UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

Renewable Fuels Association, American Coalition for Ethanol, National Corn Growers Association, and National Farmers Union, Petitioners,	)	
v.	)	Case No.: _________
U.S. Environmental Protection Agency, Respondent.	)	

PETITION FOR REVIEW

Pursuant to Section 307(b)(1) of the Clean Air Act, 42 U.S.C. § 7607(b)(1), and Rule 15(a) of the Federal Rules of Appellate Procedure; the Renewable Fuels Association ("RFA"), American Coalition for Ethanol, National Corn Growers Association, and National Farmers Union (collectively "Renewable Fuels Ad Hoc Coalition," "Petitioners," or "Coalition") hereby petition the United States Court of Appeals for the Tenth Circuit for review of the following final agency actions issued by the Environmental Protection Agency ("EPA"):

1. *Extension of Small Refinery Temporary Exemption Under the Renewable Fuels Standard Program for HollyFrontier Corp.'s Woods Cross, Utah Refinery (May 2017)* [1]*;*

2. *Extension of Small Refinery Temporary Exemption Under the Renewable Fuels Standard Program for HollyFrontier Corp.'s Cheyenne, Wyoming Refinery (December 2017)*[2]*; and*

3. *Extension of Small Refinery Temporary Exemption Under the Renewable Fuels Standard Program for Wynnewood Refining Company, LLC's Wynnewood, Oklahoma Refinery, a subsidiary of CVR Energy, Inc. and CVR Refining, LP (2018).*[3]

Each of these small refinery exemption determinations is a final agency action subject to judicial review in this Court. *See Sinclair Wyo. Refining Co. v. EPA*, 874 F.3d 1159, 1163 (10th Cir. 2017); 42 U.S.C. § 7607(b)(1). Venue is proper in this circuit because, although each of the determinations challenged here is a "determination of nationwide scope or effect," EPA did not publish any of them in the Federal Register or by any other means. *See Lion Oil Co. v. EPA*, 792

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[1] *See* Form 10-K, Annual Report Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934, HollyFrontier Corporation (Feb. 21, 2018) at 76, attached hereto as Appendix A.

[2] *Id*.

[3] Although CVR Energy would neither confirm nor deny that it applied for or received a small refinery exemption, its first quarter 2018 financials indicate that it has received an economic hardship exemption. On April 26, 2018, CVR Energy acknowledged "a reduction in our estimated Renewable volume obligation" and reported that it expected its 2018 cost of compliance with the RFS to be $120 million less than the amount it had estimated just two months prior. Jarrett Renshaw and Chris Prentice, CVR Q1 Income Doubles on Stronger Crack Spreads, Lower Biofuels Cost, Reuters, Apr. 26, 2018; Jarrett Renshaw and Chris Prentice, U.S. EPA Grants Biofuels Waiver to Billionaire Icahn's Oil Refinery-Sources, Reuters, Apr. 30, 2018; attached hereto as Appendix B.

F.3d 978, 980 (8th Cir. 2015) (finding that the § 7607(b)(1) provision for exclusive venue in the District of Columbia Circuit Court of Appeals for review of a locally or regionally applicable agency determination that is nonetheless "of nationwide scope or effect" applies only where such determination is "published"; transmitting final determination to petitioning small refinery did not "publish" the determination within the meaning of the statute). Indeed, EPA did not even provide public notice that it had received or had acted upon any requests for an extension of a small refinery exemption. Instead, the Coalition learned of these exemptions through recent media reports citing EPA sources. Because EPA never published the exemption letters or determinations, in the Federal Register or otherwise, and the Coalition thus does not have actual notice of EPA's determinations within the meaning of the statute, the 60-day period for filing a petition for review under 42 U.S.C. § 7607(b)(1) did not begin to run and the time period set forth under 40 C.F.R. § 23.3 for unpublished determinations is not applicable to the Coalition.[4] However, out of an abundance of caution, the

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[4] EPA's regulation setting a 14-day automatic "trigger" of the 60-day period for filing petitions for review in the case of unpublished decisions, 40 C.F.R. § 23.3, applies only to potential litigants having actual notice those decisions. EPA acknowledged in promulgating this rule that parties with no notice were "outside the scope" of the rulemaking. *See* 50 Fed. Reg. 7268, 7269 (Feb. 21, 1985) ("Most potential litigants interested in actions covered by the regulations will have actual notice of non-Federal Register documents. … The rule issued today will have the beneficial effect of establishing a fixed trigger for commencing the

Coalition is filing this petition within 60 days of the first news article (April 3, 2018), attached hereto as Appendix C.

To date, EPA has refused to disclose information requested by journalists pursuant to the Freedom of Information Act ("FOIA") about any specific small refinery exemptions. *See* Appendix C. EPA has likewise refused to disclose information requested by Petitioner RFA in response to RFA's separate FOIA request to the agency. *See* Appendix D. The Coalition is also aware of an April 12, 2018 letter from a bipartisan group of United States Senators to EPA requesting additional information from EPA regarding small refinery exemptions. *See* Letter from Charles E. Grassley, United States Senator, to Scott Pruitt, EPA Administrator (Apr. 12, 2018), attached as Appendix E (available at https://www.grassley.senate.gov/sites/default/files/Pruitt%20Small%20Refinery%20Letter%204.12.18.pdf (last accessed May 29, 2018)). To Petitioners' knowledge, however, EPA has yet to release this requested information as of the date of this filing.

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judicial review process [for litigants having actual notice]. The commenter's concern—that someone entitled to seek judicial review, and who has no notice of the action, will later be barred from obtaining review by a preclusive judicial review provision—**addresses a matter not within the scope of this rulemaking**.") (emphasis added). The Coalition, as potential litigants with no actual notice of the EPA's determinations, is outside of the scope of the regulation is therefore inapplicable to Petitioners in this case.

In testimony before the House Energy and Commerce Committee on April 26, 2018, Administrator Pruitt neither confirmed nor denied that CVR Refining, a parent company of Wynnewood Refining Corp., LLC received a small refinery exemption. Transcript of House Energy and Commerce Committee, Subcommittee on Environment hearing on Fiscal Year 2019 Environmental Protection Agency Budget at ln. 4144-4156 (April 26, 2018), attached hereto as Appendix F.

Date: May 29, 2018

Respectfully submitted,

/s/ Matthew W. Morrison
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Counsel for Petitioners

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Renewable Fuels Association, American Coalition for Ethanol, National Corn Growers Association, and National Farmers Union,	)	
Petitioners,	)	
v.	)	Case No.: __________
Environmental Protection Agency,	)	
Respondent.	)	

CERTIFICATE OF CORPORATE DISCLOSURE

Pursuant to Federal Rule of Appellate Procedure 26.1, Petitioners prove the following corporate disclosure statement:

The Renewable Fuels Association ("RFA") is a non-profit trade association. Its members are ethanol producers and supporters of the ethanol industry. It operates for the purpose of promoting the general commercial, legislative, and other common interest of its members. The Renewable Fuels Association does not have a parent company, and no publicly held company has a 10% or greater ownership interest in it.

The American Coalition for Ethanol is a non-profit trade association. Its members include ethanol and biofuel facilities, agricultural producers, ethanol industry investors, and supporters of the ethanol industry. It operates for the purpose of promoting the general commercial, legislative, and other common interests of its members. It does not have a parent company, and no publicly held company has a 10% or greater ownership interest in it.

The National Corn Growers Association is a non-profit trade association. Its members are corn farmers and supporters of the agriculture and ethanol industries. It operates for the purpose of promoting the general commercial, legislative, and other common interests of its members. It does not have a parent company, and no publicly held company has a 10% or greater ownership interest in it.

The National Farmers Union is a non-profit trade association. Its members are farmers and supporters of the agriculture and ethanol industries. It operates for the purpose of promoting the general commercial, legislative, and other common interests of its members. It does not have a parent company, and no publicly held company has a 10% or greater ownership interest in it.

Date: May 29, 2018

Respectfully submitted,

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Counsel for Petitioners

CERTIFICATE OF SERVICE

Pursuant to Federal Rules of Appellate Procedure 15(c) and 25, and 40 C.F.R. § 23.12(a), I hereby certify that on May 29, 2018, I have taken the following actions to ensure proper service of the foregoing Petition for Review and Corporate Disclosure Statement:

Service on Respondent: I will cause five time-stamped copies of the foregoing Petition for Review and Corporate Disclosure Statement to be delivered by overnight mail on The Clerk of the Clerk of the Court of Appeals of the Tenth Circuit for Service on Respondent, through each of the following individuals:

The Hon. Scott Pruitt
Administrator
U.S. Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Ave., NW
Washington, DC 20460

Correspondence Control Unit
Office of General Counsel (2311)
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., NW
Washington, DC 20460

Matthew Z. Leopold
General Counsel
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., NW
Washington, DC 20460

The Hon. Jeff Sessions
Attorney General of the United States

U.S. Department of Justice
950 Pennsylvania Ave., NW
Washington, DC 20530

Jeffrey H. Wood
Acting Assistant Attorney General
U.S. Department of Justice
Law and Policy Section
Environment and Natural Resources
Division
950 Pennsylvania Ave., N.W.
Washington, D.C. 20530-0001

Service on parties to the agency proceedings: I will also cause time-stamped copies of the foregoing Petition for Review and Corporate Disclosure Statement to be delivered by overnight mail upon each of the following individuals:

Wynnewood Refining Company, LLC
c/o John R. Walter
Executive Vice President, General Counsel and Secretary
CVR Refining, LP
10 E. Cambridge Circle, Suite 250
Kansas City KS 66103

Scott White
Vice President & Refinery Manager
Holly Frontier Corporation
Woods Cross Refinery
1070 West 500 South
West Bountiful, Utah 84087-1442

Jeff Danielson
Vice President & Refinery Manager
Holly Frontier Corporation
Cheyenne Refinery
300 Morrie Avenue

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CERTIFICATE OF DIGITAL SUBMISSION

In accordance with the Court's CM/ECF User's Manual, I hereby certify that:

1) All required privacy redactions have been made per Tenth Circuit Rule 25.5;
2) Hard copies of this pleading that may be required to be submitted to the Court are exact copies of the ECF filing; and
3) The ECF submission has been scanned for viruses with the most recent version of a commercial virus scanning program, Symantec Endpoint Protection version 14.0.2422.0202 and, according to the program, is free of viruses.

Date: May 29, 2018

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Appendix A

HollyFrontier 10-K, February 2018

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

FORM 10-K

(Mark One)

☒ **ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

For the fiscal year ended December 31, 2017
OR

☐ **TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

For the transition period from __________ to ____________

Commission File Number 1-3876

HOLLYFRONTIER CORPORATION

(Exact name of registrant as specified in its charter)

Delaware	**75-1056913**
(State or other jurisdiction of incorporation or organization)	**(I.R.S. Employer Identification No.)**
2828 N. Harwood, Suite 1300 Dallas, Texas	**75201-1507**
(Address of principal executive offices)	**(Zip Code)**

(214) 871-3555
Registrant's telephone number, including area code

Securities registered pursuant to Section 12(b) of the Act:
Common Stock, $0.01 par value registered on the New York Stock Exchange.

Securities registered pursuant to 12(g) of the Act:
None.

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act. Yes ☒ No ☐
Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15 (d) of the Act. Yes ☐ No ☒

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15 (d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes ☒ No ☐

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). Yes ☒ No ☐

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K (§229.405 of this chapter) is not contained herein, and will not be contained, to the best of registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K. ☐
Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, a smaller reporting company, or an emerging growth company. See the definitions of "large accelerated filer," "accelerated filer," "smaller reporting company," and "emerging growth company" in Rule 12b-2 of the Exchange Act.

Large accelerated filer	☒	Accelerated filer	☐	Non-accelerated filer	☐	Smaller reporting company	☐
Emerging growth company	☐						

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act. ☐

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act). Yes ☐ No ☒

On June 30, 2017, the last business day of the registrant's most recently completed second fiscal quarter, the aggregate market value of the Common Stock, par value $0.01 per share, held by non-affiliates of the registrant was approximately $4.5 billion, based upon the closing price on the New York Stock Exchange on such date. (This is not deemed an admission that any person whose shares were not included in the computation of the amount set forth in the preceding sentence necessarily is an "affiliate" of the registrant.)

177,363,228 shares of Common Stock, par value $.01 per share, were outstanding on February 16, 2018.

DOCUMENTS INCORPORATED BY REFERENCE

Portions of the registrant's proxy statement for its annual meeting of stockholders to be held on May 9, 2018, which proxy statement will be filed with the Securities and Exchange Commission within 120 days after December 31, 2017, are incorporated by reference in Part III.

	Rack Back (1)	Rack Forward (2)	Eliminations (3)	Total Lubricants and Specialty Products
	(In thousands)			
Year Ended December 31, 2017				
Sales and other revenues	$ 621,153	$ 1,415,842	$ (442,959)	$ 1,594,036
Cost of products sold	504,782	1,032,161	(442,959)	1,093,984
Operating expenses	95,303	127,158	—	222,461
Selling, general and administrative expenses	27,618	77,494	—	105,112
Depreciation and amortization	23,471	8,423	—	31,894
Income (loss) from operations	$ (30,021)	$ 171,812	$ —	$ 141,791
Year Ended December 31, 2016				
Sales and other revenues	$ —	$ 464,359	$ —	$ 464,359
Cost of products sold	—	377,136	—	377,136
Operating expenses	—	13,867	—	13,867
Selling, general and administrative expenses	—	2,899	—	2,899
Depreciation and amortization	—	620	—	620
Income from operations	$ —	$ 73,927	$ —	$ 73,927
Year Ended December 31, 2015				
Sales and other revenues	$ —	$ 493,282	$ —	$ 493,282
Cost of products sold	—	415,796	—	415,796
Operating expenses	—	14,042	—	14,042
Selling, general and administrative expenses	—	2,615	—	2,615
Depreciation and amortization	—	254	—	254
Income from operations	$ —	$ 60,575	$ —	$ 60,575

(1) Rack back consists of our PCLI base oil production activities, by-product sales to third parties and intra-segment base oil sales to rack forward.
(2) Rack forward activities include the purchase of base oils from rack back and the blending, packaging, marketing and distribution and sales of finished lubricants and specialty products to third parties.
(3) Intra-segment sales of rack back produced base oils to rack forward are eliminated under the "Eliminations" column.

Results of Operations – Year Ended December 31, 2017 Compared to Year Ended December 31, 2016

Summary
Net income attributable to HollyFrontier stockholders for the year ended December 31, 2017 was $805.4 million ($4.54 per basic and $4.52 per diluted share), a $1,065.8 million increase compared to a net loss attributable to HollyFrontier stockholders of $260.5 million ($1.48 per basic and diluted share) for the year ended December 31, 2016. Net income increased due principally to an increase in refining segment sales volumes and gross refining margins and the inclusion of earnings attributable to the operations of our recently acquired Petro-Canada Lubricants business. Additionally, we recorded long-lived asset impairment charges totaling $23.2 million for the year ended December 31, 2017 compared to goodwill and long-lived asset impairment charges totaling $654.1 million for the year ended December 31, 2016. For the year ended December 31, 2017, lower of cost or market inventory reserve adjustments increased pre-tax earnings by $108.7 million compared to $291.9 million for the year ended December 31, 2016. Refinery gross margins for the year ended December 31, 2017 increased to $11.56 per barrel sold from $8.16 for the year ended December 31, 2016. During 2017, our Cheyenne Refinery and Woods Cross Refinery were each granted a one-year small refinery exemption from the EPA at which time we recorded a $30.5 million and $27.3 million, respectively, decrease to our cost of products sold, reflecting the reinstatement of RINs previously expensed in 2016. The Tax Cut and Jobs Act was enacted on December 22, 2017, resulting in a tax benefit of $307.1 million for the year ended December 31, 2017.

Sales and Other Revenues

Sales and other revenues increased 35% from $10,535.7 million for the year ended December 31, 2016 to $14,251.3 million for the year ended December 31, 2017 due to a year-over-year increase in sales prices and higher product sales volumes. Sales and other revenues for the years ended December 31, 2017 and 2016 include $77.2 million and $68.9 million, respectively, in HEP revenues attributable to pipeline and transportation services provided to unaffiliated parties. Additionally, the operations of our Petro-Canada Lubricants business contributed $1,125.3 million in sales and other revenues to our Lubricants and Specialty Products segment for the year ended December 31, 2017.

Cost of Products Sold

Total cost of products sold increased 34% from $8,474.0 million for the year ended December 31, 2016 to $11,359.1 million for the year ended December 31, 2017, due principally to higher crude oil costs and higher sales volumes of products. Additionally, cost of products sold reflects a $108.7 million benefit that is attributable to a decrease in the lower of cost or market reserve for the year ended December 31, 2017, a $183.3 million decrease compared to $291.9 million for the same period of last year. The reserve at December 31, 2017 is based on market conditions and prices at that time. Additionally, we recorded a $30.5 million and $27.3 million RINs cost reduction during 2017 as a result of the reinstatement of previously utilized RINs following our Cheyenne Refinery and Woods Cross Refinery small refinery exemptions, respectively.

Gross Refinery Margins

Gross refinery margin per barrel sold increased 42% from $8.16 for the year ended December 31, 2016 to $11.56 for the year ended December 31, 2017. This was due to the effects of an increase in the average per barrel sold sales price, partially offset by increased crude oil and feedstock prices during the current year. Gross refinery margin does not include the non-cash effects of lower of cost or market inventory valuation adjustments, goodwill and asset impairment charges or depreciation and amortization. See “Reconciliations to Amounts Reported Under Generally Accepted Accounting Principles” following Item 7A of Part II of this Form 10-K for a reconciliation to the income statement of sale prices of products sold and cost of products purchased.

Operating Expenses

Operating expenses, exclusive of depreciation and amortization, increased 27% from $1,018.8 million for the year ended December 31, 2016 to $1,294.2 million for the year ended December 31, 2017 due principally to $208.7 million in costs attributable to the operations of our Petro-Canada Lubricants business and higher purchased fuel costs compared to 2016. For the years ended December 31, 2017 and 2016, operating expenses include $137.6 million and $90.4 million, respectively, in costs attributable to HEP operations.

Selling, General and Administrative Expenses

Selling, general and administrative expenses increased 111% from $125.6 million for the year ended December 31, 2016 to $264.9 million for the year ended December 31, 2017, due principally to $127.7 million in costs attributable to the operations of our Petro-Canada Lubricants business and related acquisition and integration costs. Incremental direct acquisition and integration costs of our Petro-Canada Lubricants business totaled $27.9 million and $13.4 million for the years ended December 31, 2017 and 2016, respectively. For the years ended December 31, 2017 and 2016, selling, general and administrative expenses include $11.9 million and $10.1 million, respectively, in costs attributable to HEP operations.

Depreciation and Amortization Expenses

Depreciation and amortization increased 13% from $363.0 million for the year ended December 31, 2016 to $409.9 million for the year ended December 31, 2017. This increase was due principally to $30.9 million in depreciation and amortization expenses attributable to the operations of our Petro-Canada Lubricants business and capitalized improvement projects and capitalized refinery turnaround costs. For the years ended December 31, 2017 and 2016, depreciation and amortization expenses include $77.7 million and $68.8 million, respectively, in costs attributable to HEP operations.

Goodwill and Asset Impairment

During the year ended December 31, 2017, we recorded a $19.2 million long-lived asset impairment charge resulting from management's plan to cease further expansion of our Woods Cross Refinery to add lubricants production compared to goodwill and long-lived asset impairment charges of $309.3 million and $344.8 million, respectively, for the year ended December 31, 2016 that related to our Cheyenne Refinery. See Note 10 “Goodwill” in the Notes to Consolidated Financial Statements for additional information on these impairments.

Interest Income

Interest income for the year ended December 31, 2017 was $3.7 million compared to $2.5 million for the year ended December 31, 2016. This increase was due to higher interest rates received on cash balances during 2017.

NOTE 8: Inventories

Inventory consists of the following components:

	December 31,			
	2017		2016	
	(In thousands)			
Crude oil	$	581,417	$	549,886
Other raw materials and unfinished products[(1)]		396,618		287,561
Finished products[(2)]		655,336		465,432
Lower of cost or market reserve		(223,833)		(332,518)
Process chemicals[(3)]		24,792		2,767
Repairs and maintenance supplies and other [(4)]		195,762		162,548
Total inventory	$	1,630,092	$	1,135,676

(1) Other raw materials and unfinished products include feedstocks and blendstocks, other than crude.
(2) Finished products include gasolines, jet fuels, diesels, lubricants, asphalts, LPG's and residual fuels.
(3) Process chemicals include additives and other chemicals.
(4) Includes RINs

We acquired $214.9 million of other raw materials, unfinished and finished products and repair and maintenance supplies in connection with our February 1, 2017 acquisition of PCLI. We value these inventories at the lower of FIFO cost or net realizable value.

Inventories which are valued at the lower of LIFO cost or market reflect a valuation reserve of $223.8 million and $332.5 million at December 31, 2017 and 2016, respectively. The December 31, 2016 market reserve of $332.5 million was reversed due to the sale of inventory quantities that gave rise to the 2016 reserve. A new market reserve of $223.8 million was established as of December 31, 2017 based on market conditions and prices at that time. The effect of the change in the lower of cost or market reserve was a decrease to cost of goods sold of $108.7 million and $291.9 million for the years ended December 31, 2017 and 2016, respectively, and an increase of $227.0 million for the year ended December 31, 2015.

At December 31, 2017, 2016 and 2015, the LIFO value of inventory, net of the lower of cost or market reserve, was equal to current costs.

In May 2017, the EPA granted the Cheyenne Refinery a one-year small refinery exemption from the Renewable Fuel Standard ("RFS") program requirements for the 2016 calendar year. As a result, the Cheyenne Refinery's gasoline and diesel production are not subject to the percentage of production that must satisfy a Renewable Volume Obligation ("RVO") for 2016. In September 2017, the EPA reinstated the RINs previously submitted to meet our Cheyenne Refinery's 2016 RVO. The cost of the RINs used earlier to satisfy the Cheyenne Refinery's 2016 RVO of $30.5 million was charged to cost of products sold in 2016. In the second quarter of 2017, we increased our inventory of RINs and reduced our cost of products sold by this amount, representing the cost of the RINs that were reinstated as a result of the RFS exemption received by the Cheyenne Refinery.

Additionally, in December 2017, the EPA granted the Woods Cross Refinery a one-year small refinery exemption from the RFS program requirements for the 2016 calendar year. In the fourth quarter of 2017, we increased our inventory of RINs and reduced our cost of products sold in the amount of $27.3 million, representing the cost of the RINs to be reinstated as a result of the RFS exemption received by the Woods Cross Refinery. These RINs were reinstated in January 2018.

Appendix B

April 26, 2018 and April 30, 2018 Reuters articles

MARKET NEWS

APRIL 26, 2018 / 6:41 PM / A MONTH AGO

CVR Q1 income doubles on stronger crack spreads, lower biofuels cost

Reuters Staff

NEW YORK, April 26 (Reuters) - CVR Energy Inc refining unit's income more than doubled in the first quarter, versus the prior-year period, the company said on Thursday, citing stronger crack spreads and lower biofuels compliance costs.

*CVR Refining reported net income of $147 million for the first quarter, up from $67 million in the same period of 2017.

* "The quarter's fiscal performance was driven by stronger crack spreads, hedging gains, a reduction to our estimated Renewable Volume Obligation and lower" prices of biofuels credits," said Dave Lamp, CVR's chief executive officer.

* When asked on an investor call if the company received a small refinery hardship exemption for its Wynnewood, Oklahoma, refinery, Lamp said: "(T)he request for or granting of a waiver, something we consider very confidential and we will not discuss that."

* Oil refiners and other fuel companies are required to blend biofuels such as ethanol with their petroleum-based products each year, though refiners with capacity below 75,000 barrels per day can apply for a waiver of those obligations.

* The Environmental Protection Agency has said it has given 25 such exemptions for 2017.

* CVR Refining said on Thursday that it turned a $23 million profit on Renewable Identification Number (RIN) credits in the first quarter, nearly quadrupling the $6 million it earned in the market for biofuels credits in the same period of 2017.

* The company said it now expects its cost of complying with the Renewable Fuel Standard will fall to $80 million this year from roughly $249 million in 2017. The $80 million projection is

also markedly below the $200 million in 2018 RIN costs that CVR estimated for this year when it released its fourth-quarter 2017 earnings in February.

(Reporting by Jarrett Renshaw and Chris Prentice Editing by Leslie Adler)

Our Standards: *The Thomson Reuters Trust Principles.*

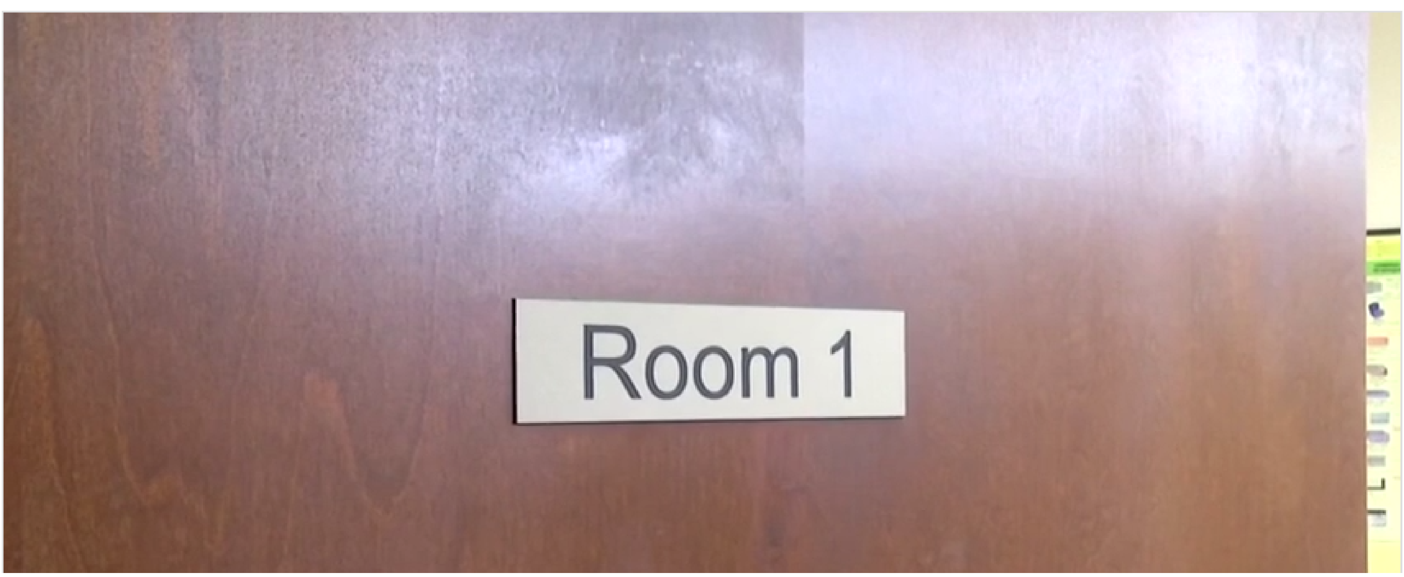
SUPREME COURT

MAY 29, 2018 / 9:43 AM / UPDATED 21 MINUTES AGO

Supreme Court rejects challenge to strict Arkansas abortion law

Lawrence Hurley

WASHINGTON (Reuters) - In a setback to abortion rights advocates, the U.S. Supreme Court on Tuesday paved the way for Republican-backed restrictions on medication-induced abortions to take effect in Arkansas that could lead to the shuttering of two of the state’s three abortion clinics.



REUTERS

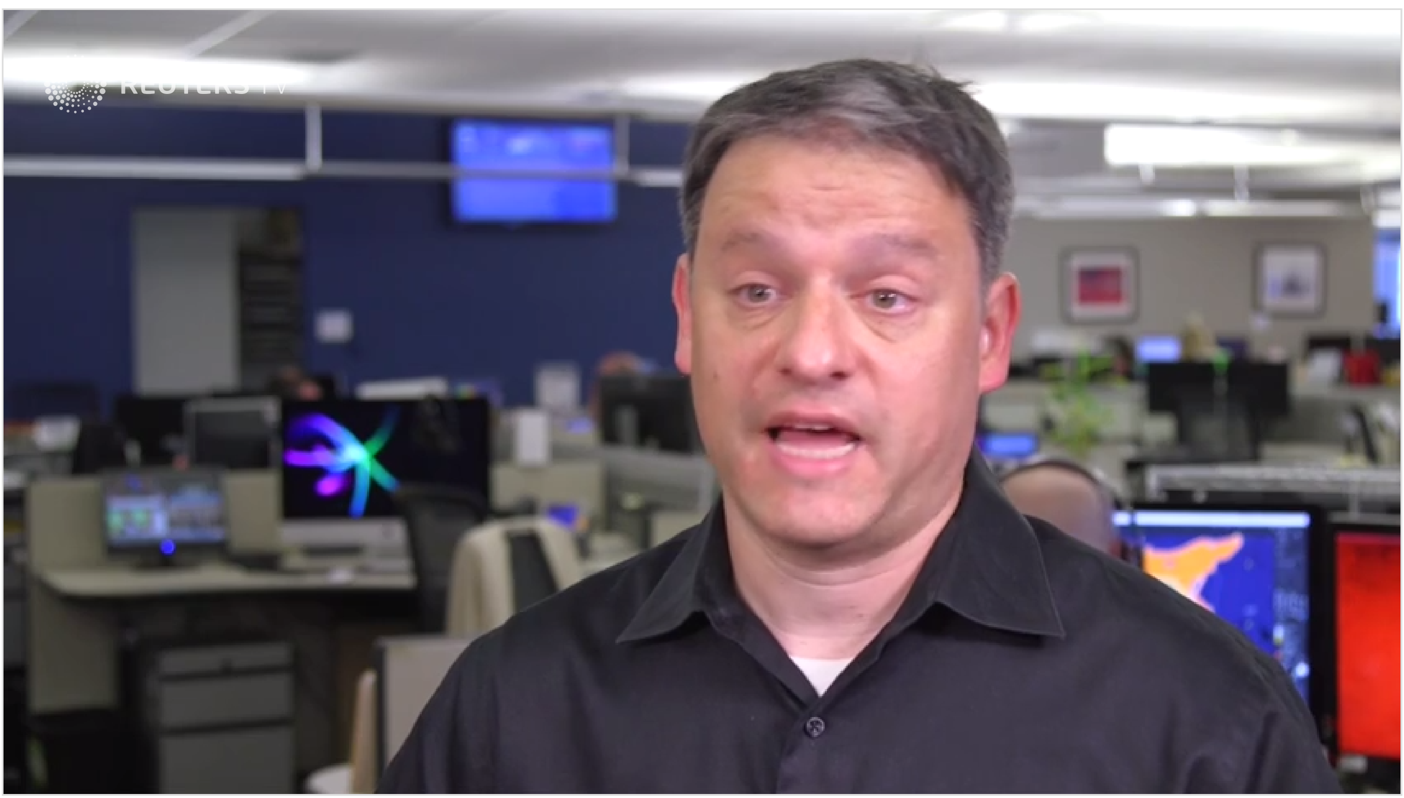
Detained In Myanmar | Energy & Environment | Brexit | North Korea | Charged: The Future of Autos

BUSINESS NEWS
APRIL 30, 2018 / 7:03 AM / 10 DAYS AGO

Exclusive: U.S. EPA grants biofuels waiver to billionaire Icahn's oil refinery - sources

Jarrett Renshaw, Chris Prentice

NEW YORK (Reuters) - The U.S. Environmental Protection Agency has granted a financial hardship waiver to an oil refinery owned by billionaire Carl Icahn, a former adviser to President Donald Trump, exempting the Oklahoma facility from requirements under a federal biofuels law, according to two industry sources briefed on the matter.



The waiver enables Icahn's CVR Energy Inc (CVI.N) to avoid tens of millions of dollars in costs related to the U.S. Renewable Fuel Standard (RFS) program. The regulation is meant to cut air pollution, reduce petroleum imports and support corn farmers by requiring refiners to mix billions of gallons of biofuels into the nation's gasoline and diesel each year.

The Small Refiners Coalition, which represents companies that operate small refining facilities, said the EPA is required by law to help small refineries struggling with these regulations and that such exemptions are crucial to their financial well-being. It applauded EPA Administrator Scott Pruitt for protecting small refineries, regardless of ownership, from the RFS requirements.

But the exemption for CVR's Wynnewood, Oklahoma plant prompted criticism from a corn state lawmaker and the powerful corn lobby, which has already accused Trump's EPA of overusing the hardship waiver program in a way that hurts demand for ethanol.

"Hundreds of millions - and in some cases billions - of dollars in profits isn't my definition of 'hardship,'" Iowa Republican Senator Chuck Grassley said in statement condemning the CVR waiver. "President Trump promised to support home-grown biofuels, and Administrator Pruitt is breaking that promise."

"This one's going to be hard for Pruitt to explain," Brooke Coleman, head of the Advanced Biofuels Business Council industry group, said in an email.

EPA spokeswoman Liz Bowman said that the agency does not comment on specific refineries. "But, what I can tell you is that the criteria used to grant waivers has not changed since previous administrations," Bowman added.

CVR spokeswoman Brandee Stephens declined to comment regarding the waiver. Efforts to reach Icahn and his attorney for comment were not successful.

An early supporter of Trump's 2016 presidential run and a key supporter on Wall Street, Icahn had met with Pruitt when Pruitt was being vetted in late 2016 for the EPA administrator job, according to news reports at the time.

Icahn stepped down from his position as special regulatory adviser to the Republican president last August after lawmakers cited potential ethical problems in his dual role as an adviser and an investor.

Icahn is currently under investigation by the U.S. Justice Department for his role in influencing biofuels policy while serving as Trump's adviser. Some U.S. lawmakers have expressed concern that Icahn may have used his presidential access to benefit his investments, a charge Icahn has rejected.

The EPA has said it has granted more than two dozen waivers for 2017 but has declined to name the recipients.

Under Trump's Democratic predecessor Barack Obama, the EPA granted about eight waivers annually.

Records show CVR had been denied on at least one occasion. The Small Refiners Coalition said the Obama administration had wrongly denied waivers to firms like CVR.

Reuters has reported that Andeavor (ANDV.N), one of America's biggest refining companies, which reported about $1.5 billion in net profit last year, was among the other companies that have received hardship waivers from Trump's EPA for its small refineries.

Slideshow (2 Images)

BLENDING CREDITS

To prove RFS compliance, refiners must earn or purchase tradable blending credits - awarded by the government for each blended gallon of fuel - and hand them in to the EPA yearly.

The EPA has the authority to exempt small refineries of under 75,000 barrels per day from the requirement under the hardship waiver program if they can prove that compliance would cause them "disproportionate financial hardship."

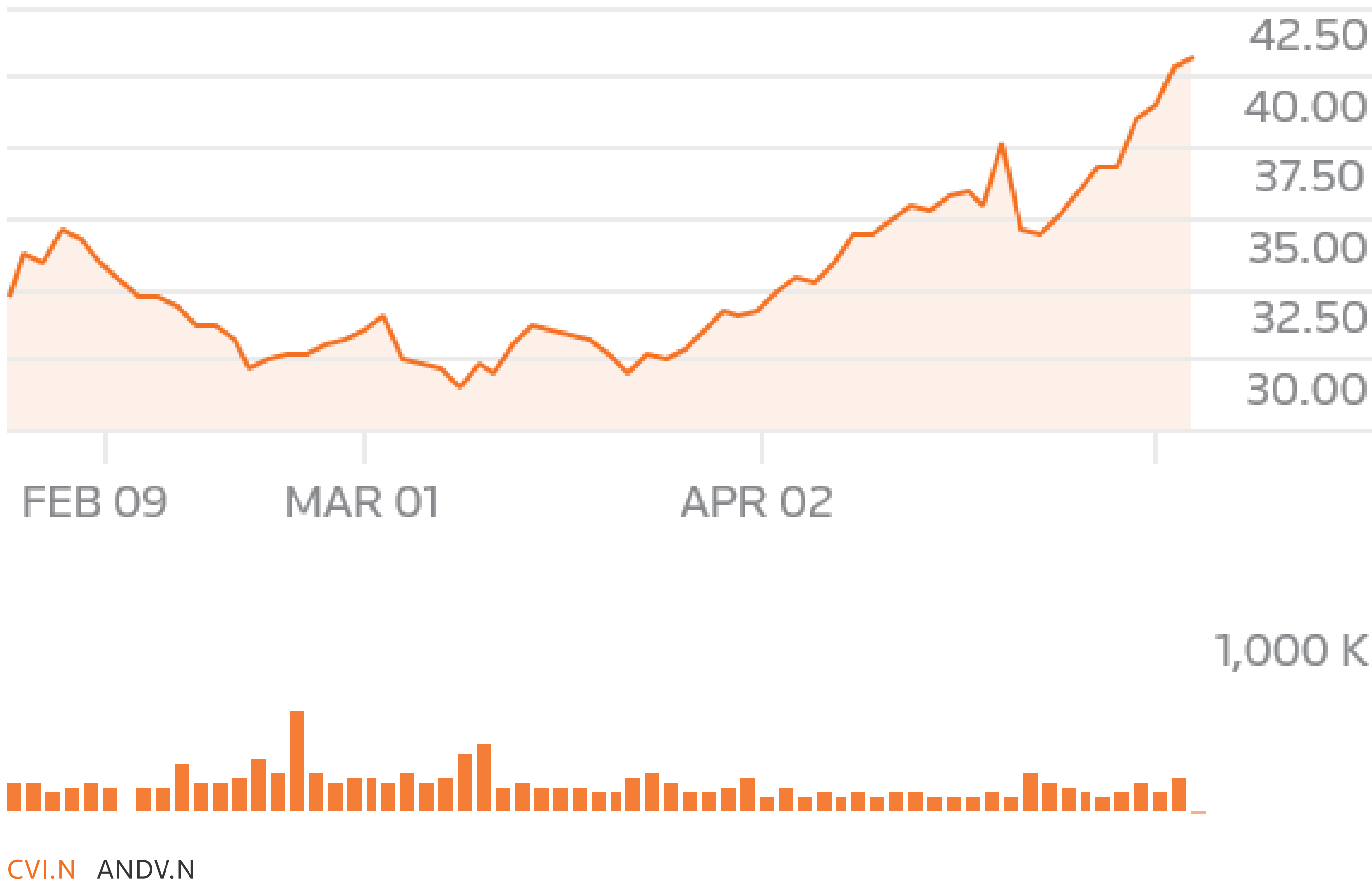
With the exemption, CVR would not have to turn over the credits related to the Wynnewood facility for 2017, according to the two sources, who spoke on condition of anonymity. The waiver was granted in recent months but the sources did not say precisely when.

The Trump administration has encouraged small refiners to apply for the hardship waivers. A surge of applications has come to the EPA since a 2017 court ruling that the agency had used too narrow a definition of "financial hardship" under Obama.

The waivers have the potential to save companies tens of millions of dollars, by allowing them to avoid blending or paying for credits on the open market and by permitting them to sell any credits they have on hand to others.

CVR has reported a $23 million profit in the biofuels credit market in the first quarter of 2018 due to what it called a lower RFS obligation, an unusual return for a refiner that has no biofuel blending facilities.

CVR Energy Inc 40.43
CVI.N NEW YORK STOCK EXCHANGE +1.48 (+3.80%)



The company also said it expects its cost of complying with the RFS requirements to fall to $80 million for the entirety of 2018 from a previous estimate of $200 million, and from roughly $249 million in 2017.

Reporting by Jarrett Renshaw and Chris Prentice; Editing by Richard Valdmanis, Will Dunham and Jonathan Oatis

Our Standards: *The Thomson Reuters Trust Principles.*

Appendix C

April 3, 2018 Reuters article

BUSINESS NEWS

APRIL 3, 2018 / 12:03 PM / 2 MONTHS AGO

Exclusive: EPA gives giant refiner a 'hardship' waiver from regulation

Jarrett Renshaw, Chris Prentice

NEW YORK (Reuters) - The Environmental Protection Agency has exempted one of the nation's largest oil refining companies, Andeavor (ANDV.N), from complying with U.S. biofuels regulations - a waiver historically reserved for tiny operations in danger of going belly up, two sources familiar with the matter told Reuters.

FILE PHOTO: U.S. President Donald Trump delivers remarks on his proposed changes to the tax code during an event with energy workers at the Andeavor Refinery in Mandan, North Dakota, U.S. September 6, 2017. REUTERS/Jonathan Ernst/File Photo

The exemption, which applies to the three smallest of Andeavor's ten refineries, marks the first evidence of the EPA freeing a highly profitable multi-billion dollar company from the costly mandates of the U.S. Renewable Fuel Standard. The law requires refiners to blend biofuels such as ethanol into gasoline or purchase credits from those who do such blending.

The decision, which has not been previously reported, raises the question of whether other big and profitable oil firms with small refineries - such as Exxon Mobil Corp (XOM), Chevron Corp (CVX.N) and Phillips 66 (PSX.N) - also have or could receive the waivers, which are granted by the EPA in secret.

Such waivers were designed for refineries producing less than 75,000 barrels per day that can demonstrate that they suffer a "disproportionate economic hardship" from the costs of RFS compliance.

Andeavor posted net profits of about $1.5 billion last year.

The EPA exemption, granted about a month ago, could reduce Andeavor's regulatory costs by more than $50 million this year, based on the number of biofuels credits that two brokers say the refiner recently sold into the market, along with previous disclosures by firms that own refineries of a similar size.

RELATED COVERAGE

U.S. biofuel credits fall on refiner exemption report: traders

Biofuels credit prices tied to ethanol dropped by 6 cents, to 38 cents each, after Reuters reported Andeavor's exemption, traders said. Andeavor shares jumped by more than 1 percent on the news, hitting a session high of $102.78.

Bob Dinneen, head of the Renewable Fuels Association, reacted to the report by calling the exemption an "outrageous abuse" of the law.

"Providing a small refiner waiver to a company like Andeavor is laughable and abandons the commitment of President Trump to protect the RFS," he said in a statement.

U.S. Senator Chuck Grassley, a Republican who represents Iowa - the nation's largest corn-growing state - and a staunch defender of the biofuels program, raised questions over the legality of the exemption.

Giving Andeavor "a free pass when other companies are required to follow the law of the land isn't just unfair, it may be illegal," Grassley said late Tuesday in a statement to Reuters. "It would also amount to a massive government handout to a big corporation that made billions in profits just last year."

The exemption releases the firm of its obligation to provide the EPA with biofuels credits proving compliance at the three refineries - two located in North Dakota and one in Utah - for the year 2016, which would have come due this year, the sources said. Andeavor is also asking EPA for a waiver for its 2017 obligations for the same refineries, but has not yet received a decision, the sources said.

Andeavor spokeswoman Destin Singleton declined to comment. EPA spokeswoman Liz Bowman did not immediately comment in response to Reuters inquiries on Monday and Tuesday.

As a matter of policy, the agency refuses to release any information on the waivers, or to name their recipients, citing concerns over disclosing private business information. The EPA denied a Freedom of Information Act request from Reuters seeking information on companies receiving the waivers.

Exxon Mobil, Chevron and Phillips 66 also own refineries small enough to meet the barrel-per-day standard, as does billionaire investor and Trump ally Carl Icahn - whose efforts last year to overhaul the biofuels program drew scrutiny from federal investigators.

Icahn, majority owner of refiner CVR Energy (CVI.N), had served as an advisor to Trump on regulatory issues during his push to reform biofuels regulations early last year, but he resigned amid allegations that the role gave him a conflict of interest.

Spokespeople for all four companies declined to comment on whether they had applied for or received any exemptions.

The lucrative waivers are typically only reported if a publicly-traded firm considers them to be material to their financial or operational performance, in which case they must disclose the information through Securities and Exchange Commission filings.

The RFS has long been a lightning rod of conflict between the corn lobby, which supports the policy as an engine for demand, and refiners who say it costs them a fortune.

The White House has sought to broker a deal between two of its key political constituencies in a series of meetings, but the effort has failed to yield policy changes acceptable to both sides.

Ethanol industry advocates argue exemptions for refiners undermine the intent of the law, originally designed to reduce greenhouse gas emissions, reduce dependence on foreign oil and boost farm economies.

While the EPA's motives in providing hardship waivers are unclear, the exemptions are one of the tools at the administration's disposal to ease financial pressure on refiners without undertaking a reform of the RFS policy.

FILE PHOTO: U.S. President Donald Trump arrives in his motorcade to deliver remarks on his proposed changes to the tax code during an event with energy workers at the Andeavor Refinery in Mandan, North Dakota, U.S. September 6, 2017. REUTERS/Jonathan Ernst/File Photo

EPA chief Scott Pruitt, appointed by Trump, has repeatedly said the RFS is too costly to oil refiners and should be overhauled. But Trump's Secretary of Agriculture, Sonny Perdue, told an agriculture conference in February that Trump "stands with corn farmers, biofuels farmers and the RFS," according to a recording heard by Reuters.

White House spokeswoman Kelly Love did not respond to a question about whether the administration was expanding the use of the RFS waivers to help refiners. Bowman, of the EPA, also did not comment on the question.

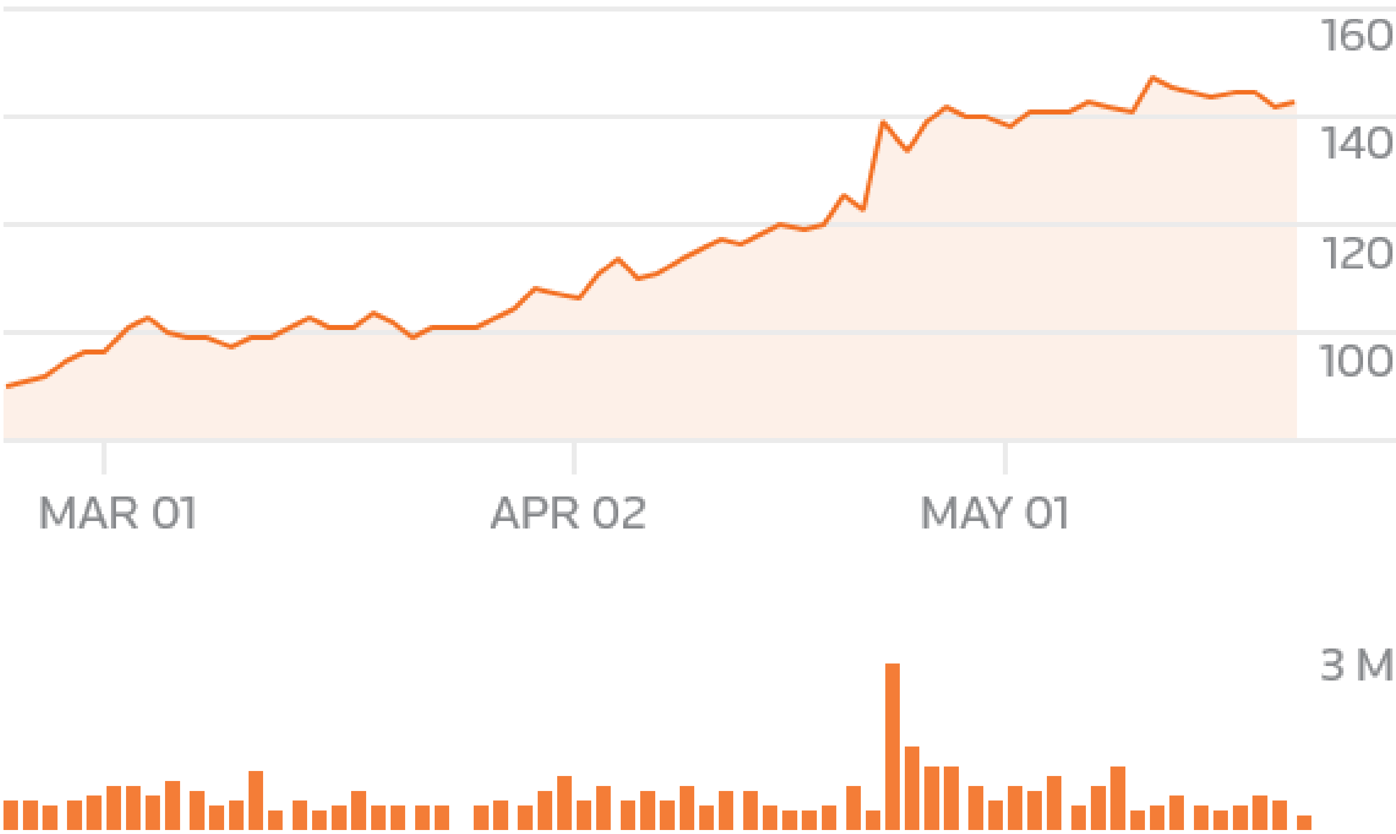
LAWSUIT OVER 'HARDSHIP' STANDARD

Andeavor's waiver follows a successful lawsuit by another refiner, Sinclair Oil, last year challenging the strict standard the EPA has used under past administrations for determining financial hardship.

"The EPA's interpretation takes the statutory language too far," wrote Chief Judge Timothy Tymkovich of the 10th Circuit Court of Appeals in Denver. "A 'hardship' is something that makes one's life hard or difficult - not just something that makes continued existence impossible."

The lawsuit - along with a perception that the Trump administration might be more sympathetic to refiners - has sparked a big increase in applications from refining firms for he exemptions this year. More than 30 refineries have sought the waivers, according to sources familiar with the matter.

Andeavor 142.77
ANDV.N NEW YORK STOCK EXCHANGE +1.58 (+1.12%)



ANDV.N XOM CVX.N PSX.N CVI.N

In a typical year, the EPA would receive about 12 to 15 requests for hardship exemptions and would grant about half of them, a former official familiar with the program told Reuters.

EXEMPTIONS SAVE REFINERS BIG BUCKS

Andeavor sold some 100 million of those credits to its competitors in recent weeks, according to two brokers in the biofuels credit market. The company otherwise would have needed to provide those credits to the EPA to prove compliance with the RFS.

Those credits would be worth about $58 million based on a Reuters calculation of average renewable fuel RIN prices this year.

In the past, other companies have said the exemptions they were granted saved them tens of millions of dollars, according to Securities and Exchange Commission filings.

Last year, for example, HollyFrontier disclosed a reduction of almost $58 million in its costs of credits for two refineries for 2016.

Refiners granted exemptions win in two ways: They no longer have to blend biofuels or buy credits to comply with the law, and they can sell any credits they had previously purchased to use for compliance.

Reporting by Jarrett Renshaw and Chris Prentice; Additional reporting by Jessica Resnick-Ault; Editing by Richard Valdmanis and Brian Thevenot

Our Standards: *The Thomson Reuters Trust Principles.*

BUSINESS NEWS

MAY 28, 2018 / 7:42 AM / UPDATED 12 HOURS AGO

U.S. and China clash over 'technology transfer' at WTO

Tom Miles

GENEVA (Reuters) - Chinese and U.S. envoys sparred at the World Trade Organization on Monday over U.S. President Donald Trump's claims that China steals American ideas, the

Appendix D

RFA FOIA Request of April 4, 2018

April 4, 2018

RECEIVED
APR 05 2018
BY: ______

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.[1] 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[2] 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;

---

[1] 42 U.S.C. § 7545(o)(9)(B); *see also* 40 C.F.R. §§ 80.1441-80.1442.

[2] 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;[3]
- 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.

Sincerely,

Bob Dinneen
President and CEO
Renewable Fuels Association

[3] 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).

RFA RENEWABLE FUELS ASSOCIATION
425 Third Street, SW
Suite 1150
Washington, DC 20024

Mr. Larry Gottesman
National Freedom of Information Officer
U.S. Environmental Protection Agency
1301 Constitution Avenue, NW, Room 6416
West
Washington, D.C. 20004

Appendix E

Bipartisan Senate Letter of April 12, 2018

United States Senate
WASHINGTON, DC 20510

April 12, 2018

The Honorable Scott Pruitt
Administrator
Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Dear Administrator Pruitt:

We are writing to you regarding the actions the Environmental Protection Agency (EPA) has taken to undermine commitments President Trump made on the Renewable Fuel Standard (RFS) to our constituents. Recent reports indicate dozens of small refiner waivers have been secretly granted to large, multi-billion-dollar companies under the guise of the small refinery hardship exemption provision in section 211(o)(9) of the Clean Air Act. This is extremely concerning to us.

During your confirmation hearing for the post of Administrator of the EPA, you said, *"Any steps that the EPA Administrator takes need to be done in such a way as to further the objectives of Congress in that statute, not undermine the objectives of Congress in that statute."* You also wrote to a number of Senators in October 2017 and said, *"I reiterate my commitment to you and your constituents to act consistent with the text and spirit of the RFS. I take seriously my responsibility to do so in an open and transparent manner that advances the full potential of this program..."*

According to recent reports, the EPA has already issued 25 "disproportionate hardship" waivers to large, multi-billion-dollar refining companies reporting billions of dollars of profits since 2016. Such action would represent a clear violation of your commitments and clearly undermine the President's long-standing support of the RFS.

These waivers fall well outside the bounds of the letter or spirit of this provision in the law, which sought to provide flexibility for the smallest of U.S. refiners, and only in cases of genuine hardship. Worse, EPA's actions are already hurting biofuel producers and farmers across the United States at a time when farm income is at the lowest levels since 2006 and retaliatory trade measures from China threaten to deepen the crisis.

In 2015, 37 Senators wrote to the EPA requesting that the agency issue a strong Renewable Volume Obligation (RVO), citing the RFS's success in driving economic development, strengthening agriculture markets, and creating hundreds of thousands of clean energy jobs in rural communities. Early reports indicate that the small refinery waivers you have granted could effectively cut biofuel demand by 1.5 billion gallons, thus effectively lowering President Trump's commitment to seeing 15 billion gallons of ethanol blended to 13.5 billion. Additionally, once these select refiners are no longer responsible for complying with these 2016 requirements, they are able to sell excess Renewable Identification Numbers (RINs) back into the market, increasing supply and lowering the price.

This further reduces incentives for blending, slashing demand for biofuels and feedstocks, and hurting farmers and biofuels companies. These waivers could cripple the market for years to come, holding back homegrown biofuels while creating a windfall profits for large oil refiners -- the exact opposite of this administration's promise to voters.

Perhaps most concerning, these lucrative waivers have reportedly been issued behind closed doors, outside of the public process, while the EPA has simultaneously been working with refineries to pressure President Trump to sign off on a RIN cap that would wreak further havoc on the RFS.

We request that you take the following actions immediately:

- Cease issuing any refinery waivers under the RFS;
- Provide a full list of the refiners that have received a refinery waiver in 2016, 2017 or 2018, including the name, location, refining capacity, date waiver was issued, and number of gallons waived;
- Provide a detailed report to Congress within two weeks of receipt of this letter that describes your justification for providing each of these waivers. Specifically, please include whether the volumes were redistributed to other obligated parties. If the volumes were not redistributed, please explain why they were not and the reason EPA decided to undercut the RVOs against the President's commitment;
- Respond in writing describing your commitment and plan to consider future small refinery waivers only during the annual RVO rulemaking process and commitment to provide full notice and opportunity for comment on any future small refinery waiver requests.

We appreciate your timely response to these matters.

Sincerely,

Chuck Grassley

Charles E. Grassley
United States Senator

Amy Klobuchar

Amy Klobuchar
United States Senator

Joni K Ernst

Joni K. Ernst
United States Senator

Debbie Stabenow

Debbie Stabenow
United States Senator

Deb Fischer

Deb Fischer
United States Senator

Dick Durbin

Richard J. Durbin
United States Senator

John Thune
United States Senator

Tina Smith
United States Senator

Roy Blunt
United States Senator

Claire McCaskill
United States Senator

Tammy Duckworth
United States Senator

Heidi Heitkamp
United States Senator

Joe Donnelly
United States Senator

Appendix F

Hearing Transcript, April 26, 2018

outspoken positions on the Renewable Fuel Standards programs. So here we are a year later, the EPA's implementation of the RFS programs, specifically the small refinery waiver provision, is under fire from both farmers and refiners.

My colleague Mr. Green raised the issue of secret waivers. I want to build on that a little bit. I want to know about CVR Energy in which Carl Icahn owns a majority stake. Administrator Pruitt, you met with representatives from Carl Icahn's company, CVR Energy, in June of 2017. Is that correct?

Mr. Pruitt. If that is what the calendar represents.

Mr. Sarbanes. Okay. Did Carl Icahn's company apply for a waiver from ethanol blending requirements for any of its refining facilities?

Mr. Pruitt. I am unsure.

Mr. Sarbanes. Okay. We will look at the record for that. And did Carl Icahn's company receive a waiver for any of its refining facilities?

Mr. Pruitt. These exemptions are governed by statute as you know.

Mr. Sarbanes. Okay. Well, you are going to find that out for us and we appreciate your following up because that is important to know because it raises serious questions about conflicts of interest. I have had the privilege of chairing here in the Congress the Democracy Reform Task Force. We have been trying to keep up with the ethical lapses of the Trump administration, which I will tell you is kind of a full-time job, and you certainly have been at the center of some of that focus. To date, five independent federal investigations have been initiated at this committee's request and more than eight independent federal reviews are currently underway with respect to your office.

Yesterday, the Democracy Reform Task Force released another report in a series that is looking at failures and ethical lapses within the Trump administration. This one was detailing your wasteful spending and favors for your friends. It put the interests of dirty polluters ahead of the American people. So this is now available for people to take a look at. It goes through the litany of ethical violations that have come to characterize and be the hallmark of your time in office.

You have really become, I mean it is sad to say it, but you have become in many respects, and you ought to take this to heart as somebody who holds an office in the public trust,

UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT
OFFICE OF THE CLERK
Byron White United States Courthouse
1823 Stout Street
Denver, Colorado 80257
(303) 844-3157

Elisabeth A. Shumaker
Clerk of Court

Chris Wolpert
Chief Deputy Clerk

May 30, 2018

Mr. Matthew W Morrison
Ms. Cynthia Cook Robertson
Mr. Bryan Stockton
Pillsbury Winthrop Shaw Pittman
1200 Seventeenth Street, NW
Washington, DC 20036-3006

RE: 18-9533, Renewable Fuels, et al v. EPA
Dist/Ag docket: 1-3876

Dear Counsel:

The court has received and docketed your petition for review. Please note your case number above. Copies of the Tenth Circuit Rules, effective January 1, 2018, and the Federal Rules of Appellate Procedure, effective December 1, 2017, may be obtained by contacting this office or visiting our website at http://www.ca10.uscourts.gov. In addition, please note all counsel are required to file pleadings via the court's Electronic Case Filing (ECF) system. You will find information regarding registering for and using ECF on the court's website. We invite you to contact us with any questions you may have about our operating procedures. Please note that all court forms are now available on the court's web site.

We have served the petition for review on the respondent agency via electronic notice using the court's ECF system. Petitioner must serve a copy of the petition for review on all parties, other than the respondent, who participated in the proceedings before the agency.

Attorneys must complete and file an entry of appearance form within 14 days of the date of this letter. *See* 10th Cir. R. 46.1(A). Pro se parties must complete and file the form within thirty days of the date of this letter. An attorney who fails to enter an appearance within that time frame will be removed from the service list for this case, and there may be other ramifications under the rules. If a respondent does not wish to participate in the appeal, a notice of non-participation should be filed via ECF as soon as possible. The notice should also indicate whether counsel wishes to continue receiving notice or service of orders issued in the case.

In addition, petitioner must complete and file a docketing statement within 14 days of the date of this letter. *See* 10th Cir. R. 15.1.

The respondent agency shall file the record, or a certified list in lieu of the record, within 40 days after service of the petition for review. *See* Fed. R. App. P. 17. If a certified list is filed, the entire record, or the parts the parties may designate, must be filed on or before the deadline set for filing the respondent's brief. *See* 10th Cir. R. 17.1.

Petitioner's opening brief must be filed within 40 days of the date on which the certified list or record is filed. *See* 10th Cir. R. 31.1(B). Subsequent briefs must be filed as required by Fed. R. App. P. 31(a). Motions for extension of time to file briefs must comply with 10th Cir. R. 27.1 and 27.5. These motions are not favored.

Briefs must satisfy all requirements of the Federal Rules of Appellate Procedure and Tenth Circuit Rules with respect to form and content. *See* specifically Fed. R. App. P. 28 and 32 and 10th Cir. R. 28.1, 28.2 and 32, as well as 31.3 when applicable. Seven hard copies of briefs must be provided to the court within two days of filing via the court's Electronic Case Filing system. See 10th Cir. R. 31.5 and the court's CM/ECF User's Manual. Counsel are encouraged to utilize the court's Briefing & Appendix checklist when compiling their briefs.

This matter will be heard on a record that the agency provides. *See* Fed. R. App. P. 17(a) and 10th Cir. R. 17.3. As a result, the parties need not file an appendix. If, however, any party wishes to file a separate appendix it should file a motion seeking that relief.

Please contact this office if you have questions.

Sincerely,

Elisabeth A. Shumaker

Elisabeth A. Shumaker
Clerk of the Court

cc: General Counsel
Matthew Z. Leopold
Scott Pruitt
Jeffrey H. Wood

EAS/lg