

JUL 31 2018

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U.S. COURT OF APPEALS  
FOR THE D.C. CIRCUIT

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**RECEIVED** IN THE UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA CIRCUIT

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 PRODUCERS OF RENEWABLES )  
 UNITED FOR INTEGRITY TRUTH )  
 AND TRANSPARENCY, )  
 )  
 Petitioner, )  
 )  
 v. )  
 )  
 UNITED STATES ENVIRONMENTAL )  
 PROTECTION AGENCY, )  
 )  
 Respondent. )  
 \_\_\_\_\_)

Case No. 18-1202

**PETITION FOR REVIEW**

**ORIGINAL**

Pursuant to Rule 15 of the Federal Rules of Appellate Procedure and Section 307(b) of the Clean Air Act, 42 U.S.C. §7607(b), Producers of Renewables United for Integrity Truth and Transparency (Petitioner) hereby petitions the Court for review of final agency action by the U.S. Environmental Protection Agency (EPA) in its decision to allow the generation of Renewable Identification Numbers (RINs) by obligated parties under the Renewable Fuel Standard (RFS) program that do not represent biofuel production in the year the RIN was generated (e.g., 2018), referred to as the “Small Refinery Generated RINs.” This determination has not been published in the Federal Register.

As a result of EPA's action and these new grounds for objection, Petitioner also petitions for review of EPA's final agency action entitled "Regulation of Fuels and Fuel Additives: Changes to Renewable Fuel Standard Program," published at 75 Fed. Reg. 14,670 (Mar. 26, 2010).<sup>1</sup> In particular, we seek review of 40 C.F.R. § 80.1441, which was promulgated as part of this rule, and EPA's determination that it can grant exemptions to small refineries retroactively, including, but not limited to, after EPA sets the standards for the upcoming year and now after the compliance deadline for submitting RINs. The determination that EPA can grant exemptions after the compliance deadline was reflected in a July 12, 2018 letter from EPA to Senator Grassley.

Because EPA has determined it can allow obligated parties to issue Small Refinery Generated RINs, EPA's allowance to seek and/or obtain exemptions after the volumes are set, and now after the compliance deadline, also calls into question the final volumes used by EPA to set the renewable volume obligations under the RFS program through the following final agency actions:

- 1) Renewable Fuel Standard Program: Standards for 2014, 2015, and 2016 and Biomass-Based Diesel Volume for 2017, 80 Fed. Reg. 77,420 (Dec. 14, 2015);

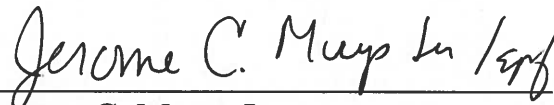
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<sup>1</sup> 40 C.F.R. § 80.1441 was amended in 2014, 79 Fed. Reg. 42,128, 42,163 (July 18, 2014).

- 2) Renewable Fuel Standard Program: Standards for 2017 and Biomass-Based Diesel Volume for 2018, 81 Fed. Reg. 89,746 (Dec. 12, 2016); and
- 3) Renewable Fuel Standard Program: Standards for 2018 and Biomass-Based Diesel Volume for 2019, 82 Fed. Reg. 58,486 (Dec. 12, 2017).

Therefore, Producers of Renewables United for Integrity Truth and Transparency seeks judicial review of these actions, and such challenges are timely under 42 U.S.C. § 7607(b).

Respectfully submitted,



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United for Integrity Truth and Transparency*

Dated: July 31, 2018

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**RULE 26.1 CORPORATE DISCLOSURE STATEMENT**

Pursuant to Federal Rule of Appellate Procedure 26.1 and D.C. Circuit Rule 26.1, Producers of Renewables United for Integrity Truth and Transparency (Petitioner) makes the following disclosures:

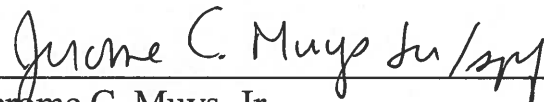
Petitioner has no parent companies, and no publicly-held company has a 10% or greater ownership interest. It has not issued shares or debt securities to the public.

Petitioner is an ad hoc working group of companies that own and operate biomass-based diesel production plants and participate in the Renewable Fuel Standard (RFS) program. Through those operations, they also own Renewable

Identification Numbers (RINs). These companies have joined together to form a working group to raise concerns with EPA's recent handling of the small refinery exemptions, which has adversely affected RINs and the operation of the RFS program, and advocate for changes in EPA's handling of these exemptions.

None of the members of the working group have issued shares or debt securities to the public.

Respectfully submitted,



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**CERTIFICATE OF SERVICE**

Pursuant to Rule 25(d) of the Federal Rules of Appellate Procedure, I hereby certify that I caused the foregoing Petition for Review and Rule 26.1 Statement have been served by United States first-class mail this 31st day of July, 2018 upon each of the following:

The Honorable Andrew Wheeler  
Acting Administrator  
U.S. Environmental Protection Agency  
William Jefferson Clinton Building  
1200 Pennsylvania Avenue, NW  
Mail Code: 1101A  
Washington, DC 20460

Matthew Z. Leopold  
General Counsel  
Office of General Counsel  
U.S. Environmental Protection Agency  
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Acting Attorney General  
Jeffrey H. Wood  
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U.S. Department of Justice  
950 Pennsylvania Avenue, NW  
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