

EPA's Wheeler Sees Potential "Issues" With Retroactive SRE Petitions

EPA Administrator Andrew Wheeler on Wednesday said there may be "a number of issues" with the 52 retroactive small refinery exemption (SRE) petitions the agency received in the wake of a January 10th U.S. Circuit Court of Appeals ruling.

In a conference call with reporters to discuss the environmental impacts of the U.S.-Mexico-Canada Agreement, a new trade deal that took effect Wednesday, Wheeler was asked about the 52 "gap" SRE petitions refiners filed in a bid to establish a continuous chain of annual waivers to work around the court's ruling that the Clean Air Act bars EPA from extending exemptions to refiners whose earlier SREs had lapsed.

"We received those petitions from companies for previous years, and we have sent those applications over to the [U.S.] Department of Energy for their review, which is the first step of the process," Wheeler said.

While he said EPA has yet to receive DOE's recommendations, he noted there may be "a number of issues" with the requests. "These petitions go back to 2012, and the RINs from that year are no longer active. They have expired. So, there are questions about whether or not they can show economic harm and what the remedy would be, but we're waiting to see what the Department of Energy has to say..."

EPA in mid-June disclosed on an online Renewable Fuel Standard (RFS) dashboard that it had received 52 gap SRE petitions covering nearly every RFS compliance year since 2010. The agency said it received six petitions each for 2011 and 2012, 10 for 2013, 11 for 2014, 10 for 2015, seven for 2016 and two for 2018.

Word of the retroactive petitions has raised concerns in the biofuels industry, which has been pressing the agency to apply the circuit court's ruling nationwide.

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