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February 18, 2021

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

**Re: Notice of Receipt of Petitions for a Waiver of the 2019 and 2020 Renewable Fuel Standards; Docket ID No. EPA–HQ–OAR–2020–0322; FRL–10011–04–OAR**

PBF Energy Inc. ("PBF") respectfully submits these comments in response to the Environmental Protection Agency's ("EPA") request for comment regarding Petitions for a Waiver of the 2019 and 2020 Renewable Fuel Standards (EPA–HQ–OAR–2020–0322; FRL–10011–04–OAR) (the "Waiver Petitions"). PBF is a member of the American Fuel & Petrochemical Manufacturers ("AFPM") and incorporates by reference into its comments herein AFPM's comments dated February 2, 2018 (the "AFPM comment letter"). PBF's comments herein are intended to complement and emphasize those raised in the AFPM comment letter and its previously submitted comments. In addition, PBF's comments specifically address relevant issues from the unique perspective of PBF as a merchant refiner.

PBF is an independent petroleum refiner and supplier of unbranded transportation fuels, heating oil, petrochemical feedstocks, lubricants, and other petroleum products in the United States. The company currently owns and operates six domestic oil refineries in five states – Ohio, Delaware, New Jersey, Louisiana and California - and related logistics assets with a combined processing capacity of approximately one million barrels per day. PBF employs more than 4,000 people nationally. As one of the largest U.S. merchant refiners - with the most East Coast refining capacity - the Renewable Fuel Standard ("RFS") has a significant, negative impact on PBF. The adverse impact of skyrocketing Renewable Identification Numbers ("RINs") costs is now particularly acute as refiners are struggling to emerge from the massive fuel demand destruction attributable to the COVID-19 pandemic.

## I. Exorbitant RIN prices, due exclusively to EPA's implementation of the RFS, risk severely harming the national economy, with a disproportionate impact on refining communities.

The RFS enables EPA to waive the RFS requirement, in whole or in part, if implementation of the requirement, "…would severely harm the economy or environment of a State, a region, or the United States…."[1] PBF agrees with the AFPM comment letter's assertion that EPA has historically applied an erroneous interpretation of the severe economic harm waiver authority that invalidates the statutory provision itself.[2] EPA has an obligation to assess the impact of implementing the RFS in concert with the macroeconomic circumstances of the time. The massive surge in RINs costs over the last year, as all commodities plummeted in concert with demand destruction, has resulted in refiners' losing billions of dollars. This situation has greatly contributed to refiners' financial plight and is now almost singly handedly putting additional U.S. refining capacity at risk.

[1] 42 U.S.C. § 7545(o)(7)(A)(i).
[2] *See* AFPM Comment Letter, Docket No. EPA–HQ–OAR–2020–0322; FRL–10011–04–OAR.

*A. The unprecedented demand destruction from the COVID19 epidemic wreaked havoc on the U.S. refining sector.*

As the AFPM Comment Letter notes, there was a greater than 20-billion gallon decrease in transportation fuel demand last year compared to 2019,[3] which forced refiners to take drastic measures to stay in business. Refinery utilization dropped approximately 30 percent in the face of the unprecedented transportation fuel demand decreases and remained well below the rolling five year average for the balance of the year.[4] With such massive demand destruction and uncertainty over the long term impacts, many refiners were forced to make the difficult decision of permanently shutting down plants and capacity. As shown in the table below, last year alone, eight American refineries closed or announced closure, resulting in almost 900,000 barrels per day (or over 13.5 billion gallons per year) of permanent, lost refining capacity and the elimination of over 3,000 direct jobs.

| Company | Location | Refining Barrels Per Day (BPD) | Full Time Refining Jobs Lost |
|---|---|---|---|
| Phillips 66 | Rodeo, CA | 140,000 | 650 |
| Phillips 66 | Santa Maria, CA | 44,500 | 140 |
| Marathon | Martinez, CA | 161,000 | 740 |
| Marathon | Gallup, NM | 26,000 | 220 |
| HollyFrontier | Cheyenne, WY | 52,000 | 280 |
| Shell | Covent, LA | 240,000 | 700 |
| PBF | Paulsboro, NJ | 85,000 | 250 |
| Calcasieu | Lake Charles, LA | 135,500 | 69 |
| | **TOTALS** | 884,000 | 3049 |
| | | | |
| | **GALLONS** | 13,551,720,000.00 | |

The AFPM Comment Letter notes that each refining job supports as many as 25 other jobs,[5] which means actual job losses from these closures could be as high as 76,000. The adverse impacts of refinery closures on regions, states and the nation at large are well documented. For example, the closure of the Philadelphia Energy Solutions (PES) refinery in 2019 was estimated to have cost the regional economy at least $10 billion.[6] The AFPM Comment Letter effectively quantifies the economic contributions of the refineries in the states that have requested national RFS waivers on the basis of severe economic harm and, thus, the economic hit these states and the nation would take were RFS compliance costs to result in additional refining closures.

The potential for severe economic harm attributable to RFS-driven refinery closures extends well beyond the states that have requested waivers. Merchant refiners in several other states that contribute billions to regional, state and the national economy are also at risk. PBF's refineries provide just a few

[3] *Ibid*.
[4] U.S. Energy Information Administration (EIA). "U.S. refiner runs remain lower than the five-year average." *Today In Energy*. November 9, 2020. Available at: https://www.eia.gov/todayinenergy/detail.php?id=45816.
[5] *See* AFPM Comment Letter, Docket No. EPA–HQ–OAR–2020–0322; FRL–10011–04–OAR.
[6] Carey, Kathleen E. "'Absolutely Devastating': Refinery closure takes toll on workers, region." Delaware County Times. June 30, 2019. Available at: https://www.delcotimes.com/news/local/absolutely-devastating-refinery-closure-takes-toll-on-workers-region/article_89a42a8a-990c-11e9-a027-67de2b3e73bb.html.

examples. First Energy noted the company's Toledo Refinery contributes $5.2 billion annually in direct and indirect economic benefit to Northwest Ohio. The Delaware City refinery was previously estimated to create nearly $400 million in direct, annual economic value to Delaware, which is equivalent to one percent of the state's economy. PBF's California refineries collectively generate well over $500 million in direct economic benefit for their respective regions.[7]

*B. Skyrocketing RIN costs significantly contributed to the severe economic harm refiners experienced in the COVID-19 demand environment and continue contributing to such harm in today's economic climate.*

COVID-19 related demand destruction has led to multibillion-dollar losses for the refining sector in 2020. Of the independent refiners reporting full year 2020 financial results thus far, Marathon Petroleum, Phillips 66, and Valero reported an annual losses of $12.2 *billion*, $4 *billion*, and $1.4 *billion*, respectively.[8] PBF also reported a loss of $1.4 *billion* in 2020[9]. RINs costs contributed significantly to the industry's losses, particularly in relation to merchant refiners that cannot generate RINs through large scale wholesale blending or retail operations, and thus, are dependent on purchasing RINs for RFS compliance.

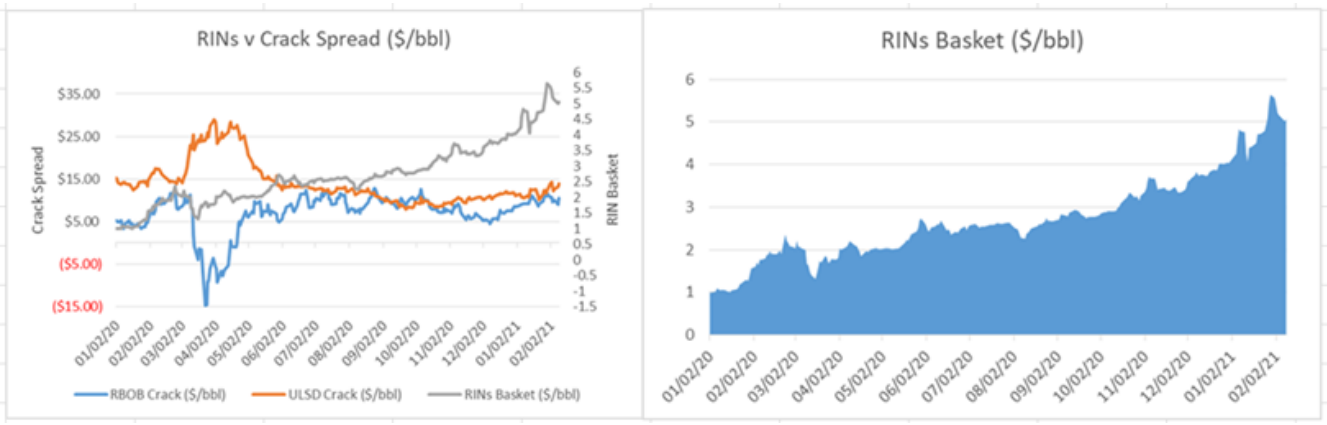
As fuel demand destruction increased and commodities plummeted throughout 2020, RINs prices skyrocketed. As shown in the charts below, the "RIN basket," or the price of all RINs refiners must obtain for RFS compliance, ***rose over 500 percent on the year***, with the ***conventional biofuel RIN (D6) rising over 1,000 percent throughout 2020***. This occurred as refining crack spreads remained weak – and even turned negative at one point.[10]

[7] The economic contributions of PBF's Chalmette Refinery are included in the Louisiana data in AFPM's comments. It is one of two refineries in St. Bernard parish, which the Grow Louisiana Coalition noted collectively generate nearly $112 million in annual wages. *See* Table 6: https://growlouisianacoalition.com/wp-content/uploads/2018/04/2018-THE-ENERGY-SECTOR-STUDY_GROW-LOUISIANA-COALITION.pdf

[8] Earnings calls/releases from the noted companies. See Marathon Petroleum: https://s2.q4cdn.com/142437514/files/doc_news/MPC-Q4-2020-Earnings-Release-vFinal.pdf; Phillips 66: https://investor.phillips66.com/financial-information/news-releases/news-release-details/2021/Phillips-66-Reports-Fourth-Quarter-2020-Financial-Results/; Valero: https://investorvalero.com/news/news-details/2021/Valero-Energy-Reports-2020-Fourth-Quarter-and-Full-Year-Results-and-Declares-Regular-Cash-Dividend-on-Common-Stock/default.aspx

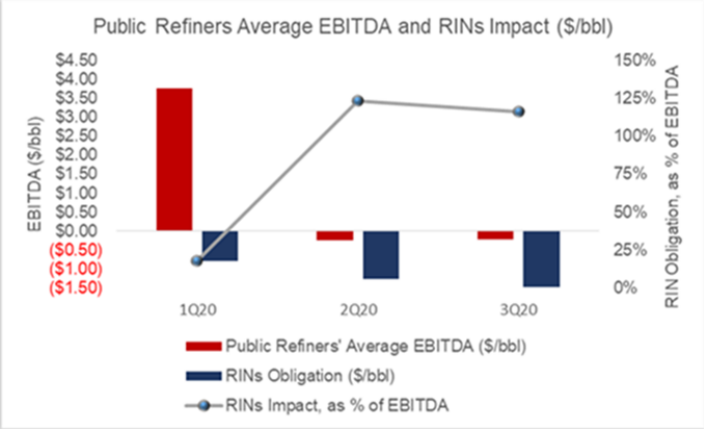
[9] https://investors.pbfenergy.com/news/2021/02-11-2021-113047580

[10] U.S. EIA. "Product crack spreads increase from recent lows but face uncertain demand, high inventories." *This Week In Petroleum.* July 22, 2020. Available at: https://www.eia.gov/petroleum/weekly/archive/2020/200722/includes/analysis_print.php; U.S. EIA. "Gasoline and diesel refining margins that diverged in March have moved closer together." *Today In Energy.* August 6, 2020. Available at: https://www.eia.gov/todayinenergy/detail.php?id=44656.




*Source: Argus*

PBF's $326 million in RIN expenses represents over 23 percent the value of its total annual loss. As shown in the chart below, an assessment of independent refining sector earnings before interest, taxes, depreciation and amortization (EBITDA) through three quarters of last year highlights the dollar per barrel cost of the D6 RIN obligations alone have been equivalent to over 125 percent of a representative sample of refining sector EBITDA:[11]




PBF has long noted that merchant refiners are unable to completely recover RINs costs.[12] This situation arises from a misaligned RFS point-of-obligation that benefits integrated refiners and large marketers that have no RFS obligation over merchant refiners.[13] Opponents of this view contend, "[t]he RIN is in the crack spread," which ignores the discounting from benchmark product prices that has to occur at the point of bulk sale so that merchant refiners can both access markets and compete with integrated competitors. However, those who contend, "the RIN is in the crack spread," fail to realize that

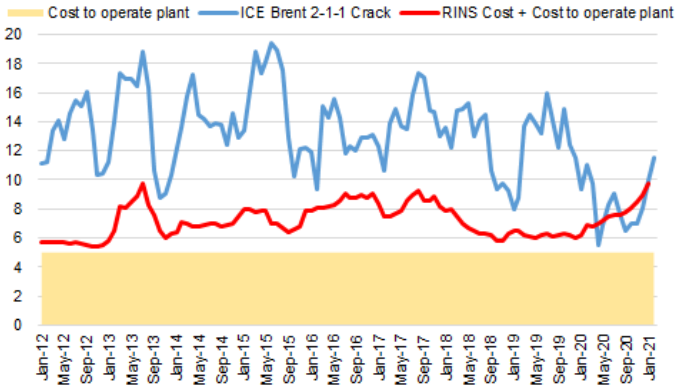
[11] Public Refiners group include publicly traded merchant refiners includes PBF Energy (PBF), Valero (VLO), Marathon Petroleum (MPC), Phillips 66 (PSX), HollyFrontier (HFC), CVR Energy (CVI). EBITDA/bbl is based on a throughput-weighted average across the companies. RIN Obligation Calculation: Assumes 75% of throughput are finished gasoline/diesel, a 10% RFS Renewable Volume Obligation (RVO), and D6 RIN charge as a rough proxy for the companies' RINs obligation. In other words, it represents the financial impact of D6 RIN costs alone.

[12] See PBF comment letter, Docket ID No. EPA-HQ-OAR-2016-0544.

[13] Ibid.

this metric only measures the difference between what refiners pay for crude and the price at which they can sell their products (gasoline and diesel). It does not take into account varying refiners' cost of production. Even if one assumes the RIN is in the crack spread, then RINs costs can add a large amount to the overall cost of production, which financially harms merchant refiners to the benefit of their integrated oil company competitors that receive revenue and value all throughout the supply chain – from the refinery to consumers' gas tank. In other words, RINs costs can make certain classes of refiners – merchant and small refiners – the marginal refiner, and become the exclusive contributor to whether or not they can remain financially viable.

Notably, the Monroe Energy's RFS Waiver Petition included a study detailing the adverse impact of RINs costs on East Coast refiners, even if one assumes "the RIN is in the crack."[14] As highlighted in the graph below, current refining market data reinforces these conclusions.




*Source: OPIS, ICE, NYMEX*[15]

To clarify, the crack spread is simply the difference between what refiners pay for crude and what they make for selling petroleum products based on benchmark prices. It does not take into account operational costs or cost of crude advantages certain refiners may have (or lack) due to geography, refinery complexity, and other unique factors. In the graph above, the Y-axis represents dollars-per-barrel cost, with the beige region, along the X-axis, representing the average estimate of the cost of operations for independent refiners, which is approximately $5/barrel. Note from the graph that when you add RINs prices on top of the average operating cost, the overall average cost to run a refinery exceeds the crack spread more often than not in 2020. This situation may not put integrated refiners at risk, since money they may lose on refining can be made up through wholesale or retail revenue.[16] In fact, integrated

[14] *See* Monroe Energy, LLC RFS Waiver Petition submitted to EPA under 42 U.S.C. § 7545(o)(7)(A)(i) on November 13, 2018.

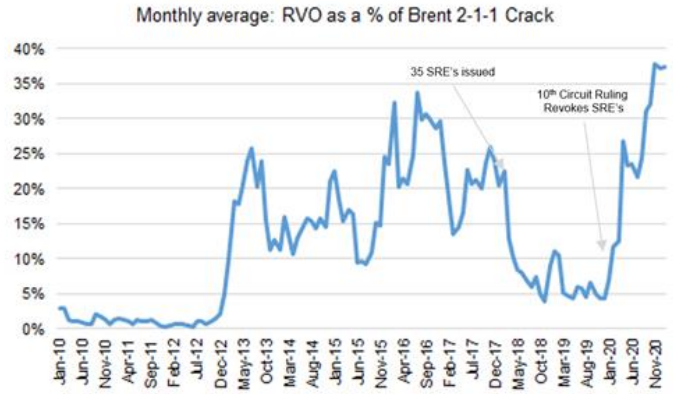
[15] Oil Price Information Service (OPIS), Intercontinental Exchange (ICE), New York Mercantile Exchange (NYMEX).

[16] On Phillips 66's fourth quarter 2020 earnings call, Phillips 66's management noted that while they feel the RIN was embedded in the crack, its refining margins experienced a negative $2/barrel impact from RINs obligations. *See:* https://seekingalpha.com/article/4402197-phillips-66s-psx-ceo-greg-garland-on-q4-2020-results-earnings-call-transcript. Furthermore, an OPIS article notes, "[w]hile RINs came up several times in the question-and-answer period, company executives described RINs as a headwind for refining and a tailwind in marketing. Because Phillips 66 blends and distributes the fuel through its marketing channels, it is able to capture the RIN." *See* Cinquegrana, Denton. "Phillips 66's Fourth Quarter Took Refining, Marketing Hits, Company Reports." OPIS. January 29, 2021.

refiners can actively chose to advance strategies that may disadvantage refining to the benefit of wholesale and retail operations if they feel doing so will enhance the profitability of the company as a whole (e.g., wholesale/retail gains will outweigh refining losses). Merchant refiners do not have this option. As a result, skyrocketing RINs costs in weak crack spread environments directly threaten their operations and financial viability.

It is also important to note that even in better crack spread environments over the last few years, RINs expenditures, which merchant refiners bear, provide integrated refiners that do not have to buy RINs anywhere from a $3 to $5 dollar per barrel cost advantage. Integrated refiners can use this unnatural, competitive cost advantage against their merchant competitors in the marketplace. This reality is highlighted in a 2019 Energy Ventures Analysis study.[17] The U.S. Department of Energy (DOE) also highlighted this situation in 2011. Both note the higher the RINs price, the greater the integrated refinery advantage, with DOE concluding, "…high RIN prices could significantly impair the profitability of non-blending small refineries."[18] [19]

In short, the higher the percentage of the crack RINs represent, the greater the disadvantage and profitability impairment for merchant refiners. As the following chart shows, the RINs prices have run up to the point where their value represents nearly 40 percent of the crack spread, greatly disadvantaging merchant refiners over their integrated competitors to the point where more refineries are at risk of closure, particularly given the current macroeconomic environment:




*Source: OPIS, ICE, NYMEX*

As previously stated, the AFPM Comment Letter effectively quantifies the economic contributions of the refineries in the states that have requested national RFS waivers on the basis of severe economic harm, and thus, the economic hit these states and the nation would take were RFS compliance costs to result in additional refining closures. It is also important to note continued implementation of the RFS

[17] *See* Energy Ventures Analysis. "An Assessment of the Renewable Fuel Standard Using EVA-NEMS." July 17, 2019. p. 24. Available at: https://www.evainc.com/wp-content/uploads/2019/07/EVA_RFS_REPORT-final.pdf.

[18] U.S. Department of Energy (DOE). "Small Refinery Exemption Study: An Investigation Into Disproportionate Economic Hardship." March, 2011. Appendix B. Available at: https://www.epa.gov/sites/production/files/2016-12/documents/small-refinery-exempt-study.pdf

[19] The same dynamic applies to all non-blending merchant refiners, although the impact is obviously larger for larger merchants.

could result in higher fuel prices, which would greatly contribute to the severe economic harm consumers are feeling nationally as they struggle to cope with the impacts of the COVID-19 pandemic.

The study Monroe submitted with its RFS Waiver Petition notes continued implementation of the RFS could result in a nearly four percent increase in consumer fuel prices.[20] It also highlights how refiners must rely on bio or renewable diesel RINs to comply with the RFS' conventional requirement, since EPA sets a percentage that exceeds the "blend wall,"[21] raising consumer costs significantly in the process. PBF has previously commented on how an overly aggressive RFS RVO serves to simply boost the amount of bio- or renewable diesel needed to comply with the conventional portion of the requirement at great cost to the consumer.[22] Such a trend continued with implementation of the 2020 RVO.

Given the significant fuel demand destruction attributable to the COVID-19 pandemic in 2020, EPA data indicates approximately 12.8 billion D6 RINs were generated that are available for RFS compliance (after taking into account retirements for factors other than demonstrating annual compliance).[23] After backing out biofuel consumption and taking into account EPA's failure to issue small refinery exemptions ("SREs"), multiplying the 2020 RVO percentage times gasoline and diesel demand for 2020 yields a total RINs requirement of over 18 billion RINs, with about 13.5 billion representing the de facto conventional biofuel mandate.[24] As a result, 2020 D6 available RINs falls about 623 million RINs short of the 2020 RVO requirement.[25] This significant gap will have to be made up with a combination of conventional RINs from the RIN bank and/or bio- and renewable diesel RINs over and above the advanced biofuel requirement. In fact, EPA data indicates that only 16.98 billion domestic RINs of all categories were generated for RFS compliance in 2020, with around 740 million RINs from foreign sources, most of which are associated with gallons of bio- or renewable diesel.[26]

The shortfall in overall 2020 RIN generation available for compliance, coupled with continued and massive reliance on expensive foreign bio- and renewable diesel and the risk skyrocketing RINs prices pose to American refinery operations are coalescing to create an environment likely to result in significant consumer fuel cost increases that themselves threaten to severely harm the nation's economy in an already tepid economic state due to the COVID-19 pandemic. Unfortunately, EPA has exacerbated the situation by setting an unnaturally high 2020 RVO premised on potential SREs that were never issued.[27] These facts provide evidence that failure to partially waive the 2020 RFS RVO will risk severe economic

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[20] *See* Monroe Energy, LLC RFS Waiver Petition submitted to EPA under 42 U.S.C. § 7545(o)(7)(A)(i) on November 13, 2018.

[21] Commonly understood to be the 10 percent ethanol concentration in gasoline that all engines and infrastructure were warranted to handle. RFS percentage requirements exceeding this limit cannot be met nationwide due to engine and infrastructure limitations, necessitating the use of more "advanced biofuel" to meet the conventional requirement. EPA has long noted bio and renewable diesel represent the overwhelming quantity of available "advanced biofuel" for RFS compliance.

[22] *See* PBF comment letter, Docket ID No. EPA-HQ-OAR-2019-0136; FRL–10001–36–OAR.

[23] EPA EMTS data. Available at: https://www.epa.gov/fuels-registration-reporting-and-compliance-help/public-data-renewable-fuel-standard

[24] 2020 EPA RFS final RVO (85 Fed. Reg. at 7016); EPA EMTS data. Available at: https://www.epa.gov/fuels-registration-reporting-and-compliance-help/public-data-renewable-fuel-standard; U.S. EIA. *Short Term Energy Outlook (STEO).* February 9, 2021. Available at: https://www.eia.gov/outlooks/steo/

[25] *Ibid.*

[26] *Ibid*.

[27] 85 Fed. Reg. at 7053.

harm to domestic refineries, the states and regions in which they are located and the national economy at large going forward as the country tries to emerge from COVID-19 pandemic.

*C. Several market observers indicate severe economic harm will continue if EPA fails to address runaway RIN costs.*

The U.S. refining sector is still distressed. EIA latest Short Term Energy Outlook (STEO) projects gasoline demand for 2021 will be up over last, but still fall about 380,000 barrels per day short of 2019 demand.[28] If one assumes a relatively flat 2021 RVO, RINs generation would still remain soft under such projections, which is likely one reason why RINs prices show no sign of subsiding.

Citi Research analysts recently said they feel the RINs price outlook this year was the, "most bullish in nearly half a decade," with their high RINs cost estimates pegged at $1.50 – an additional 50 percent increase over current astronomical prices. Citi attributes its forecast to projections of a tighter RINs bank and a belief that EPA will issue fewer, if any, SREs.[29] The same report also discusses the potential for "RIN hoarding" among RIN-long obligated parties and/or speculators.[30] Height Securities recently released analysis indicating the firm's belief that RINs were trading significantly above what fundamentals would dictate.[31] Additionally, a recent Bloomberg story about improving gasoline crack spreads quotes a financial analyst indicating merchant refiners may not see benefits from these improving margins due to RINs costs: [32]

> *"Also, some refineries might not be able to cash in on the improved margin because the cost of biofuels like ethanol has surged. Federally mandated standards dictate that a portion of gasoline contains a renewable fuel component. Some large refiners don't blend the components into their gasoline-blending is performed by others further down the supply chain- and are subsequently required to purchase biofuel credits.*
>
> *Those costs have risen across the last two months and can reduce the gasoline refining margin by at least $3 a barrel, according to Truist."*

These analyses reaffirm the need for EPA to partially waive the RFS to avoid the potential for additional refinery closures and the subsequent severe economic harm that will be imposed on refinery workers, related workers, consumers, and the broader American economy.

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[28] *See* U.S. EIA. *Short Term Energy Outlook*. February 9, 2021.

[29] Kloza, Tom. "Citi Research Very Bullish on RIN Price Appreciation." Oil Price Information Service (OPIS). February 12, 2021.

[30] *Ibid*.

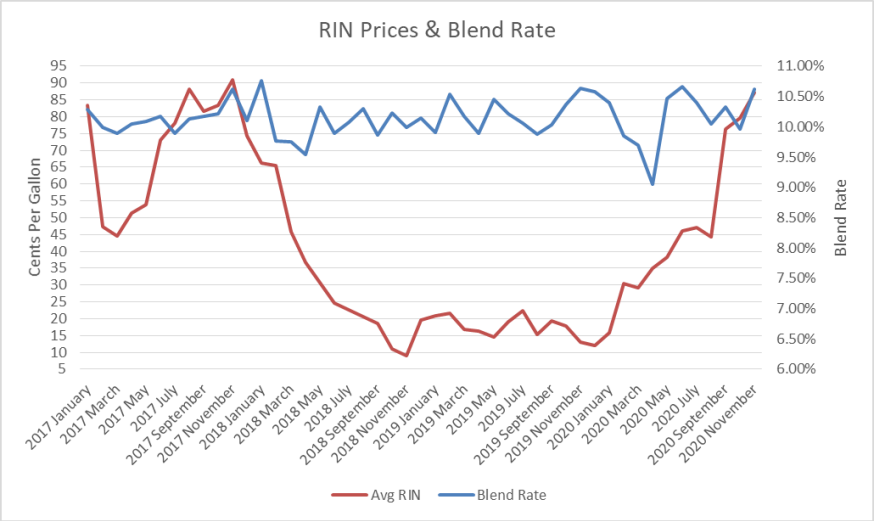
[31] Salisbury, Benjamin, and Price, Josh. "RIN Prices Are Overvalued Per VLO and For Once, We Agree." Height Commentary. January 29, 2021.

[32] Bair, Jeffrey. "Gasoline Profit Margins Rally as U.S. Refiners Ready for Summer." Bloomberg. January 12, 2021. Available at: https://www.bloomberg.com/news/articles/2021-01-12/gasoline-profit-margins-rally-as-u-s-refiners-ready-for-summer.

## II. Waiving the 2020 RFS requirement will have no adverse impact on American biofuel producers whatsoever.

Recent history shows there is literally no correlation between the RINs price, or even the RVO requirement, and ethanol blending. PBF has continuously highlighted this in its annual RVO comments.[33] Market data from 2020 continues to prove this reality. As the AFPM Comment Letter notes, ethanol is and will continue to be the most cost-effective octane booster for gasoline for the foreseeable future. Refiners do not even make "finished gasoline" in the traditional sense anymore; they make "blendstock for oxygenate blending" or "BOB" that must be mixed with ethanol before it can be delivered to consumers in the form of finished gasoline.

The chart below tracks the monthly ethanol blend rate over the average, monthly D6 RIN price over the last several years. The chart continues to show that there is no relationship between RINs price and biofuel blending.




*Source: OPIS, EIA Data*

Despite significant RINs price swings over the last several years, the blend rate has constantly hovered around the blend wall. The issuance of significantly more SREs from 2018 to 2019 significantly lowered RIN prices, ***without*** impacting the amount of ethanol blended into gasoline. While the blend rate was essentially unchanged from 2019 to 2020 (less than 0.07 percent difference), one could note that it was actually *slightly lower in 2020 despite continued, significant RINs price escalation throughout the year.* As PBF noted in previous comments, E15 sales increased continuously in 2018 and 2019.[34] Sales of the fuel remained robust compared to overall transportation fuels sales in 2020. Despite significant overall transportation fuel demand decreases – ranging from a 20 to 30 percent drop over several months – E15 sales in Minnesota (home to over a quarter of the stations selling E15 – by far a higher number than any

[33] See PBF comment letter, Docket ID No. EPA–HQ–OAR–2019–0136; FRL–9996–53–OAR.
[34] *Ibid*.

other state) only declined 5 percent below 2019 sales.[35] As with the national blend rate, one could argue even mid-level ethanol blends like E15 did slightly better in a low RINs price environment. Regardless, 2020 data continues to prove there is no relationship between RINs price and ethanol blending, and as such, biofuel producers would experience no harm were EPA to partially waive the RFS requirements.

In addition to RIN price and blending data, unlike refining, the ethanol sector ended up being profitable in 2020, despite the massive fuel demand decreases attributable to the COVID-19 pandemic. University of Illinois economist Scott Irwin notes that 2020 was the seventh profitable year out of the last eight for the ethanol industry, with the "range of ethanol production profits … quite similar to the range of profits the previous six years."[36] As refiners lost billions during the pandemic, ethanol turned a profit that mirrored that which it generated during six of the last ten years. This data not only shows that the ethanol industry is currently facing significantly less stress than the refining sector, but also that their profitability historically stabilizes at a similar range regardless of the RVO, RINs prices, or SREs.

A similar story can be told in relation to biodiesel. Iowa biodiesel producers produced their second highest volume ever, behind the record setting year 2018.[37] RINs prices were almost half 2020 levels in 2018.[38] Additionally, despite skyrocketing RINs prices, domestic producers still failed to manufacture enough bio and renewable diesel to meet the RFS requirements, necessitating continued reliance on foreign imports for compliance.

Finally, calendar year 2020 is over. Nobody can go back in time and generate more RINs to make up the previously noted significant shortfalls from the RVO requirement that materialized in 2020. Last year's blend wall will not move and bio and renewable diesel producers cannot go back and compensate for all the foreign biofuel the nation needed to import to meet an unachievable mandate. As a result, partially waiving the 2020 requirement can have no physical impact on biofuel producers. However, granting the Governors' waiver requests will certainly help alleviate the severe economic harm refiners are facing. Many small refiners may have forgone purchases on RINs based on financial hardship or consideration of their SRE requests. Some refiners may have deferred purchasing obligations given the financial state of the industry, while others that may have wanted to allocate RINs for carryover to support a healthy RIN bank may have forgone doing so given the massive RINs generation shortfall relative to the 2020 standard. These refiners may, in the face of having to purchase RINs they cannot afford, be forced to shut down more facilities. There really is no other option.

Granting the hardship waiver requests will ensure the RIN bank is not depleted and that merchant refiners can afford to comply with the RFS without shutting facilities down. It will also send an important signal to the market that EPA recognizes the RFS objectives can be met without risking American jobs, higher consumer fuel costs and domestically produced fuel supplies.

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[35] Minnesota Bio-fuels Association. "74.4 MILLION GALLONS OF E15 SOLD IN MN IN 2020." Blog Post. February 3, 2021. Available at: https://mnbiofuels.org/media-mba/blog/item/2995-74-4-million-gallons-of-e15-sold-in-mn-in-2020.

[36] Irwin, Scott. "Ethanol Production Profits in 2020: A Year Like No Other." farmdocDAILY blog. Available at: https://farmdocdaily.illinois.edu/2021/01/ethanol-production-profits-in-2020-a-year-like-no-other.html.

[37] Sapp, Maghan. "Iowa produced record biodiesel volumes in 2020 despite COVID-19." BiofuelsDigest. January 19,2021. Available at: https://www.biofuelsdigest.com/bdigest/2021/01/19/iowa-produced-record-biodiesel-volumes-in-2020-despite-covid-19/.

[38] OPIS RIN price data.

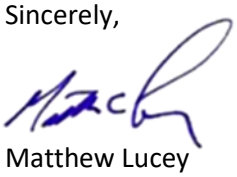
## III. In light of these facts, EPA should waive the 2020 conventional standard below the blend wall.

Governor Wolf and others requested that EPA waive the RFS de facto conventional biofuel requirement to a level representing 9.7 percent of gasoline demand to avoid breaching the "blend wall." PBF supports this position. As previously mentioned, the amount of RINs generated and available for compliance last year falls nearly 623 million RINs short of what is needed to meet the de facto conventional biofuel requirement.[39] Additionally, the 2020 total renewable fuel mandate requires more than half a billion RINs of all categories than were generated and available for the year. Waiving the standard to the level Governor Wolf suggested will send a signal to the market that there will not be a continuous drawdown of the RIN bank and lessen our reliance on more costly foreign biofuel for compliance. In doing so, such action will greatly alleviate the severe economic harm RIN costs are imposing on America's independent refiners.

## IV. EPA has a responsibility to protect America's energy security and economic recovery by recognizing the severe economic harm the RFS is imposing on the nation's independent fuel manufacturers. It has a responsibility to grant the hardship waiver petitions.

The unprecedented loss of life and livelihoods attributable to the COVID-19 pandemic will remain with Americans for years to come. In the face of such adversity, America's independent fuel manufacturers went to work every day last year. They worked tirelessly to ensure the products we needed to get through this historic and unprecedented crisis were there when Americans needed them the most; from the fuel powering trucks that stock grocery stores, hospitals and pharmacies, along with online shopping warehouses, to the chemicals needed to make hand-sanitizer and virus resistant face coverings. Many refiners were uncertain whether they would financially survive, with many – including PBF - having to make the difficult choice to permanently close fuel manufacturing capacity or entire facilities. However, the rollout of various vaccines provides light at the end of the tunnel. EPA needs to ensure that light is not an oncoming train by granting the economic hardship petitions it has received which will have the effect of lowering RINs costs. The evidence clearly indicates that without action to address runaway RINs costs, the market believes with a "high degree of confidence" that more American jobs and fuel supplies will be lost.

Sincerely,



Matthew Lucey
President

[39] 2020 EPA RFS final RVO (85 Fed. Reg. at 7016); EPA EMTS data. Available at: https://www.epa.gov/fuels-registration-reporting-and-compliance-help/public-data-renewable-fuel-standard; U.S. EIA. Short Term Energy Outlook (STEO). February 9, 2021. Available at: https://www.eia.gov/outlooks/steo/