



American
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Via Electronic and U.S. Mail

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

Re: 2019 Small Refinery Exemptions

Dear Administrator Wheeler:

There are reports that EPA plans to grant many small refinery exemptions (SREs) submitted by refiners outside of the United States Court of Appeals for the Tenth Circuit's jurisdiction for the Renewable Fuels Program (RFS) 2019 compliance year. The American Petroleum Institute (API) believes that EPA granting these SREs will create an unlevel playing field, which will only serve to exacerbate the competitive distortions among refineries competing in the same marketplace. Furthermore, wholesale exemptions that attempt to make the RFS program workable for some refiners also serve to punish non-exempt refiners who already face challenging RFS compliance obligations. The ongoing issues with the RFS have been structural from the inception of the program, apply to all regulated parties, and need to be addressed on a nationwide basis.

API supports the January 2020 Tenth Circuit holding in Renewable Fuels Association et al. v EPA as it is consistent with Congress's intent when it enacted the RFS. Further, given that the U.S. Supreme Court recently granted certiorari in that case, we believe EPA, as well as obligated parties, would best be served by allowing the Court to determine the proper path forward on SREs. For these reasons, we implore the Agency to reconsider any immediate plans to grant wholesale 2019 SREs. Thank you for your consideration of this matter.

Respectfully,