



# State of New Mexico

Susana Martinez  
Governor

November 22, 2017

Administrator Scott Pruitt  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460

**RE: Petition for Waiver Under CAA Section 211(o)(7)(A)**

Dear Administrator Pruitt:

Please accept this petition under section 211(o)(7)(A) of the Clean Air Act. Pursuant to this provision, you are authorized to avoid the risk of severe economic harm to a state, a region, or the entire Nation arising from the requirements imposed by the renewable fuel standard ("RFS"). Under the RFS, New Mexico's refiners and consumers are being harmed by the renewable volume obligations ("RVO") imposed under the RFS. EPA can resolve the harm by lowering the total RVO to a level that would remedy the risk of economic harm to New Mexico.

As you are well aware, New Mexico plays a critical role in the fabric of our Nation's energy security. The energy economy in our state spans the full life-cycle of petroleum. This year, New Mexico is on pace to be the 5<sup>th</sup> largest producer of crude oil in the nation. As evidenced by recent activity, the premium resource play in our portion of the Permian Basin remains highly attractive acreage – and we look forward to our role in helping this country reach for greater energy security. Additionally, our petroleum infrastructure includes critical pipeline and refining assets that help fuel and distribute product not just to New Mexicans but millions of residents in the Southwestern region of the U.S.

Each of the petroleum refiners in New Mexico are independent refineries, or not integrated into crude oil production and downstream retailing. Compliance with the RFS program disproportionately and adversely impacts independent refiners like these due to limited biofuel blending abilities. This impact from the RFS syphons off funds via steep compliance costs that would otherwise be spent on additional jobs and capital projects to improve the safety and infrastructure needs of New Mexico.

After reviewing the proposed 2018 RVO, I find that EPA has not sufficiently accounted for the severe economic impact the proposed volumes will have on my state and the residents of New Mexico. Based on my experience as Governor, I believe it is imperative that EPA use its waiver authority and reduce the volumes required for 2018 to ensure the harm caused by the RFS comes to an end. This will help our state's economy continue to grow and prosper.

If EPA fails to employ its waiver authority to lower obligated volumes, the people of New Mexico are very likely to pay more at the pump — between 15 and 45 cents per gallon, according to the Congressional Budget Office.

Additionally, the potential diesel supply impacts of the RFS are relevant given recent trade deliberations. In response to U.S. considerations to impose new tariffs on imported biodiesel, major supplier Argentina has threatened to block biodiesel exports to the U.S. The RFS mandates refiners must demonstrate that 2 billion gallons of biodiesel are blended into the nation's fuel supply this year and 2.1 billion gallons in 2018. However, EIA indicates domestic producers are only on track to produce 1.6 billion gallons. If either new tariffs are imposed or Argentina blocks exports to the U.S., there could be a shortage of biodiesel necessary to meet the mandate, resulting in soaring RIN, biodiesel and diesel prices that will severely harm our region and the country as a whole. In New Mexico diesel supply is critically important for our agricultural and mining industries — each of which operate in thin margin, commodity priced businesses that are sensitive to any price fluctuations.

Simply put, the RFS is effectively a tax on refiners and consumers in my state. Setting the 2018 RVO at EPA's proposed levels will take capital away from New Mexico companies that could otherwise be deployed to increase our own energy domestic production and fuels manufacturing.

For these reasons, I request that you utilize your waiver authority pursuant to Section 211(o)(7) of the CAA to the State of New Mexico by reducing the total RVO to a level that would remedy the harm to New Mexico and any other states similarly impacted. In our view, granting a waiver is not only prudent but necessary, and a failure to do so would impose severe and unnecessary economic harm on New Mexico.

Thank you for your consideration of this request.

Sincerely,



Susana Martinez  
Governor