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EXCLUSIVE-Trump's EPA ignored Energy Department calls to limit biofuel waivers - Reuters News

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Updates to add comments from the National Corn Growers Association and East Kansas Agri-Energy

By Jarrett Renshaw and Chris Prentice

NEW YORK, June 26 (Reuters) - The Trump administration's Environmental Protection Agency has consistently ignored recommendations from the Department of Energy to reject or limit waivers to oil refiners seeking exemptions from nation's biofuels law, according to five sources familiar with the matter.

The U.S. Renewable Fuel Standard requires the firms to cover costs of blending corn-based ethanol into gasoline. But the EPA, after consulting with the energy department, can exempt small refineries in cases where compliance presents a "disproportionate economic hardship."

The waivers can save refiners tens or even hundreds of millions of dollars a year.

Under EPA chief Scott Pruitt, an appointee of President Donald Trump, the agency has issued more than two dozen such exemptions in recent months - about triple the usual number granted under past administrations. ([Full Story](#))

During that time, EPA has consistently granted full waivers in cases where the energy department recommended only partial exemptions, and, at least once, granted a full approval when the energy department advised an outright rejection, according to two sources familiar with the decisions.

That approach marks a sharp break from Obama administration's EPA, which had often either adopted energy department recommendations or, when it didn't, ruled against exempting oil refiners, the sources said.

The shift between the Democratic and Republican administrations shows how political ideologies and constituencies can steer bureaucratic interpretation of a law that never changed - with major impacts on industry.

The waivers save refineries money by freeing them from their obligation to blend ethanol into their gasoline or to purchase compliance credits from those who do. The broad use of waivers lately has angered the powerful corn lobby, which argues they threaten corn demand.

The Renewable Fuels Association, which represents U.S. ethanol makers, last month estimated that the waivers have reduced the amount of ethanol refiners are required to blend by 1.6 billion gallons. The law currently requires refiners to blend 15 billion gallons of the biofuel per year.

The surge in waivers has sent the price of biofuels compliance credits to five-year lows, saving refiners such as Valero Energy Corp [VLO.N](#) and PBF Energy [PBF.N](#) hundreds of millions of dollars.

Until now, it was not known if the EPA gave the waivers on the basis of the energy department recommendations or despite them. The EPA has denied public records requests seeking information on the waivers, which it considers proprietary company information.

Pruitt has misled farmers about the agency's relationship with the energy department to help shield himself from criticism, Jon Doggett, said Executive Vice President of the National Corn Growers Association.

"Actions like that make it nearly impossible for farmers to trust anything this EPA has to say," Dogget said in a statement Tuesday.

Biofuel groups have asked the U.S. Court of Appeals for the 10th Circuit in Washington to review legality of the waivers - arguing the EPA is "methodically destroying the demand for renewable fuels" - and to force the EPA to disclose them. ([Full Story](#))

EPA spokeswoman Molly Block declined to comment on the pending litigation or on whether the agency has approved waivers that the energy department recommended rejecting.

"From the beginning of this administration, we have worked closely with our partners at DOE on this issue," she said in a written statement.

DOE spokeswoman Shaylyn Hynes did not respond to requests for comment.

'FINANCIAL HARDSHIP'

During a recent Midwest tour, Pruitt told Nebraska farmers that the EPA works "in alliance with the Department of Energy" to grant the waivers, saying there was just one example of disagreement. EPA spokespeople have repeatedly said the agency's criteria for granting waivers have not changed.

"He sat in our conference room, looked us in the eye, and told us ... that EPA doesn't approve them without DOE's recommendation," Bill Pracht, a farmer and CEO of East Kansas Agri-Energy, said in a statement on Tuesday. "Now we know that just isn't true."

The sources with knowledge of the two agencies' interactions disputed the assertion that the EPA and DOE are acting as partners in these decisions. They declined to provide a specific number of cases in which the EPA has gone against energy department recommendations or to name most of the companies involved, but did provide two examples of what they said has become regular practice.

In one case, the EPA provided a full waiver to a refiner after the energy department had recommended rejecting the exemption, two sources told Reuters.

In another, the EPA granted full waivers to refineries owned by Andeavor ANDV.N - a large U.S. refining company which reported \$1.4 billion in net income last year - after the energy department had recommended a 50-percent exemption, according to two other sources familiar with the company's approval. The waivers for Andeavor were first reported by Reuters in April.

The company said in a May earnings statement that the waivers, provided to its smallest refineries, saved it about \$100 million in compliance costs. (Full Story)

Scott LaBelle, an Andeavor spokesman, declined to comment beyond the company's previous statements.

Obama's administration was accused of being too stingy with the waivers. Last year, an appellate judge said Obama's EPA had used too narrow a definition of "financial hardship" when it denied Sinclair Oil waivers for its Wyoming refineries for 2014 and 2015. But appellate judges in two other similar cases upheld the EPA's denials and its methods.

Neither the rulings nor the change in presidential administrations changed the way energy department analysts scored applications, according to the sources.

Energy department analysts score applications on a two-part test that considers whether compliance would lead to disproportionate impact or threaten a refinery's viability. Qualifying under either leads to a partial exemption; qualifying under both leads to a full exemption.

'WORKAROUND' TO HELP REFINERS

The EPA's relaxed standard for the waivers is the latest illustration of the agency's leadership seeking to deliver relief to refiners from the law, which was signed under Republican President George W. Bush to help farmers, reduce petroleum imports and improve air quality.

Pruitt has repeatedly recommended overhauling the law to reduce strain on refiners and advocated for changes during months of failed negotiations between oil and corn representatives mediated by President Donald Trump.

Republican Senator Joni Ernst from Iowa, the top ethanol-producing state, said Pruitt's handling of the waivers appeared to be based on a political goal of helping the oil industry - a charge the EPA has denied.

"This is definitely a workaround that they have figured out. That's why we are demanding transparency," Ernst said in an interview, referring to requests her and other lawmakers for the EPA to disclose information on the waivers.

The current administration has attempted to lower compliance costs for some refiners since billionaire investor and refinery-owner Carl Icahn first raised concerns to Trump during his campaign, and then again after Trump named Icahn as a "special advisor" on industry regulation after his election. ([Full Story](#))

Icahn resigned from his advisory post in August under pressure from lawmakers who said his dual role as investor and advisor posed ethical concerns. Icahn's CVR Energy was among the refining companies that received a waiver from EPA, Reuters reported earlier this year.

(Editing by Richard Valdmanis and Brian Thevenot)

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