Utah Petroleum Association
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FUELING UTAH'S GROWTH & PROSPERITY

January 14, 2022

Environmental Protection Agency
Attn: Mr. Joseph Goffman
Principal Deputy Assistant Administrator
Office of Air and Radiation

Docket No. EPA–HQ–OAR–2021–0566 - Notice of Opportunity to Comment on Proposed Denial of Petitions for Small Refinery Exemptions

Dear Mr. Goffman,

We are writing today to ask that the Environmental Protection Agency (EPA) immediately reject the proposal to deny all pending small refinery exemptions. America's refining sector today faces a critical crossroads in the wake of COVID-related demand suppression for fuel products coupled with the long-term uncertainty created by the unpredictable and potentially staggering costs related to the Renewable Fuel Standard's tradeable credits program.

Small refinery exemptions (SREs) provide a critical lifeline to America's most vulnerable small refineries—many of which are located in geographically isolated fuel markets such as Utah—while helping contain the price volatility of the tradeable compliance credits, known as Renewable Identification Numbers (RINs), that underpin the Renewable Fuel Standard.

The Utah Petroleum Association (UPA) is comprised of companies from every segment of the petroleum industry that work cooperatively for the advancement and improvement of the oil and gas industry in Utah. UPA was founded in 1958 and continues today as the voice of Utah's oil and natural gas industries.

Utah is home to multiple refineries that are disproportionately harmed by the Renewable Fuel Standard (RFS). Utah's refining industry employs nearly 1,300 individuals, many of which are represented by organized labor, and contributes $7.4 billion dollars to the Utah economy each year. Utah's refineries serve particularly isolated Mountain West markets that are highly sensitive to price spikes. If any one facility were to become uneconomic and close as a result of the burden created by the RFS, it could generate severe consequences to prices at the pump in markets they have served for decades, while potentially placing longstanding refinery jobs at risk.

Price volatility in the tradeable RINs market has created a significant burden to U.S. refineries, a number of which are forced to pay more today to acquire compliance credits than they spend on payroll. Lower RIN prices would help our Utah refineries undertake capital projects that could increase efficiency, help reduce GHG emissions, or produce lower carbon fuels. In contrast, higher RIN prices have exactly the opposite effect, straining the ability of refineries to remain economic.

The refining jobs placed at risk by the needlessly high-priced RINs market are among Utah's most highly compensated union positions. Yet Utah's refineries are among the country's most vulnerable assets due to their geographic location, size, cold weather temperatures, and other factors beyond their control. Many Utah refineries are forced to buy RINs on an open market that has become more unpredictable each year. In January 2020, RINs traded near 20 cents, jumping to nearly $1.90 cents, a historic high, during 2021. Navigating such massive price spikes in a market that refineries are essentially forced to participate in only exacerbates the significant challenges that Utah's refining sector already faces.

According to the Wall Street Journal, RINs represent a 30 cent per gallon tax on gasoline, an added cost that is higher than the federal gas tax. Yet the revenue generated by RINs—and borne by the refining sector—does not flow to the U.S. taxpayer or help support priorities such as new roads or bridges. Instead, it flows to parties who speculate in the RINs market and profit from trading the credits at the cost of gasoline consumers and refinery workers alike.

During debate over the Renewable Fuel Standard, Congress rightfully provided a "relief" valve via the SRE petition process should the RFS begin to cause economic harm to smaller refiners. Both Congress and the Supreme Court have found that EPA has the authority to provide that hardship relief. Democratic and Republican administrations alike have granted hardship relief to refiners. The EPA must follow suit and reject its ill-conceived proposal to deny all pending small refinery exemptions.

Indeed, the most alarming section of EPA's proposal is the notion that the agency can go back in time and retroactively deny previously granted hardship relief. UPA strongly opposes both retroactive government policy actions and an agency disregarding Congressional intent via administrative rulemaking that lacks legislative oversight or guidance.

The alternative path is clear: EPA has the ability to restore certainty to America's refining sector before vulnerable facilities in Utah and other states lose the ability to remain economic. The agency could grant immediate relief to refiners and consumers alike by withdrawing its proposal to deny all pending SREs, acting instead on its authority under the Clean Air Act to approve SRE petitions. Such an action would lower RIN prices and help balance the fuel price market, with direct benefit to U.S. consumers.

In November 2021, President Biden stated: "I will do what needs to be done to reduce the price you pay at the pump — from the middle-class and working families that are spending much too much, and it's a strain. And they're – you're the reason I was sent here: to look out for you."

A decision to deny SREs would do the opposite of looking out for working families in Utah. It would instead cause a higher priced market for RINs that adds to the burdens of refiners, increase the likelihood of high prices at the pump for consumers, and send a clear signal to Utah's refinery workers that their livelihoods are not a priority in Washington, DC.

We urge EPA to revise the proposed obligations for 2022 to meet actual domestic biofuels production and reject the proposal to deny pending and past small refinery petitions.

Sincerely,

Rikki Hrenko-Browning
President