

April 4, 2018

National Freedom of Information Officer  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, NW (2822T)  
Washington, DC 20460

RE: *Freedom of Information Act ("FOIA") Request for Small Refinery and Small Refiner Hardship Exemption Materials*

Dear FOIA Officer:

In January 2018, I requested dialogue with Administrator Pruitt regarding the Agency's review and issuance of small refinery and small refiner disproportionate economic hardship exemptions under the Renewable Fuels Standard.<sup>1</sup> In the absence of any response from the Agency, and amid reports that EPA has granted more than two dozen small refinery or small refiner economic hardship exemptions in the past year without public notice or comment, I am formally requesting under the Freedom of Information Act<sup>2</sup> the following information and documents from the Office of Air and Radiation and the Office of the Administrator:

- Any and all verification letters submitted to EPA seeking small refiner or small refinery exemptions under 40 C.F.R. § 80.1441(e)(2) or § 80.1442(h).
- Any and all documents reflecting the Agency's review of the verification letters submitted by small refiners or small refineries, including all correspondence with the small refiner or small refinery submitting the letter.
- Any and all petitions from refiners or small refineries seeking an extension of the small refiner or small refinery exemption based on a claim of disproportionate economic hardship, including any supporting information (other than material identified and marked as confidential business information).
- Any and all correspondence between EPA and refiners or small refineries seeking an extension of the small refiner or small refinery exemption based on a claim of disproportionate economic hardship, including any supporting information (other than material identified and marked as confidential business information).
- Any and all documents discussing or describing the refining capacity represented by the exempted small refiners and small refineries and from those small refiners and small refineries for which an extension was requested;
- Any and all documents granting or denying a small refinery or small refiner extension request considered in 2016, 2017, and 2018;

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<sup>1</sup> 42 U.S.C. § 7545(o)(9)(B); *see also* 40 C.F.R. §§ 80.1441-80.1442.

<sup>2</sup> 5 U.S.C. § 552 et seq.

- Any and all EPA documents containing the criteria used by EPA to approve a small refinery or small refiner exemption request;
- Any and all EPA documents containing the criteria used by EPA to approve a small refinery or small refiner exemption *extension* request;
- Any and all EPA documents addressing whether EPA's Dec. 6, 2016 memorandum outlining financial and other information to be submitted as part of a small refinery or small refiner exemption request has been or will be updated or amended;<sup>3</sup>
- Any and all documents prepared by the Department of Energy as part of its consultation with EPA that assesses the potential economic hardship faced by a small refinery or small refiner;
- Any and all documents summarizing the number of small refinery or small refiner hardship exemptions received by EPA in 2016, 2017 and/or 2018;
- Any and all documents containing the refining capacity represented by small refineries that had submitted hardship exemption requests in 2016, 2017 and/or 2018;
- Any and all communications from EPA to small refineries or small refiners that have submitted requests for extensions of a small refiner or small refinery exemption hardship exemption requests in 2016, 2017 and/or 2018;

I am requesting that materials be provided to me on computer files or, if not maintained on computer files, in the same format as they are currently maintained at the EPA. Materials may be forwarded to me at the address above. I agree to pay reasonable fees for the materials I have requested; including actual costs up to \$250. If you estimate that actual costs will exceed \$250, please contact me so that I may arrange for payment. If documents are withheld entirely, I would kindly request that EPA: identify, at the time of document production, any and all material which is withheld; provide a justification for withholding the information, pursuant to 5 U.S.C. § 552(a)(6); and identify the exemption which EPA believes allows the withholding of the requested information.

If you should have any questions about this request, please feel free to contact me at (202) 289-3835 or [BobD@ethanolrfa.org](mailto:BobD@ethanolrfa.org).

Sincerely,



Bob Dinneen  
President and CEO  
Renewable Fuels Association

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<sup>3</sup> Memorandum from Byron Bunker, U.S. EPA, Office of Air and Radiation, *Financial and Other Information to Be Submitted with 2016 RFS Small Refinery Hardship Exemption Requests* (Dec. 6, 2016).