Last night, the Governors of Texas, Wyoming, Oklahoma, and Utah joined the Governor of Louisiana in requesting that EPA exercise its general waiver authority to reduce Renewable Fuel Standard obligations to prevent severe economic harm to their states. AFPM fully supports these leaders and appreciates their advocacy on behalf of their constituents and our industry.

The governors' requests follow the release of the U.S. Energy Information Administration's *Weekly Petroleum Status Report*, which reported that refinery utilization has dipped below 70% as gasoline demand is down 50% and jet fuel demand is down 72% following widespread travel restrictions and stay-at-home orders due to the COVID-19 pandemic. Although it varies by refinery, generally facilities must shutdown completely when they reach 60-65% utilization because it becomes infeasible to keep the complex systems of units running.

In other words, we are at a point now where costs must be minimized to keep these vital national security assets operating.

Predictably, several biofuel organizations have reacted in the press as if reducing a massive federal government mandate to protect jobs during a global pandemic is somehow out of line. There is no shortage of false claims, but we thought it worth responding to a few of the most common misconceptions:

1. **Despite the drop in transportation fuel demand, there remains a need for a waiver.** Some biofuel groups are claiming that because the 2020 mandate is already a percentage standard, the obligation automatically falls when demand does. Unfortunately, refiners must still purchase RINs – often from unobligated parties – in order to comply with their RFS obligation. This is a multi-billion-dollar compliance obligation. The capital spent to comply with RFS mandates would be better spent on retaining employees and continuing operations of these critical assets. Second, the massive drop in U.S. gasoline demand and more modest decline in diesel demand will create compliance challenges that have never occurred across the entire sector. This waiver request will provide refiners with more flexibility to navigate these unprecedented challenges.

2. **Refiners are harmed by compliance costs, particularly in today's economic environment.** Some biofuel groups are claiming that refiners can simply recoup RIN costs and are therefore unharmed by compliance costs. Although some companies have said that they are able to recover their RIN costs in a typical market, other refiners report they cannot. These market dynamics vary at the local level, but what doesn't change is that the refining industry is highly competitive and it is often difficult to recoup costs. Regardless, in today's market with an enormous oversupply of gasoline and negative gasoline margins, it would be a mistake to assume that any typical economic behavior in the RIN market holds true today.

3. **EPA has the authority to grant these waiver requests.** Several biofuel groups claim that EPA cannot legally grant a waiver because the RFS is not the sole cause of "severe economic harm."

These claims are overreading previous decisions and ignore the unprecedented situation refiners are facing today. The statute says that EPA may waive the RFS if "implementation of the requirement would severely harm the economy or environment of a state, a region, or the United States…" This language clearly allows for a waiver where implementation of the RFS would be the proverbial straw that breaks the camel's back. The refining sector is under immense economic pressure right now, with many refineries dealing with liquidity and other market challenges. Enforcing a multi-billion compliance obligation is the last thing refineries need.

4. **Refiners are not "stealing markets" from biofuel producers by requesting a waiver from a mandate that we use their products.** At least one ethanol group claims that they are offended refiners are trying to "steal markets" from biofuel producers. To be clear, the RFS compels refiners to use certain amounts of biofuels whether they are economic or not. Relief from this massive federal government mandate can hardly be called "stealing."

   Second, the relief the governors are seeking is to reduce compliance costs, not ethanol blending. Even if refiners wished to make more ethanol-free gasoline, there are major obstacles to providing more to the market. Refiners make blendstocks for oxygenated blending (or "BOB") that are formulated to be blended with ethanol. To sell more ethanol free gasoline would require segregated pipeline space, separate tankage at terminals, and a way to make on-spec E0 that complies with all air quality regulations. In other words, it is unlikely that any waiver will mean ethanol demand falls much below the general 10% standard at most retail stations. Again, this is about reducing compliance costs, not physical blending.

   Finally, it is worth reminding that significant portions of the RFS are being met with imported biofuels. In fact, 22% of 2020 RIN generation for the advanced biofuel portion of the mandate is being met with imported fuel. AFPM does not support protectionist measures, but it makes little sense to maintain high mandates that necessitate imports while many U.S. refineries are on the brink of shutting down.

5. **EPA is not granting an "illegal waiver" by implementing the statute as it is written and as it has been implemented since 2010.** One ethanol organization is claiming that because EPA translates volumetric obligations to percentage standards, it is somehow granting refiners an "illegal waiver." This statement reflects a misunderstanding of the statute and the implementing regulations. The statute requires EPA to translate volumes into a percentage standard by November 30th of the year preceding the obligation.

AFPM recognizes that all aspects of the economy are under enormous strain right now. We continue to believe we are stronger together as liquid fuels providers and we support long-term solutions that can benefit both refiners and biofuel producers. But we will not sit by and allow refineries to shut down as the ethanol industry twists facts to support its belief that it is entitled to more.

The Governors are doing the right thing for their states, and we look forward to working with the Administration to find relief from these mandates.

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