



April 4, 2018

The Honorable Scott Pruitt
Administrator
Environmental Protection Agency
1200 Pennsylvania Ave. NW
Washington, DC 20460

Dear Administrator Pruitt:

The National Corn Growers Association (NCGA) and state corn grower associations are extremely concerned with recent news reports regarding the Environmental Protection Agency (EPA) granting small refinery petitions for exemption from Renewable Fuel Standard (RFS) volume obligations.

Most recently, EPA reportedly granted exemptions to one of the nation's largest refiners, Andeavor, specifically to three of the corporation's 10 refineries. Andeavor posted net profits of \$1.5 billion in 2017. This improper application of the small refinery hardship exemption is yet another example of EPA actions that destroy demand for ethanol and corn.

Because EPA, as reported, has more than 30 petitions under consideration, granting this number of exemptions, or granting a blanket exemption to all small refiners, would remove a significant amount of renewable fuel gallons from the RFS volume requirement. In turn, such a reduction in the volume obligations would have a direct impact on corn demand and corn prices at a time when net farm income has already decreased more than 50 percent over the past four years. A further drop in corn prices would be devastating to farmers following five consecutive years of declining corn crop receipts resulting from low commodity prices.

In the final rule setting renewable volume obligations (RVO) issued November 30, 2017, EPA indicated the Agency would not adjust percentage standards for 2018 volumes to account for small refinery exemptions granted after the final rule was issued. According to the Energy Information Administration (EIA), the United States had 54 refineries that met the threshold of a small refiner (capacity of 75,000 barrels per day or less) as of January 1, 2017. With a capacity of 1.81 million barrels per day, those refineries represent 9.9 percent of operating U.S. refining capacity.

According to analysis from the University of Illinois, a blanket exemption for all 54 of these small refiners would reduce total RFS volume requirements by 2.09 billion gallons, including 1.63 billion gallons of conventional ethanol.¹ In the absence of a blanket exemption, EPA exemptions to just the 33 smallest refiners would reduce the conventional ethanol volume below 14.3 billion gallons, a volume that represents the amount of ethanol blended into the gasoline supply at a 10 percent level.²

¹ Coppess, J. and S. Irwin "Another Wrinkle in the RFS: The Small Refinery Exemption." *farmdoc daily* (7):224, Department of Agricultural and Consumer Economics, University of Illinois at Urbana-Champaign, December 6, 2017.

²*Id.*

From a corn production standpoint, every 1 billion gallons of ethanol production ties back to 2.1 million harvested corn acres (assuming 2.8 gallons of ethanol per bushel and an average corn yield of 170 bushels harvested per acre). A loss of 1 billion gallons of ethanol production, therefore, translates to the loss of the annual harvested corn acres in Michigan, which is 2.1 million acres.

Due to the impact on corn production and prices, we strongly urge EPA against misuse of the small refinery hardship exemption as a backdoor means to exercise RFS waiver authority, which the Agency chose not to pursue in the 2018 volume obligation rule. As EPA noted in the Agency's response to comments in the rulemaking process, "EPA has invested significant resources evaluating the impact of high RIN prices on refiners. After reviewing the available data, EPA has concluded that refiners are generally able to recover the cost of RINs in the prices they receive for their refined products, and therefore high RIN prices do not cause significant harm to refiners. In light of these findings, EPA does not have the statutory authority to reduce the required renewable fuel volumes for 2018 in an effort to achieve lower RIN prices."³

You made a commitment to senators in October to, "act consistent with the text and spirit of the RFS," and to do so in an "open and transparent manner that advances the full potential of this program." We evaluate EPA's actions based on this commitment and ask that you do the same, as well as recall the support President Trump has expressed for the RFS and biofuels that benefit rural America.

We request that EPA provide full transparency to small refiner exemption evaluations and decisions as the Agency considers its process and criteria in light of the Tenth Circuit Court of Appeals *Sinclair Refining* decision and the large number of refiners submitting petitions. Large, multi-billion-dollar corporations such as Andeavor should not be granted "hardship" exemptions from their RFS obligations.

Finally, we ask that EPA fully weigh the impact of these exemption decisions on corn production, and ultimately corn prices, which could be significant for farmers, as well as for jobs and the economy, in rural communities across the country.

Sincerely,

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³ EPA, *Renewable Fuel Standard Program – Standards for 2018 and Biomass-Based Diesel Volume for 2019; Response to Comments*. (Dec. 2017) 198

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