A legal representative for numerous U.S. small refineries has submitted a letter to the Environmental Protection Agency opposing calls for the agency to share confidential business information of small refineries with the U.S. Secretary of Agriculture. LeAnn Johnson Koch, a partner at Perkins Coie, writes that small refineries shared information with the EPA under claims of confidentiality, as part of their petitions for hardship relief from the Renewable Fuel Standard (RFS), and with the understanding that only the EPA and the Department of Energy would have access to it.

“The information is extremely competitive from a business standpoint,” writes Koch. “Disclosure of this information to parties outside of EPA and DOE would not only be improper as a matter of law but would also allow opponents of small refinery exemptions to skew and misuse the confidential to the detriment of petitioning small refineries and allow competitors to target vulnerable small refineries.”

Koch says the U.S. Department of Agriculture is seeking the confidential business information of small refineries in order to influence the EPA to reduce the number of small refinery exemptions (SREs) granted under the RFS.

“The decision whether to grant small refinery hardship is a legal decision, not a political one and EPA should act in accordance with the law and the several Court decisions directing EPA to grant hardship relief as Congress intended,” writes Koch.

Her full letter urging the agency to keep sensitive and competitive information confidential can be found here.

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