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Via online submission at www.regulations.gov

U.S. Environmental Protection Agency (EPA)
Office of Air and Radiation
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

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

Chevron appreciates the opportunity to review and comment on the referenced proposal. Chevron is a major refiner and marketer of petroleum products in the U.S. As an obligated party, a renewable fuel producer, and a renewable fuel blender, this proposed rule directly affects Chevron's compliance requirements under the Renewable Fuel Standard (RFS), which in turn impacts our transportation fuel business and customers. Chevron is a member of the American Petroleum Institute (API). We support and incorporate by reference the separate comments submitted by API in response to this proposed denial.

Chevron supports EPA's proposed denial of pending Small Refinery Exemptions

Chevron supports EPA's proposal to deny all of the small refinery exemption petitions that are currently pending. We agree with EPA's analysis which concludes that the costs of the RFS are largely recovered in the market, and individual refineries are not disadvantaged in complying with the RFS simply based on size and capacity. The RFS program has been in effect for over 10 years which is more than enough time for all obligated parties to have developed and implemented compliance strategies without relying on ongoing small refinery exemptions.

Congress initially provided a blanket small refinery exemption through 2010, which was available for all small refineries without having to demonstrate economic harm. This exemption was extended for certain refineries for another two years through 2012. Since 2013, individual refinery exemptions based on disproportionate economic hardship were intended to be an extension of the original exemption and by exception only. Routinely granting small refinery exemptions can create disproportionate economic hardship, precipitating additional waivers to re-establish a level playing field, particularly in market areas predominantly served by small refineries. Otherwise, exempted refineries receive a financial windfall from avoided compliance costs that non-exempted refineries do not receive.

By returning to an "exception only" basis for granting SREs, EPA will eliminate the problems and market confusion caused by the high number of exemptions granted in recent years. This will

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allow EPA to administer the RFS on a more normal basis, where the impact of SREs will be very small and can be managed through the annual rulemaking process.

Voluntary Remand of 2018 Small Refinery Exemptions

On December 8, 2021, the U.S. Court of Appeals for the D.C. Circuit issued an order remanding without vacatur EPA's final action on the 2018 SRE petitions and ordered EPA to "issue new decisions" for those 2018 SRE petitions.

Chevron does not support the inclusion of the previously granted 2018 petitions along with the pending petitions being proposed for denial. Further, Chevron would oppose an EPA decision to vacate the previously granted 2018 petitions.

In August 2019, EPA granted 31 small refinery exemptions for the 2018 compliance year. This decision was based on EPA's policy regarding small refinery exemptions at that time. Small refineries who received exemptions have relied on those decisions and have made business decisions accordingly. It is not possible for small refineries to return to 2018, a compliance year that is already closed, to blend more biofuels or buy more RINs which would have been required if the exemptions were not granted.

If EPA were to rescind these 2018 exemptions, it would penalize those refineries who acted in good faith based on a legitimate EPA decision at that time. Rescinding a large number of 2018 exemptions would likely affect the RIN market, depending on enforcement actions that EPA might require to make up for the previously exempted RINs. If EPA rescinds the 2018 petitions and imposes a new compliance obligation in 2022, obligated parties would be under pressure to acquire new RINs under a different market condition that existed in 2018. This could exacerbate RIN volatility and might require the use of carryover RINs. This action would be counter to the arguments EPA made in the recent RFS proposed rule for 2021 and 2022, where EPA explains the importance of maintaining a viable bank of carryover RINs.

Conclusion

Chevron agrees with EPA's proposal to deny the currently pending small refinery exemption petitions. However, Chevron believes that EPA should not rescind the 2018 small refinery exemptions. Thank you for providing this opportunity to comment. If you have any questions regarding our comments, please contact Bob Anderson (bob.anderson@chevron.com; 925-842-5317) or Jason Larrabee (jasonlarrabee@chevron.com; 202-408-5853).

Sincerely,

