

GAO Highlights

Highlights of [GAO-23-104273](#), a report to congressional requesters

Why GAO Did This Study

The RFS requires that gasoline and diesel fuels be blended with a minimum volume of renewable fuel. Small refineries can petition EPA annually for an exemption from their RFS obligations based on disproportionate economic hardship. EPA must evaluate small refinery exemption petitions in consultation with DOE.

GAO was asked to review issues related to EPA's and DOE's implementation of the small refinery exemption program. This report examines (1) information, policies, and procedures EPA and DOE use to make decisions about exemptions; and (2) the extent to which exemption decisions are timely. GAO analyzed data and documents related to exemptions from 2013 through 2021 and interviewed agency officials and industry stakeholders.

What GAO Recommends

GAO is making seven recommendations, including that EPA reassess its conclusion that all small refineries recover their RFS compliance costs in the price of the gasoline and diesel they sell, DOE and EPA develop documented policies and procedures for making small refinery exemption decisions, and EPA develop procedures to ensure that it meets deadlines.

DOE agreed with GAO's recommendations. EPA disagreed with one recommendation and partially agreed with the others. GAO maintains that the recommendations are valid, as discussed in the report.

View [GAO-23-104273](#). For more information, contact Frank Rusco at (202) 512-3841 or ruscof@gao.gov.

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RENEWABLE FUEL STANDARD

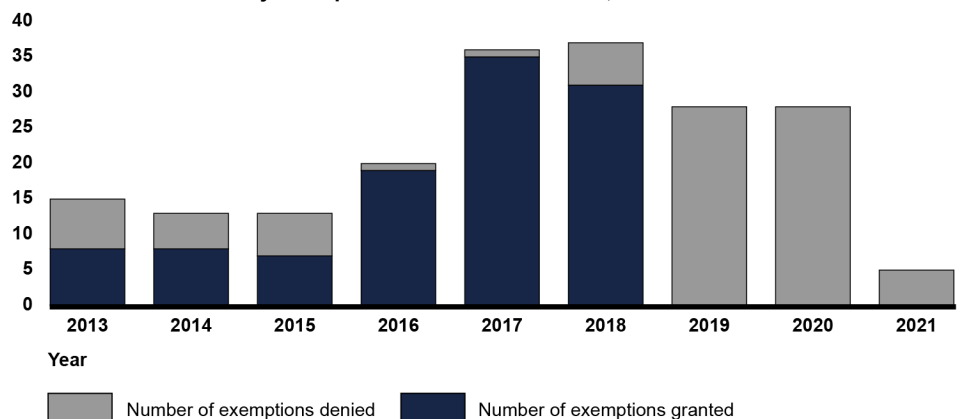
Actions Needed to Improve Decision-Making in the Small Refinery Exemption Program

What GAO Found

The U.S. Environmental Protection Agency (EPA) does not have assurance that its decisions about small refinery exemptions under the Renewable Fuel Standard (RFS) are based on valid information. In addition, EPA and the Department of Energy (DOE) do not have policies and procedures specifying how they are to consult about and make exemption decisions.

- **Information.** Small refinery exemption decisions for compliance years 2019 through 2021 were based on an EPA conclusion that small refineries do not experience disproportionate economic hardship from the RFS. This conclusion relies on a potentially flawed assumption—that all parties pay and receive one price for the tradeable credits used to demonstrate compliance with the RFS. GAO found that EPA has not analyzed whether this assumption is valid. GAO's analysis showed that small refineries have paid more on average for compliance credits than large refineries. Without reassessing its conclusion, EPA does not have assurance that its small refinery exemption decisions are based on valid information.
- **Policies and procedures.** EPA has generally documented its decisions. However, EPA has no policies or procedures for how it assesses petitions and makes exemption decisions. Similarly, DOE does not have policies or procedures for how it provides consultation to EPA. Administration of the program has been inconsistent, and the number of exemptions granted and denied has varied from year to year (see fig.). Consequently, agency decisions appear ad hoc, resulting in market uncertainty. This can harm small refineries and renewable fuel producers by undermining their ability to plan for infrastructure upgrades and renewable fuel demand.

Number of Small Refinery Exemptions Granted and Denied, 2013-2021



Source: GAO analysis of U.S. Environmental Protection Agency data. | GAO-23-104273

EPA has routinely missed the 90-day statutory deadline for issuing exemption decisions and does not have procedures to ensure that it meets these deadlines. In 5 of the 9 years GAO analyzed, EPA took more than 200 days to issue a decision for more than half of the petitions submitted. These late decisions diminish the benefit of exemptions, create market uncertainty, discourage investment, and undermine the design of the RFS more broadly.