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GrowthEnergy.org

April 4, 2018

The Honorable Scott Pruitt
Administrator
Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Dear Administrator Pruitt:

On behalf of Growth Energy's 90 biofuel production facilities, we are gravely concerned about troubling reports that the Environmental Protection Agency (EPA) is issuing Renewable Fuel Standard (RFS) small refinery 'hardship' waivers to an unprecedented number of refiners, many of which are neither small nor experiencing economic hardship. If true, exempting these profitable refiners from RFS volume obligations in this manner undermines the RFS and wholly contradicts your pledge to Congress to uphold the law and administer it consistent with Congressional intent.

We request EPA immediately cease issuing waivers and pause any waiver applications being considered under section 211(o)(9) of the Clean Air Act until the agency conducts a full, transparent public comment process to help assure all stakeholders that the new expansion of small refinery waivers is consistent with the goals of the RFS.

Reports made public yesterday indicate EPA has decided to award small refinery waivers to virtually any interested petroleum refining entity that processes less than 75,000 barrels of oil a day, regardless of whether that entity is part of a business with a much larger overall refining capacity or truly struggling to access a supply of biofuels to blend. The liberal use of these waivers is not the intent of the provision nor is it consistent with past application, which was applied narrowly to only a few refining entities. The current reported use of this provision has expanded far beyond what was intended by Congress, and some estimates indicate these actions would effectively cut ethanol demand by 1.5 billion gallons, resulting in a reduction of more than 500 million bushels of corn demand. This would be catastrophic to a farm economy already under significant financial stress.

Equally concerning is that EPA appears to be operating under the cover of night in a secretive process where the agency acts as judge, jury, and executioner to effectively reduce the overall demand for biofuels in this country absent any public discourse. Furthermore, EPA did this while influencing White House-led discussions aimed at bridging the gap between merchant refiners and biofuels producers. These decisions appear to be timed so they do not require disclosure in the yearly RFS Renewable Volume Obligation (RVO) rulemaking process, adding further suspicion that the EPA is pressing its thumb on the scale to grow oil industry profits.

In addition to our request that EPA stop issuing waivers and pause any waiver applications currently under review, we ask that you provide public details of the following:

1. The number of refineries that have applied for this waiver every year since the RFS rules were finalized in 2010 and the aggregate refinery capacity of these requests,
2. The number of refineries that have been granted this waiver every year since the RFS rules were finalized in 2010 and the aggregate refinery capacity of these granted waivers,
3. Clarity on EPA's plans to replace the gallons lost when providing these waivers,
4. Assurances that the timing of these decisions is not intended to shroud the process in secrecy and prevent stakeholders from commenting about lost gallons through the annual RFS rulemaking process, and
5. A pledge to make such a financially impactful process open to public scrutiny rather than withholding all information regarding these waivers.

We look forward to your response, and would be happy to discuss this issue with you at your earliest convenience.

Sincerely,

A handwritten signature in black ink, appearing to read "Emily Skor".

Emily Skor, CEO
Growth Energy