to enforce the standards as intended is resulting in economic harm for farmers and other small businesses involved in the ethanol production supply chain. Without a doubt, EPA's inexplicable abuse of its small refinery

---

[3] *See* EPA, *RFS Small Refinery Exemptions*, https://www.epa.gov/fuelsregistration-reporting-and-compliance-help/rfs-small-refinery-exemptions (last visited August 25, 2019).

waiver authority needs to be reevaluated given the significant impact such demand destruction is having on small family farmers and farmer-owned ethanol plants.

Sincerely,

Geoff Cooper

Geoff Cooper, President and CEO