

United States Senate

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

WASHINGTON, DC 20510-6175

May 19, 2020

The Honorable Andrew Wheeler
Administrator
Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, D.C. 20460

Dear Administrator Wheeler:

We write to urge you to use your authority under the Clean Air Act to waive or significantly reduce the renewable fuel volume obligations (RVOs) on America's refineries for the 2020 compliance year. Since March, the United States has experienced an unprecedented drop in the demand for gasoline, diesel, and jet fuel. At the same time, the cost of complying with the Renewable Fuel Standard (RFS) has nearly tripled since January 2, 2020. Congress has given you the authority to reduce RVOs if "implementation... would severely harm the economy... of a State, a region, or the United States." If there ever was a time to use your authority, it is now.

In the last six weeks, a bipartisan group of six governors, representing many of our home states, petitioned you to use your authority to waive the 2020 RVOs.¹ Since then, we have witnessed a precipitous decline in demand for transportation fuel. Weekly demand for gasoline has fallen, on a year-over-year basis, by double digits – decreasing between 19 percent and 48 percent – in each of the last seven weeks. Weekly demand for distillate has fallen, on a year-over-year basis, by double digits – decreasing between 10 percent and 25 percent – in six of the last nine weeks. Weekly demand for jet fuel has fallen, on a year-over-year basis, by double digits in ten of the last twelve weeks – and fell *between 48 percent and 80 percent* in each of the last six weeks.

Meanwhile, EPA has taken steps that have nearly *tripled* the cost of complying with the RFS since January 2nd. Earlier this year, a three judge panel of the U.S. Court of Appeals for the Tenth Circuit issued a ruling that threatens to end hardship relief for most small refineries. Yet, the next week, EPA boosted the 2020 RVOs by an additional 770 million gallons. EPA's premise for increasing the 2020 RVOs was its prediction that it would exempt 770 million gallons in hardship relief to small refineries – something EPA will not be able to do if the three judge panel's ruling is applied nationwide. Your decision to increase the 2020 RVOs was only more perplexing when you later decided not to seek a rehearing of the three judge panel's ruling.

In 2005, when enacting the RFS, Congress provided the Administrator of the EPA the authority to prevent this program from contributing to severe economic harm in a state, a region, or the nation. Since then, your predecessors have not found cause to use this authority. Whether prior petitions merited approval or not, there should be no doubt about the threat that the 2020 RVOs

¹ On April 7, 2020, Louisiana Governor John Bel Edwards submitted a petition. On April 15, 2020, Texas Governor Greg Abbott, Utah Governor Gary Herbert, Oklahoma Governor Kevin Stitt, and Wyoming Governor Mark Gordon submitted a joint petition. On May 11, 2020, Pennsylvania Governor Tom Wolf renewed his 2018 petition.

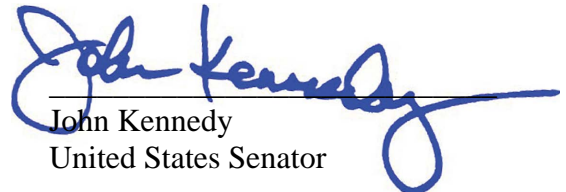
pose to our states' economies in the midst of the COVID-19 pandemic. A failure to grant, in part or in whole, the governors' petitions would render this provision within the Clean Air Act utterly meaningless. It would be a gross example of a federal agency nullifying an act of Congress.

Thank you in advance for your consideration and we look forward to your prompt response.

Sincerely,



John Barrasso, M.D.
Chairman
U.S. Senate Committee on
Environment and Public Works



John Kennedy
United States Senator



Steve Daines
United States Senator



Mike Lee
United States Senator




Ted Cruz
United States Senator



James E. Risch
United States Senator



Mike Crapo
United States Senator



James M. Inhofe
United States Senator



James Lankford
United States Senator



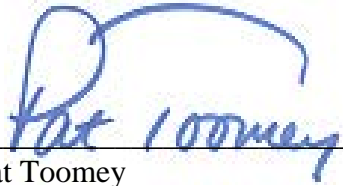
Michael B. Enzi
United States Senator



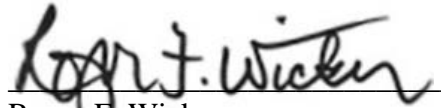
Shelley Moore Capito
United States Senator



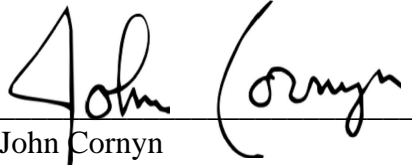
Bill Cassidy, M.D.
United States Senator



Pat Toomey
United States Senator



Roger F. Wicker
United States Senator



John Cornyn
United States Senator