

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

RENEWABLE FUELS ASSOCIATION,

Petitioner,

v.

UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY,

Respondent.

Case No.: 21-1032

PETITION FOR REVIEW

Pursuant to Section 307(b)(1) of the Clean Air Act, 42 U.S.C. § 7607(b)(1), Federal Rule of Appellate Procedure 15(a), and D.C. Circuit Rule 15(a), the Renewable Fuels Association hereby petitions the United States Court of Appeals for the District of Columbia Circuit for review of the United States Environmental Protection Agency's ("EPA's") actions on January 19, 2021, granting small refinery exemption petitions under 42 U.S.C. § 7545(o)(9)(B) for 2018 and 2019. EPA did not issue public decision documents for these actions. Rather, EPA notified the public by email (Exhibit A) and updated the aggregate numbers on EPA's small refinery exemption dashboard (Exhibit B) to show that exemptions had been granted. As reference, we have attached a screenshot of EPA's small refinery exemption dashboard from before these additional exemptions were granted (Exhibit C) and a

chart showing the change between the previous dashboard numbers and the update after these additional exemptions were granted (Exhibit D). This Court has jurisdiction and is a proper venue for this action pursuant to 42 U.S.C. § 7607(b)(1).

Date: January 19, 2021

Respectfully submitted,

/s/ Matthew W. Morrison

Matthew W. Morrison

Cynthia Cook Robertson

Shelby L. Dyl

PILLSBURY WINTHROP SHAW PITTMAN
LLP

1200 Seventeenth Street, NW

Washington, DC 20036

(202) 663-8036

matthew.morrison@pillsburylaw.com

cynthia.robertson@pillsburylaw.com

shelby.dyl@pillsburylaw.com

*Counsel for Renewable Fuels
Association*

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

<p>RENEWABLE FUELS ASSOCIATION,</p> <p style="text-align:center">Petitioner,</p> <p style="text-align:center">v.</p> <p>UNITED STATES ENVIRONMENTAL PROTECTION AGENCY,</p> <p style="text-align:center">Respondent.</p>	<p>Case No.: <u>21-1032</u></p>
-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	---------------------------------

CERTIFICATE OF CORPORATE DISCLOSURE

Pursuant to Federal Rule of Appellate Procedure 26.1 and D.C. Circuit Rule 26.1, Petitioners provide the following corporate disclosure statement:

The Renewable Fuels Association is a non-profit trade association within the meaning of D.C. Circuit Rule 26.1(b). Its members are ethanol producers and supporters of the ethanol industry. It operates for the purpose of promoting the general commercial, legislative, and other common interests of its members. The Renewable Fuels Association does not have a parent company, and no publicly held company has a 10% or greater ownership interest in it.

Date: January 19, 2021

Respectfully submitted,

/s/ Matthew W. Morrison

Matthew W. Morrison

Cynthia Cook Robertson

Shelby L. Dyl

PILLSBURY WINTHROP SHAW PITTMAN
LLP

1200 Seventeenth Street, NW

Washington, DC 20036

(202) 663-8036

matthew.morrison@pillsburylaw.com

cynthia.robertson@pillsburylaw.com

shelby.dyl@pillsburylaw.com

*Counsel for Renewable Fuels
Association*

CERTIFICATE OF SERVICE

Pursuant to Federal Rules of Appellate Procedure 15(c) and 25, I certify that on January 20, 2021, I will serve via FedEx overnight delivery copies of the foregoing petition for review and corporate disclosure statement upon the following:

Andrew Wheeler
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Correspondence Control Unit
Office of General Counsel (2311)
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Jeffrey A. Rosen
Acting Attorney General of the United States
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530

Jeffrey Bossert Clark
Assistant Attorney General
U.S. Department of Justice
Environmental and Natural Resources Division
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530

Date: January 19, 2021

Respectfully submitted,

/s/ Matthew W. Morrison
Matthew W. Morrison

EXHIBIT A

-----Original Message-----

From: enviroflash@epacdx.net <enviroflash@epacdx.net>

Sent: Tuesday, January 19, 2021 4:56 PM

To: Geoff Cooper <GCooper@ethanolrfa.org>

Subject: Notice of EPA's Intent to Update RFS Small Refinery Exemption Data

At 7 PM today (EST), January 19, 2021 EPA will provide decisions to some small refineries that have petitioned the agency for RFS small refinery exemptions. At the same time, EPA will update the Renewable Fuel Standard Small Refinery Exemption website (<https://www.epa.gov/fuels-registration-reporting-and-compliance-help/rfs-small-refinery-exemptions>) to reflect that information.

EXHIBIT B

Table 2: Summary of Small Refinery Exemption Decisions Each Compliance Year *

Compliance Year	Number of Petitions	Number of Grants Issued	Number of Denials Issued	Number of Petitions Declared	Number of Petitions	Number of Pending
2011	42	24	13	3	0	2
2012	41	23	13	3	0	2
2013	30	8	18	0	1	3
2014	28	8	16	0	0	4
2015	28	7	17	1	0	3
2016	29	19	7	0	1	2
2017	37	35	0	0	1	1
2018	44	32	4	2	3	3
2019	32	2	0	0	0	30
2020	15	0	0	0	0	15

EPA, *RFS Small Refinery Exemptions*, [https://www.epa.gov/fuels-registration-reporting-and-compliance-help/rfs-small-refinery-exemptions#:~:text=Beginning%20with%20the%202013%20compliance,80.1441\(e\)\(2\)](https://www.epa.gov/fuels-registration-reporting-and-compliance-help/rfs-small-refinery-exemptions#:~:text=Beginning%20with%20the%202013%20compliance,80.1441(e)(2) (last updated Jan. 19, 2021).

EXHIBIT C

Table 2: Summary of Small Refinery Exemption Decisions Each Compliance Year *

Compliance Year	Number of Petitions	Number of Grants	Number of Denials	Number of Petitions	Number of Petitions	Number Pending
2011	42	24	13	3	0	0
2012	41	23	13	3	0	0
2013	38	8	18	0	1	1
2014	28	8	16	0	0	0
2015	38	7	17	1	0	0
2016	29	19	7	0	1	1
2017	37	35	0	0	1	1
2018	44	31	5	2	3	3
2019	32	0	0	0	0	0



* Petition counts include submissions from small refineries that are seeking reconsideration of petitions that were previously denied. Accordingly, the count for any given compliance year may include petitions from the same small refinery being represented as both a denial and as still pending.

EPA, *RFS Small Refinery Exemptions*, [\(https://www.epa.gov/fuels-registration-reporting-and-compliance-help/rfs-small-refinery-exemptions#:~:text=Beginning%20with%20the%202013%20compliance,80.1441\(e\)\(2\)\)](https://www.epa.gov/fuels-registration-reporting-and-compliance-help/rfs-small-refinery-exemptions#:~:text=Beginning%20with%20the%202013%20compliance,80.1441(e)(2)) (last updated Dec. 17, 2020).

EXHIBIT D

The chart below shows the changes between Exhibit C (RFS Small Refinery Exemptions as of Dec. 17, 2020) and Exhibit B (RFS Small Refinery Exemptions as of Jan. 19, 2021).

Compliance Year	Estimated Volumes of Gasoline and Diesel Exempted (million gallons)	Estimated Renewable Volume Obligations (RVO) Exempted (million RINs)				
2011**						
2012**						
2013	-	-				
2014	-	-				
2015	-	-				
2016	-	-				
2017	-	-				
2018	1,000	110				
2019	1,390	150				
2020	-	-				
Compliance Year	Number of Petitions Received	Number of Grants Issued	Number of Denials Issued	Number of Petitions Declared Ineligible	Number of Petitions Withdrawn	Number of Pending Petitions
2011	-	-	-	-	-	-
2012	-	-	-	-	-	-
2013	-	-	-	-	-	-
2014	-	-	-	-	-	-
2015	-	-	-	-	-	-
2016	-	-	-	-	-	-
2017	-	-	-	-	-	-
2018	-	1	(1)	-	-	-
2019	-	2	-	-	-	(2)
2020	1	-	-	-	-	1
Total	1	3	(1)	-	-	(1)