

OFFICE OF THE GOVERNOR  
STATE OF MONTANA

GREG GIANFORTE  
GOVERNOR



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LT. GOVERNOR

August 26, 2021

The Honorable Michael Regan  
Administrator  
US Environmental Protection Agency  
1200 Pennsylvania Avenue NW  
Washington D.C. 20460

Dear Administrator Regan:

On behalf of the State of Montana, I formally petition for a waiver of the renewable volume obligation (RVO) under the federal Renewable Fuel Standard (RFS) as authorized under Section 211(o)(7) of the Clean Air Act (CAA) (42 U.S.C. §7545(o)(7)) and as amended by the Energy Independence and Security Act of 2007. Under this provision, the U.S. Environmental Protection Agency (EPA) may waive the RVO requirements in their entirety where implementation would severely harm the economy of a State. The EPA must assess the current economic condition of the refining sector and determine whether the implementation of the RFS, including both the RVO and the acquisition of any necessary RINs, presents a clear threat to the economic health of the refining industry. The EPA may grant waivers under the cited provision based upon this analysis. The deadline for the 2021 RVO was November 30, 2020, and as of today there has been no action by the EPA to release those numbers, causing significant uncertainty regarding the costs of compliance.

The current economic condition of the refining sector is dire. Data from June 2021 illustrates the economic harm from historically high RIN costs.<sup>1</sup> In some cases, monthly refinery compliance costs are four times the average. These RIN costs, compounded by the uncertainty caused by the still unreleased 2021 RVO, is resulting in severe economic harm to Montana refineries. The current economic condition of the industry is well-documented and easily distinguished from previously denied state waiver requests.

In addition, the RVO must take into consideration the large decrease in fuel demand due to the economic impact of COVID-19. A stable RFS program and a functional RIN market must be based on the realities of today's economy, and the last 18 months has seen a dramatic decrease in fuel consumption. Failure to appropriately consider this will leave obligated parties in the untenable position of having to comply with an inflated RIN market and an unreasonable RVO.

In the United States, the petroleum refinery sector supports over 82,000 jobs directly and hundreds of thousands more indirectly. These good-paying refinery jobs are critical to

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<sup>1</sup>*Agricultural feedstock costs drive RIN prices to all-time highs*, Today in Energy. U.S. Energy Information Administration, June 2, 2021. (available at: <https://www.eia.gov/todayinenergy/detail.php?id=48196>).

sustaining the economic foundation of Montana and communities nationwide. Refineries in rural communities provide high paying skilled jobs, municipal tax revenues, spinoff employment to many other small local businesses, as well as a source of fuel that would otherwise be provided at higher cost by major producers.

Therefore, for the reasons stated above, I petition for a waiver of the RVO under the RFS consistent with Section 211(o)(7) of CAA.

Sincerely,



Greg Gianforte  
Governor