

**Congress of the United States**  
Washington, D.C. 20515

July 2, 2020

President Donald J. Trump  
The White House  
1600 Pennsylvania Ave.  
Washington, D.C. 20500

Dear President Trump,

On June 18, 2020 the Environmental Protection Agency (EPA) reported 52 new Renewable Fuel Standard (RFS) waiver petitions for past compliance years through its RFS Small Refinery Exemption Dashboard. These new waiver requests date from 2011 through 2018, long after RFS compliance for those years has closed. We are concerned that if retroactive waivers are granted by the EPA, they could be used as a new pathway to further undermine the RFS.

We believe that these “gap year” petitions are ultimately an effort to evade and undermine the January 2020 Tenth Circuit Court ruling in *Renewable Fuels Association v EPA*<sup>1</sup>, where the Court held that small refinery exemptions (SRE) could only be granted to refineries that received consecutive annual exemptions. As you know, the Court determined EPA could only grant “extensions” of existing waivers and could not “extend” waivers where they previously did not exist. Moreover, the Court found that any waiver must be solely tied to demonstrated harm caused specifically by the RFS, not any other factors.

We are concerned that these “gap year” waivers are an attempt to circumvent the Court’s ruling at the expense of the biofuel producers, farmers, and rural communities we represent. As you know, the RFS provides hundreds of thousands of jobs across rural America, supports corn and soybean markets, and lowers fuel prices. These “gap year” SRE requests jeopardize the integrity of the RFS and, if granted, will devastate our rural economies.

We respectfully request that you ensure the EPA immediately deny these 52 “gap year” refinery exemptions as they are inconsistent with the Tenth Circuit Court ruling, and Congressional intent of the RFS. Petitioning for retroactive exemptions undermines the Court’s decision, and the legal obligation that petitions be filed “in a timely manner.” Considering this ruling, there is no reasonable scenario in which an existing refinery can claim it is entitled to an exemption that it did not previously seek or receive.

Since 2016, more than 4 billion gallons of biofuels have been wiped from the marketplace as a result of the number of SREs granted by the EPA. Granting these 52 new “gap year” SREs would equate to a loss of an additional 2 billion gallons of biofuel demand. Setting this dangerous precedent would ultimately devastate the rural economy. Additionally, the EPA has 80 pending SREs in total which must be considered in a manner that is consistent with the Tenth Circuit Court’s decision.

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<sup>1</sup> 948 F. 3d 1206 (10<sup>th</sup> Cir. 2020)

The RFS has been a tremendous success, providing a critical value-added market for our farmers, lowering the price of fuel for consumers, and improving air quality across the nation. The EPA's repeated efforts to undermine the RFS with waivers, SREs, and tepid annual volume requirements continue to undermine the future potential of our local farmers and biofuels producers.

Please direct the EPA to uphold the Tenth Circuit Court's ruling in light of its nationwide applicability and quickly deny these "gap year" waiver requests as quickly as possible in order to uphold the RFS and provide certainty for the biofuels economy.

Thank you for your consideration of this request and your continued commitment to serving rural America.

Sincerely,



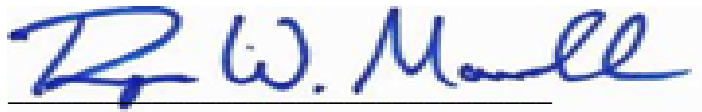
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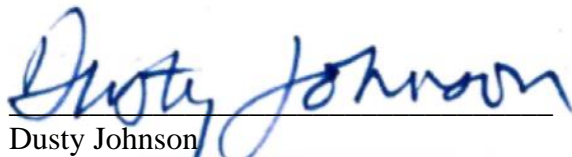
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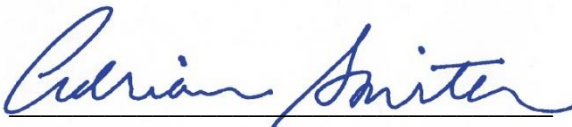
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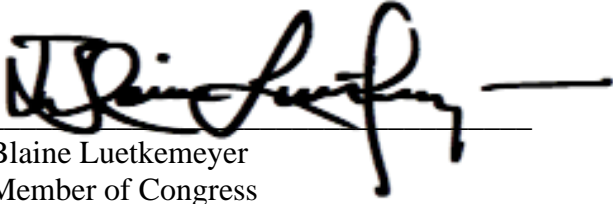
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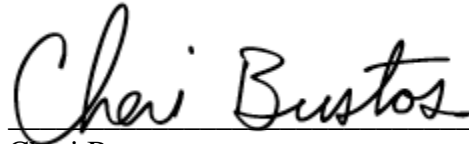
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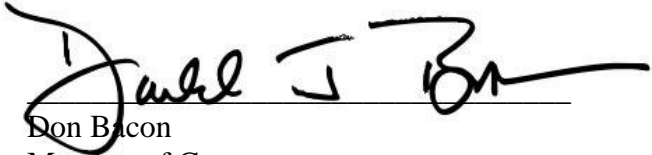
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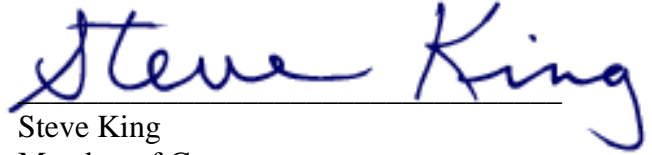
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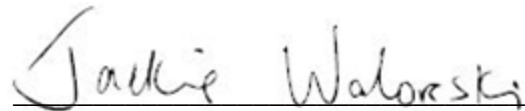
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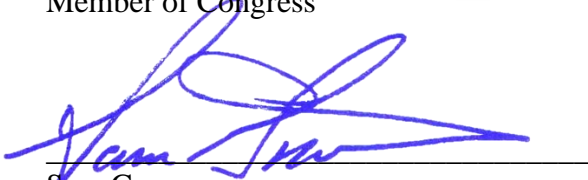
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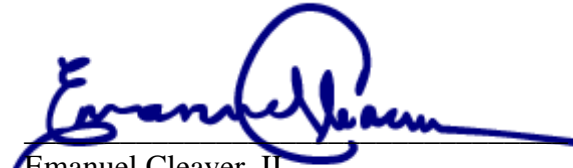
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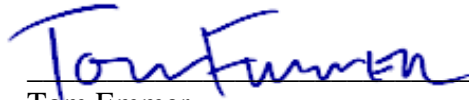
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/S/ David N. Cicilline

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