

United States Senate  
WASHINGTON, DC 20510-4105

November 7, 2019

The Honorable Andrew Wheeler  
Administrator, Environmental Protection Agency  
1200 Pennsylvania Ave NW  
Washington, DC 20460

RE: Docket ID: EPA-HQ-OAR-2019-0136-0352

Dear Administrator Wheeler:

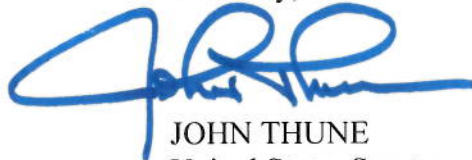
I write to strongly encourage the U.S. Environmental Protection Agency (EPA) to amend its supplemental rule to ensure that all small refinery exemptions (SREs) are fully accounted for when setting renewable volume obligations (RVOs) under the Renewable Fuel Standard (RFS). While I appreciate the administration's commitment to restore integrity to the RFS and provide that at least 15 billion gallons of conventional biofuels are blended into the fuel supply, the proposed supplemental rule unfortunately lacks safeguards that will assure its intent. As you know, resolution of this matter is of critical importance to agriculture stakeholders in South Dakota and across the country, and I urge EPA to reconsider the incorporation of language to make certain that all gallons waived by SREs will be accounted for in final RVOs.

As proposed, the supplemental rule would project "the volume of gasoline and diesel that will be exempt in 2020 due to small refinery exemptions based on a three-year average of the relief recommended by the Department of Energy (DOE), including where DOE had recommended partial exemptions," and allocate such waived gallons in adjusted final rules. As EPA posits, "in practice, the required volumes [would not be] effectively reduced by future hardship exemptions for small refineries." My concern is that this EPA has not restrained its issuance of SREs to align with DOE recommendations, but has repeatedly exceeded them. As such, there could remain continued disparity between DOE recommendations and the actual gallons waived at the discretion of EPA, especially if the current SRE regime is continued.

In its final supplemental rule, I urge EPA to preempt such incongruity by providing that an average of actual waived volumes will be used in accounting for SREs in the 2020 RVO and beyond. Such modification to the supplemental rule will uphold the RFS as intended by Congress, align with remedies to the SRE problem recently discussed and agreed to with this administration, return integrity to the program's administration, and restore stakeholder faith in its implementation. Such changes, combined with increased deployment of blending infrastructure and reduced barriers to market, such as onerous fuel pump labeling requirements, will help realize the unfettered potential of the RFS and associated economic development across the country.

Failure to amend the supplemental rule in a way that ensures that at least 15 billion gallons of conventional ethanol are blended, achieved by accounting for the volumes of biofuels actually waived by SREs, will unfortunately fail to realize the intent of the rulemaking, and thus disserve the intent of the RFS. On behalf of South Dakotans whose livelihoods and communities are intricately tied to the fair implementation of the RFS, thank you for your attention to this matter and deliberate consideration of the changes requested.

Sincerely,

A handwritten signature in blue ink, appearing to read "John Thune", with a stylized flourish extending to the right.

JOHN THUNE  
United States Senator