



STATEMENT BY THE FUELING AMERICAN JOBS COALITION

January 27, 2020—The Fueling American Jobs Coalition released the following statement regarding the 10th Circuit U.S. Court of Appeals ruling:

In some respects, the 10th Circuit RFA case is a garden variety administrative law matter. The court put some limits on EPA but then remanded three small refinery exemptions (SREs) back to EPA for its determination of what to do about it. Any actual implications are a ways off. There has been a great deal of litigation regarding SREs, most of which has been resolved favorably to granting exemptions.

The case was brought by a coalition of large agribusiness concerns. The very notion that SREs inflict harm on these businesses is contrary to the consensus of available information and analysis. The most recent data from the Energy Information Administration again shows that SREs are not suppressed ethanol blending. The blend rate through October 2019 was 10.15 percent, compared to 10.05 through October 2018. EIA STEO just said 2018 blend rate was 10.1%, while 2019 was 10.2%. There is simply no reduction in blend rates and no correlation to reduced prices.

The court's logic in parts seems inconsistent with the legislative history behind the various exemptions and waivers present in the renewable fuel standard (RFS) program. It is at odds with the clear language that small refineries may "at any time" apply for SREs. And the court failed to address much of the definitional and statutory argument made in the briefs and at oral argument by the Justice Department. As a result, there is every reason to suspect the government will press its appeal.

If this case should be interpreted as reducing SREs in a significant fashion, the decision may just have set the table for downward adjustment of the renewable volume obligation, granting comprehensive waivers, or even caps on credit prices, all of which are legal under the Clean Air Act at the Agency's own initiation.

But a wholesale assault on SREs this case is not. The reason the Tenth Circuit had the case in the first place is because it dealt with individual SREs. If it dealt with general Clean Air policy, it would have been in the DC Circuit. So the decision only applies to three SREs, with certainly no greater reach than the 10th Circuit.

This latest controversy regarding implementation of the RFS is just one more piece of evidence that the RFS and its RINs program are broken, inflicting damage on industrial workers, consumers and small retailers while doing nothing material to enhance the position of farmers or energy security.

The Fueling American Jobs Coalition is a coalition of union workers, mom & pop gas station owners, small retailers, and independent American oil refiners fighting for a commonsense fix to the Environmental Protection Agency's (EPA's) flawed Renewable Fuel Standard (RFS). The need for significant reform has only grown over the past few years as the cost of purchasing Renewable Identification Numbers (RINs) to comply with the RFS has grown increasingly volatile, threatening some refiners' survival.

For additional information, visit www.fuelingusjobs.com.