The Renewable Fuels Association (RFA) recently attacked petitions the Governors of Pennsylvania and Texas filed with the Environmental Protection Agency (EPA) to reduce the requirements of the Renewable Fuels Standard (RFS). RFA even released a detailed response under the guise of a so-called "fact sheet" to the Pennsylvania petition. Both petitions called on the Trump Administration to reduce the amount of biofuel mandated under the RFS to a level that all engines and infrastructure can handle. Such a move would help alleviate the skyrocketing costs for RFS compliance credits, called Renewable Identification Numbers or RINs, which are threatening manufacturing jobs across the nation. Unfortunately, RFA's document contains much more fiction than fact and represents a complete misrepresentation of how the fuel supply chain works. In fact, it perpetuates several fictions meant to support RFA's joint lobbying efforts with "Big Oil" to maintain an RFS that incentivizes making more money on RINs than expanding biofuel use. Here's the real fact versus fiction:

Fiction: Merchant refiners recover their RIN costs through wholesale gasoline prices.

Fact: Several studies show that merchant refiners do NOT recover RIN costs, because most of their product is often NOT sold at wholesale.

- RFA cites several studies funded by the "Big Oil" companies they deride claiming RINs are recovered in wholesale gasoline prices. However, merchant refiners sell most of their fuel in the bulk market to wholesalers, which do the blending and then sell the fuel to consumers.
- Several studies examining bulk fuel market sales show that merchant refiners do NOT recover RIN costs. Specifically:
  - NERA Economic Consulting found that merchant refiners are only able to recover about 15 percent of their increase, while blenders profit from RINs.[1]
  - Baker & O'Brien showed integrated oil companies with larger marketing presences than refining operations have a $2.33 per barrel cost advantage over the merchant refiners that must buy RINs from them or other competitors.[2]
  - Several others reach similar conclusions.
- The two refiners RFA cites in its "fact sheet" – Tesoro (now Andeavor) and Western – are not merchant refiners and are also now one company. Andeavor is long-RINs and has, working hand-in-hand with RFA and the American Petroleum Institute (API), defended the existing RIN system, from which they benefit.
- More recently, RFA has pointed to a Wells Fargo report[3] claiming merchant refiners recovered RIN costs in 2017. However, RFA fails to highlight that the Wells Fargo report:
  - Contradicts itself on RIN cost recovery in a few instances.

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[1] See comments from PBF Holding Company, LLC (PBF)(Docket Item No. EPA-HQ-OAR-2017-0091-3429), Attachment A.

[2] Ibid.

[3] Read, Roger D. *Independent Refiners: The Crack Ate My RINs--Policy And Profit Implications*. Wells Fargo Equity Research. November 16, 2017

        - The report states: "**Unlevel Playing Fields.** Operational issues associated with RINs and point of obligation (POO) exist. Merchant Independent Refiners remain relatively disadvantaged versus their more integrated peers."
        - It also states that correlation between refining company share price and RIN prices is strong among companies "that possess wholesale/retail operations," but that, "Refiners with less or lower wholesale/retail operations generally see weaker" correlations.
        - Finally, it notes: "In all fairness, the 17% of RINs costs we estimate are borne by the Independent Refiners are unevenly distributed. We recognize that several smaller Independent Refiners that we do not cover and specific units of others are more exposed to the RINs obligations given a lack of wholesale and retail blending capacity, local market characteristics and limited trading opportunities."
    - Contradicts RFA's recent report claiming the RFS is not impacting consumer gasoline prices. Specifically, the Wells Fargo report states:
        - "Consumers now bear the majority of RINs costs – like a tax," and, "RINs are now effectively a tax on consumers but do not generate any funds for the U.S. Treasury – probably not the best outcome."
- Integrated refiners with large wholesale and retail businesses have acknowledged the RIN costs are not fully recovered in the price refiners charge wholesalers. During Marathon Petroleum's third quarter 2016 earnings call, CEO Gary Heminger stated: "We believe the RIN cost is captured in part of the crack spread today, and part of it's retail, and part of it's in blending."[4] In September, Marathon announced that it decided not to sell off its Speedway retail chain due to predicted synergy loss between $270-390 million annually.
- Many marketing companies have bragged about RIN profits in their earnings reports and independent analysts have noted the impact of RIN profits for these same companies.
    - In a September 2016 report, Barclays noted RINs contribute to approximately 11 percent of Casey's General Store's earnings per share on average, climbing as high 14.5 percent in the most recent fiscal quarter.[5]
    - Such RIN profits would not exist of merchant refiners recovered RIN costs.

Fiction: RINs are not the cause of any financial stress some Northeastern refineries may be experiencing.

Fact: Independent analysis shows that RINs are the cause of financial stress to Northeast Refiners.

- Several Wall Street analysts have noted merchant refiners are at a permanent, structural disadvantage due to the structure of the RFS. This would not be the case if RIN costs were recovered and had no impact on merchant refiners. Citing just a few analyst reports:
    - "Fraught with incongruences such as the RVOs (Renewable Volume Obligations) that are disconnected from actual fuel demand, and the RIN generation separated from point of compliance obligation, the RFS/RINs issue is a massive expense for the refiners and has been broadly described as RINsanity." (Wolfe Research, Paul Sankey, 11/14/16)

[4] Marathon Petroleum Third Quarter Earnings Call Transcript: http://seekingalpha.com/article/4016009-marathon-petroleum-mpc-q3-2016-results-earnings-call-transcript?part=single

[5] Short, Karen. U.S. Food & Staples Retailing: The Storm Before the Calm. Barclays Equity Research, September 22, 2016. p. 95-96.

- "…(Merchant refiner) PBF also remains at a competitive disadvantage as it relates to RINs given the lack of wholesale/retail to offset the pressure from elevated expenses. Ultimately, these factors contribute to negative free cash flow generation…" (Goldman Sachs, Neil Mehta, 10/31/16)
  - "This has been a difficult year for HFC (HollyFrontier) as earnings were negatively impacted by compressing crude differentials and escalating RIN's prices. The Company has outsized exposure to both of these areas given the inland geographic footprint and lack of retail/integration." (Scotia Howard Weil, Blake Fernandez, 10/19/16)
- In August, the Philadelphia Inquirer reported that Philadelphia Energy Solutions hired PJT Partners for debt restructuring advice, noting the company's $300 million a year RIN costs – the company's greatest cost after buying crude oil.[6]

Misleading Statement: Merchant refiners have taken steps to increase their ethanol blending capacity and reduce the number of RINs they purchase on the secondary market.

Fact: While merchant refiners have taken opportunities, when available, to increase blending capacity, such capacity is still minimal compared to their RINs obligation. There are significant barriers to entry into wholesale and retail businesses that inhibit the ability of merchant refiners to extensively increase blending capabilities.

- Merchant refiners often ship a significant portion of their products through third party pipelines to terminals located near major consumer demand hubs. Since ethanol cannot be shipped through a pipeline with "RBOB" (unblended gasoline that is eventually combined with ethanol before reaching consumer gas tanks), it must be blended into the RBOB at these terminals.
- Capacity limitations at these pipelines and terminals inhibit the ability of merchant refiners to blend more product.
- Most major pipelines run at full capacity and rack blending positions at terminals located on major pipeline routes (e.g. the ability of a fuel supplier to blend and capture RINs at those terminals) are dependent on known shipper status. RIN-long parties will not hand this status to competitors.
- As Murphy USA notes: "If you wanted to get in this business tomorrow, you could not go and get pipeline access on most of these pipelines. We take that into mostly third-party terminals. We blend it with ethanol. That captures the RIN. And that leaves us with a landed cost of supply when you add that supply advantage plus the RINs, that's going to be advantaged over our competitors."[7]
- Marketers that refiners rely on to deliver blended fuel to consumers either won't buy blended fuel or demand a discount when they purchase blended fuel, capturing 50-90 percent of the RIN value from the refiner that needs the RIN for compliance, refuting EPA's conclusion that RIN costs are passed through in higher prices paid for their fuel.
  - Some states, like North Carolina and Iowa, have laws that *require* refiners to sell marketers ethanol free gasoline at the rack.
- The Department of Energy concluded, in a 2011 report for Congress, that small refineries lacked the capital to make investments in blending and distribution infrastructure and would be largely reliant on the RIN market. Small refineries that have been able to make investments in blending, have been displaced by competing racks owned by large retail chains, driven by the windfall profits of over-priced RINs.

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[6] Philly's PES refinery, the East Coast's largest, seeks debt relief, Philadelphia Inquirer, August 2, 2017.
[7] Raymond James 37th Annual Investors Conference Transcript at 4 (Mar. 8, 2016).

Fiction: There is no evidence that the RFS and RINs are causing "severe harm" to the economy of Pennsylvania or the Northeast.

Fact: "Severe harm" is already occurring and, if nothing is done to address skyrocketing RIN costs, will continue for several states, regions and the economy.

- The "RFS program itself" is causing severe economic harm to Northeast refiners. Last year, the largest refinery on the East Coast, owned by Philadelphia Energy Solutions (PES) in Pennsylvania, spent over $250 million on RINs. These costs forced the company to shed over 70 jobs and significantly reduce retirement and health benefits for its remaining employees. .[8] If the refinery shuts down, over 1,600 direct jobs in Philadelphia and the surrounding area will be lost and the broader economic effects on the region would be devastating.
- A University of Texas El Paso professor, Alex Holcomb, noted a significant portion of our nation's refining capacity could be at risk if the excessive RIN costs associated with the "RFS program itself" are not addressed.[9] In discussing the regional harm to Southeastern Pennsylvania, Professor Holcomb stated:
  - **A total of 15,000 to 20,000 jobs would be lost in Southeastern Pennsylvania alone. The loss of just 100 refining jobs could reduce local economic output by up to $1 billion — think loss of sales, income, and tax revenue — and trigger exponential job losses at local businesses that work with, or depend on, refineries.[10]**
  - Such impacts are obviously borne by the "economy" of the state and region and are not limited to "a narrow sub-sector or specific industry."
- Small refineries are shutting down or being acquired by larger refiners because they can't compete with competitively advantaged "Big Oil." Antelope Refining in Wyoming shutdown in 2016. The Dakota Prairie refinery in North Dakota was acquired by Tesoro and Calumet's Shreveport refinery was acquired by Husky Energy. The competitive distortion in favor of integrated oil companies and large retail chain owners was predicted by the Department of Energy in its 2011 study for Congress.[11]
- RFA itself has admitted the RIN market is being manipulated, resulting in significant harm. In August of last year, the group wrote the CFTC calling for an investigation into RIN market manipulation.[12] With a RIN market nearing $20 billion dollars, such manipulation is harming merchant refiners that must buy RINs for compliance.

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[8] Powell, Barbara and Vamburkar, Meenal. "Philadelphia Refinery Fights to Stay Afloat after 2012 Rescue." BN Bloomberg. August 14, 2017.

[9] Holcomb, Alex. *Market Analysis of the Proposed Change to the RFS Point of Obligation*. February, 2017. Available at: https://www.smallretailerscoalition.com//wp-content/uploads/2016/08/Alex-Holcomb-Market-Analysis-of-the-Proposed-Change-to-the-RFS-Point-of-Obligation-February-2017.pdf

[10] http://www.philly.com/philly/opinion/commentary/to-save-jobs-epa-should-reform-fuel-standard-20170609.html

[11] Comments from Small Refiners Coalition on EPA's Renewable Fuel Standard Program: Standards for 2018 and Biomass-Based Diesel Volume for 2019 (EPA-HQ-OAR-2017-0091- 3105)

[12] http://www.ethanolrfa.org/wp-content/uploads/2016/08/RFA-Letter-to-CFTC-and-EPA_re_RIN-volatility.pdf