

RFS Public Hearing: API Testimony

Ypsilanti, MI, October 30, 2019



Good morning. I am Patrick Kelly, Senior Fuels Policy Advisor at The American Petroleum Institute. API is the only national trade association representing all facets of the oil and natural gas industry. API's more than 600 members include large integrated companies, as well as exploration and production, refining, marketing, pipeline, marine businesses, and service and supply firms.

Process

API stands by the comments we provided to EPA as part of the annual rulemaking process for the 2020 RVO. Unfortunately, the supplemental notice and this hearing are a departure from regular order necessitated by a "deal" that is contrary to the statute governing this program. The supplemental notice does not provide a compelling reason why EPA would change an established policy, which underscores the arbitrary nature of this Administration's new direction on reallocating small refinery exemptions. It is unfortunate to see that the procedural failures that have plagued the RFS since its inception have only been made worse. Regulatory certainty is important to our industry and the effective governance of this program, and we urge EPA to finalize this rulemaking before the compliance period begins.

Small Refinery Exemptions

The misguided policy to reallocate exempt small refinery obligations punishes the companies already complying with a challenging RFS standard. Small refinery exemptions have not materially impacted the amount of ethanol produced or blended into the domestic gasoline pool according to EIA data. Reallocating these exemptions distorts the competitive marketplace and creates an unlevel playing field among competing refineries. We urge EPA to reconsider its decision to reallocate volumes from exempted small refineries onto other obligated parties.

Increases to the Implied Ethanol Volume

The RFS is a prospective program, and it would be inappropriate for EPA to artificially increase the renewable fuel requirements to account for prior year issues, including small refinery exemptions.

The final standards must recognize it is simply not possible to go back in time and induce demand for a prior year.

Blend wall

Increasing the implied ethanol mandate above 10% of the gasoline pool does not equate to more ethanol consumption. The blend wall is the constraining factor limiting domestic ethanol use, and despite the recent regulatory action to extend the one-pound RVP waiver to E15, serious vehicle and retail infrastructure compatibility issues remain that will limit the broader use of E15 for the foreseeable future. It is not reasonable to assume E15 or other higher blends of ethanol will lead to ethanol volumes that exceed 10% of gasoline supply in 2020.

Closing

This supplemental notice is a clear demonstration of a failed process and a broken government program. In developing the RFS, Congress gave the primary role of implementing this program to EPA, and not the U.S. Department of Agriculture. EPA has the tools to implement the program while protecting consumers and USDA's undue influence on this rulemaking is not aligned with the American people. It is wrong to play politics with our nations fuel supply, and consumers' vehicles. Until Congress fixes the RFS through legislation we urge the agency to reject the relentless demands for ever-increasing renewable fuel volumes and to act in the best interest of consumers by setting standards that are reasonable, achievable, and fair for all stakeholders.

Thank you for the opportunity to discuss these issues, and I am happy to answer any questions.