

Congress of the United States

House of Representatives

Washington, D.C. 20515

April 20, 2018

The President
The White House
1600 Pennsylvania Avenue
Washington, DC 20500

Dear Mr. President:

We write to express our concerns about recent reports that the Environmental Protection Agency (EPA) has granted a large number of waivers to refiners relieving them of their obligations under the Renewable Fuel Standard (RFS) program to blend renewable fuels into the transportation fuel supply as required by law.¹ Reports also indicate that some of the recipients of these waivers are not small refiners and are not experiencing financial hardship.²

As established in the Clean Air Act, the RFS program anticipated the need for compliance flexibility for small refiners. However, the authority of the Administrator to grant waivers to small refiners under the RFS program was never intended to nor does it permit the Administrator to use waiver authority to thwart the primary goal of the RFS program established by Congress – to increase the use of renewable fuels. While we disagree with the American Petroleum Institute’s February 12, 2018 letter arguing that EPA should not grant any small refiner exemptions, those that are granted should be justified fully and in a manner that is consistent with the overriding purpose of the law.³

Misuse of the small refiner exemption to reduce renewable fuel volumes undermines the goal of the RFS program, creates uncertainty and economic hardship in the agricultural community, and gives unfair advantage to specific facilities within the refining sector. In addition, the lack of transparency and public accountability related to the granting of these waivers creates the appearance of partiality to favored interests. It is deeply concerning.

¹ *U.S. ethanol groups bristle as EPA frees refiners from biofuels law*, Reuters (Apr. 4, 2018) (www.reuters.com/article/us-usa-biofuels-epa-refineries/u-s-ethanol-groups-bristle-as-epa-frees-refiners-from-biofuels-law-idUSKCN1HB2AH).

² *EPA gives giant refiner a ‘hardship’ waiver from regulation*, Reuters (Apr. 3, 2018) (www.reuters.com/article/us-usa-biofuels-epa-refineries-exclusive/exclusive-epa-gives-giant-refiner-a-hardship-waiver-from-regulation-idUSKCN1HA21P).

³ Letter from Mr. Frank J. Macchiarola, Group Director of Downstream & Industry Operations at the American Petroleum Institute to Assistant Administrator William Wehrum U.S. Environmental Protection Agency (Feb. 12, 2018) (www.api.org/~media/Files/News/Letters-Comments/2017/API-Letter-2-12-18.pdf).

As Ranking Members of the Committee on Energy and Commerce and the Committee on Agriculture who were in Congress when the RFS program was initiated and subsequently amended, we have long experience with the program. We are well aware of the disparate views on its successes and shortcomings among the many stakeholders with interests in this program. However, we believe that manipulating the law to favor one group of stakeholders is not the way to resolve these issues.

At his confirmation hearing, Administrator Pruitt told Senator Fischer: “It is not the job of the Administrator of the EPA to do anything other than administer the program according to the intent of Congress, and I commit to you to do so.”⁴ Specifically on the subject of waiver authority under the RFS program, Mr. Pruitt stated, “... the waiver authority should be used judiciously, and the act should be complied with and enforced consistent with the will of Congress.”⁵ Administrator Pruitt’s actions with respect to the small refiner waiver program are not consistent with this commitment, and threaten to undermine the ongoing discussions you are leading to find common ground between the agriculture and petroleum fuel industries.

Despite any difficulties with this program, there is no denying its importance to our nation’s agricultural sector and to rural communities in a number of states across the country. It is vital that EPA administer this program in a fair and unbiased manner in accordance with the law.

We urge you to instruct EPA to suspend consideration of any additional waiver requests and take steps to improve the transparency and accountability of the waiver program. We recognize the difficulty of reconciling the different stakeholder interests in this program. Nevertheless, Administrator Pruitt cannot and should not misuse the authority of his office in an attempt to subvert it to suit favored interests.


⁴ Senate Committee on Environment and Public Works, *Hearing on Nomination of Attorney General Scott Pruitt to be Administrator of the U.S. Environmental Protection Agency*, 115th Cong., at p. 48 - 49 (Jan. 18, 2017) (S. Hrg. 115-1) (www.gpo.gov/fdsys/pkg/CHRG-115shrg24034/pdf/CHRG-115shrg24034.pdf).

⁵ *Id.*

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If the law is to be changed, we urge you to work with Congress to find a solution that strikes an appropriate balance among all parties with a stake in this program and the future of transportation fuels.

Sincerely,

A handwritten signature in blue ink that reads "Frank Pallone, Jr." with a stylized flourish at the end.

Frank Pallone, Jr.
Ranking Member
Committee on Energy
and Commerce

A handwritten signature in blue ink that reads "Collin C Peterson" with a horizontal line underlining the last name.

Collin Peterson
Ranking Member
Committee on Agriculture