TESTIMONY OF GEOFF COOPER
PRESIDENT AND CHIEF EXECUTIVE OFFICER
RENEWABLE FUELS ASSOCIATION

U.S. ENVIRONMENTAL PROTECTION AGENCY
PUBLIC HEARING
RE: PROPOSED RULE FOR 2020 RENEWABLE VOLUME OBLIGATIONS,
SUPPLEMENTAL NOTICE OF PROPOSED RULEMAKING
(DOCKET No. EPA-HQ-OAR-2019-0136)

YPSILANTI, MICHIGAN
OCTOBER 30, 2019

Good morning. My name is Geoff Cooper, and I am the President and CEO of the Renewable Fuels Association (RFA), the nation's leading trade association representing fuel ethanol producers. I appreciate the opportunity to comment on EPA's recent Supplemental Proposed Rule intending to codify President Trump's directive to address shortcomings of the Agency's implementation of its small refinery exemption authority.

Sadly, however, this proposal fails to reflect the letter and spirit of the President's commitment to restore integrity to the RFS; fails to assure that the statutorily-required 15-billion-gallon level for conventional biofuels will be met; and, fails to restore stability in the marketplace by definitively ending the practice of allowing small refinery exemptions from eroding RFS biofuel demand.

That said, we DO appreciate that EPA has recognized the harm its current implementation of its small refinery exemption authority has had on biofuel producers, farmers and consumers.

The effect of the 2016-2018 retroactive exemptions on required renewable fuel blending volumes is substantial. Cumulatively, the 85 exemptions reduced 2016-2018 RFS blending requirements by a total of 4.04 billion gallons, or 1.35 billion gallons annually (a six-fold increase from the annual average of 0.23 billion gallons from 2013-2015). In 2017 alone, the exemptions effectively reduced the total RFS volume by 9.4% from the level specified in the 2017 final RVO rule. As a consequence, surplus RINs flooded the market, ethanol prices cratered, and for the first time in 20 years year-over-year ethanol consumption dropped.

In response to sustained weak or negative margins, ethanol plants have been forced to idle or shut down permanently. Since the spring of 2018—when the public began to recognize EPA's massive expansion of the SRE program—at least 19 ethanol plants with combined production capacity of about 1.1 billion gallons have temporarily idled production or permanently closed. That costs jobs at those facilities and across industries providing goods and services to the industry, impacts the supply and cost of animal feed, reduces the supply of low-cost biodiesel feedstock, and reduces the supply of low-cost, clean, biogenic carbon dioxide.

The RFA does not oppose the granting of small refiner waivers to any company that can demonstrate it is being harmed by the RFS. We do believe this is a high bar, however, particularly as RIN prices have fallen precipitously and EPA itself has concluded the cost of RIN compliance is recovered in the market. Indeed, we believe it highly unlikely any company is being negatively impacted by the RFS today.

Nonetheless, Congress intended its biofuel requirement to continue to grow even as small refinery waivers were granted by allowing EPA to offset SREs with a projection of exempted gasoline and diesel volume in its RVO calculation. Indeed, EPA did just that every year prior to 2013—ensuring that the volumes specified in the final RVO rule were fully enforced.

Unfortunately, the proposed supplemental rule deviates from past practice by proposing to base its estimates of the gasoline and diesel that would be exempted in 2020 on the historical recommendations for exempted volumes it received from the Department of Energy (DOE), rather than the *actual* exemptions it granted.

The problem with this proposal is that EPA has *seldom* followed DOE's recommendations in deciding SRE petitions. For the 2016-2018 compliance years, DOE on average recommended that 7.3 billion gallons of gasoline and diesel be exempted from RFS obligations, but EPA actually exempted an average of 12.8 billion gallons – 75% more.

If the EPA had included in the supplemental proposal any mechanism to ensure that it follows DOE recommendations, the proposal might be viewed as a serious attempt to address the SRE issue. However, EPA says only, "… we propose to adopt this interpretation of the statute, under which EPA has the authority to grant a partial exemption to a small refinery under *appropriate circumstances*." It does not state what "appropriate circumstances" would be, and the flexibility the Agency leaves itself means the fox will continue guarding the henhouse, as has been the case for the last two years.

In short, the supplemental proposal fails to provide the necessary assurances that the statutorily required volume of 15 billion gallons of conventional renewable fuel will actually be enforced in full in 2020 and beyond. We look forward to expanding on these concerns in our written comments and I welcome any questions.

Thank you.