

United States Senate

WASHINGTON, DC 20510

July 26, 2018

Andrew Wheeler
Acting Administrator
Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Office of the Administrator, 1101A
Washington, DC 20460

Dear Acting Administrator Wheeler:

In recent weeks, media reports indicated that the Environmental Protection Agency (EPA) considered a proposal to retroactively reallocate the Renewable Fuel Standard (RFS) compliance obligations from small refineries, which have received hardship relief, to other refineries and importers. Thankfully, in the proposed rule setting renewable volume obligations for 2019 (the "2019 RVO"), EPA abandoned this ill-considered plan. However, given the requests from biofuel interests, we are writing this letter to state very clearly our strong opposition to any future resurrection of this proposed policy.

There is little doubt that retroactively reallocating obligations would only compound the problems with the RFS. Simply put, a retroactive reallocation of small refinery obligations to other obligated parties is illegal and fundamentally unfair, imposing a financial penalty on refineries that have otherwise been in compliance with the law. By so doing, retroactive reallocation violates the principles of due process and administrative law and is clearly not authorized under the Clean Air Act. Further, retroactive reallocation injects radical uncertainty into the market for compliance credits, hurting the U.S. refining base, its workers, and the communities they serve.

Retroactive reallocation is also inconsistent with sound energy policy. A robust domestic refining sector is a key element to national security, as administrations of both political parties have found. Refineries are a source of high-paying manufacturing jobs, thousands of which are placed at risk when RFS compliance obligations aren't reasonable and when compliance costs escalate. All of this is placed in harm's way if EPA retroactively reallocates the obligations of small refineries, which have received hardship relief. We urge EPA to maintain the policy articulated in the proposed 2019 RVO and not deviate from sound policy and the law by trying to fashion any form of retroactive reallocation. Any other direction undermines national security, threatens higher gasoline prices for U.S. consumers, and risks economic harm to fuel providers and the loss of manufacturing jobs.

Sincerely,



James M. Inhofe
United States Senator



Orrin G. Hatch
United States Senator

Michael B. Enzi

Michael B. Enzi
United States Senator

Johnny Isakson

Johnny Isakson
United States Senator

John Barrasso

John Barrasso, M.D.
United States Senator

Roger F. Wicker

Roger F. Wicker
United States Senator

James E. Risch

James E. Risch
United States Senator

Joe Manchin III

Joe Manchin III
United States Senator

John Boozman

John Boozman
United States Senator

Pat Toomey

Pat Toomey
United States Senator

Michael S. Lee

Michael S. Lee
United States Senator

Jeff Flake

Jeff Flake
United States Senator

Ted Cruz

Ted Cruz
United States Senator

Shelley Moore Capito

Shelley Moore Capito
United States Senator

Bill Cassidy, M.D.

Bill Cassidy, M.D.
United States Senator

James Lankford

James Lankford
United States Senator

Tom Cotton

Tom Cotton
United States Senator

Steve Daines

Steve Daines
United States Senator

David A. Perdue

David A. Perdue
United States Senator

John Kennedy

John Kennedy
United States Senator

Cindy Hyde-Smith

Cindy Hyde-Smith
United States Senator