

Congress of the United States
Washington, DC 20515

March 6, 2020

Andrew Wheeler
Administrator
Environmental Protection Agency
1200 Pennsylvania Ave, N.W.
Washington, D.C. 20460

Dear Administrator Wheeler,

We are writing in support of preserving the small refinery exemptions (SREs) under the Clean Air Act. It has been reported that the U.S. Environmental Protection Agency (EPA) will apply the Tenth Circuit's holding in *Renewable Fuels Association, et al. v. EPA* nationwide. We respectfully ask that you reconsider this decision. The current decision, as it stands, will jeopardize or otherwise end small refinery hardship relief and result in the loss of countless jobs that contribute to the energy independence of the U.S. economy.

On January 24, 2020, the Tenth Circuit Court of Appeals found that three small refineries were ineligible to apply for small refinery hardship relief under the Renewable Fuel Standard (RFS), because they had not applied for and "consistently received an exemption in the years preceding [their] petition" since the program started in 2008. The Tenth Circuit based its ruling on a narrow interpretation of the word "extension," as applied under the Clean Air Act.

Let us be clear, should the Agency limit SREs in reaction to a new policy or legal decision, it is vital that any reductions in SREs be harmonized with precise adjustments in the 2020 RVOs established under the RFS. Any misalignment between SRE volumes and the RVO would result in skewed markets, higher renewable identification number (RIN) prices, and enhance the likelihood of consequent job losses, business failures, and adverse consumer impacts.

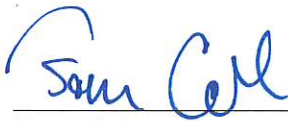
The Tenth Circuit's ruling contradicts congressional intent. The EPA has consistently determined that small refineries are eligible to apply for hardship relief at any time, and the Department of Energy's (DOE) has expressed that harm to small refineries is permanent and will grow increasingly acute over time as volume mandates and RIN prices increase. The Court's decision has already caused a run on the RIN market, with prices reaching a 7-month high in the short time since it was announced.

Out of five refineries in Oklahoma, they collectively produce 522,800 barrels of oil per calendar day and directly and indirectly employ thousands of our constituents. If the waiver exemptions are no longer granted, companies may be forced layoff, or shut down their operations. Oklahoma small refineries contribute to 3% of the total U.S. operating capacity. The end of these waivers would result in nothing but negative impacts to the local, state, and national economy.

EPA must appeal the Tenth Circuit's decision and request an *en banc* hearing, as well as maintain the longstanding position that small refineries can petition for hardship relief, at any time. Your support is necessary in order to uphold the purpose of small refinery hardship relief under the RFS program, while also preventing undue harm to small refineries.

We look forward to working with you in the weeks and months ahead to strengthen America's energy independence.

Sincerely,



Tom Cole
Member of Congress



Kevin Hern
Member of Congress



Markwayne Mullin
Member of Congress