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EPA-HQ-OAR-2021-0566  
U.S. Environmental Protection Agency  
Office of Air and Radiation  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460

*Submitted via: [www.regulations.gov](http://www.regulations.gov)*

Re: **EPA-HQ-OAR-2021-0566**

**Notice of Opportunity to Comment on Proposed Denial of Petitions for Small Refinery Exemptions. 86 Federal Register 70999 (December 14, 2021).**

The American Petroleum Institute (API) is the national trade association that represents all aspects of America's oil and natural gas industry. Our nearly 600 corporate members represent all segments of the industry. These companies are producers, refiners, suppliers, marketers, pipeline operators and marine transporters as well as service and supply companies that provide most of our Nation's energy. As refiners and importers of transportation fuels, our member companies are obligated parties under the Renewable Fuel Standard (RFS) program. We appreciate the opportunity to comment on the proposed Denial of Petitions for Small Refinery Exemptions (SREs).

API supports policies that provide a level playing field, and SREs can distort the marketplace among competing refiners. The structure of the RFS program has been in place for fifteen years, and its fundamental requirements are well understood by obligated parties. The RFS provides limited compliance flexibilities; but ultimately, failure to comply results in violations of the Clean Air Act including significant civil penalties. Adherence to the compliance structure of the program by obligated parties along with consistent enforcement by EPA are essential to maintaining the integrity of the program. The continued issuance of SREs weakens the integrity of the program and causes future uncertainty and associated RIN cost volatility.

For years, API has recommended that EPA establish standards that are consistent with the ability of the fuels marketplace to consume the required volumes of renewable fuels. When the RFS volume standards exceed the limits of the fuel distribution system and the vehicle fleet, significant market disruptions occur, and the overall cost of the program increases. The economic impact of high-volume standards is felt across the marketplace. The ongoing issues with the RFS program are structural in nature and apply to all regulated parties.

The RFS program burdens the entire refining sector with costs that are ultimately borne by consumers. Small refineries experience the same economic drivers of the RFS as other merchant refineries,



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component blenders, and integrated refiners of all sizes, which includes the high cost of acquiring RINs for compliance. The size of a refinery alone does not determine operational competitiveness. Previous analysis by EPA concluded that RIN costs are largely recovered by refineries through the increased value of gasoline and diesel fuel they supply to the market.<sup>1</sup> Other studies have similarly concluded that RIN costs are largely recovered by refineries, both large and small, through the increased value of fuels they supply to the market.<sup>2,3</sup>

EPA has exacerbated the unlevel playing field created by the exemption of small refineries by reallocating exempted volumes to other non-exempt refineries. Reallocation is an additional market distortion that punishes non-exempt refineries that are already facing challenging RFS requirements. Consistent with our previous comments to the proposed 2020 RFS standards,<sup>4</sup> API continues to oppose SRE reallocation, either retroactively or prospectively.

In summary, API supports EPA's proposal to deny all 69 pending SRE petitions.<sup>5</sup> Expeditiously finalizing these denials will provide policy clarity and restore a level competitive playing field, that results in an equal application of enforcement measures across all RFS market participants.

Thank you for the opportunity to provide these comments.

Sincerely,

<sup>1</sup> Assessment and Standards Division Office of Transportation and Air Quality U.S. Environmental Protection Agency, Denial of Petitions for Rulemaking to Change the RFS Point of Obligation. EPA-420-R-17-008. November 2017.

<sup>2</sup> [https://energypolicy.columbia.edu/sites/default/files/Renewable%20Fuel%20Standard\\_A%20Path%20Forward\\_April%202015.pdf](https://energypolicy.columbia.edu/sites/default/files/Renewable%20Fuel%20Standard_A%20Path%20Forward_April%202015.pdf)

<sup>3</sup> <https://www.regulations.gov/document/EPA-HQ-OAR-2015-0111-0062>

<sup>4</sup> <https://www.regulations.gov/comment/EPA-HQ-OAR-2019-0136-0721>

<sup>5</sup> EMTS Data, accessed 1/31/22