

IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA

ADVANCED BIOFUELS ASSOCIATION)	
)	
)	
Petitioner,)	
)	
v.)	Case No. _____
)	
U.S. ENVIRONMENTAL PROTECTION)	
AGENCY and SCOTT PRUITT, Administrator,)	
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) the Advanced Biofuels Association (“ABFA”) hereby petitions the United States Court of Appeals for the District of Columbia Circuit for review of the Environmental Protection Agency’s (“EPA”) decision to modify the criteria or lower the threshold by which the Agency determines whether to grant small refineries an exemption from the Clean Air Act’s Renewable Fuel Standards (“RFS”) for reasons of “disproportionate economic hardship” pursuant to 42 U.S.C. § 7545(o)(9)(B)(i). This modified criteria or lowered threshold was applied to exempt an unknown—but reportedly historically high—number of refineries from their 2016 and 2017

obligations to participate in the RFS program by either blending their share of renewable fuel or purchasing renewable fuel credits on the market.

Upon information and belief, EPA has granted exemptions to an unprecedentedly large number of refineries. However, EPA has thus far refused to provide—even upon receiving requests from members of Congress—basic information about the refineries that receive exemptions or the Agency’s rationale for granting individual exemptions due to alleged protections for confidential business information.¹

EPA’s change to the threshold for demonstrating “disproportionate economic hardship” and the Agency’s retroactive grant of a historically unparalleled number of exemptions has destabilized the national renewable fuels market, economically harmed ABFA’s members, and has undermined Congress’s goals for the RFS Program.

A change of this magnitude in the number of exemptions granted is implausible and cannot be ascribed to year-to-year changes in the renewable fuels

¹ Letter from Charles E. Grassley, United States Senator, to Scott Pruitt, Environmental Protection Agency Administrator (Apr. 12, 2018), <https://www.grassley.senate.gov/sites/default/files/Pruitt%20Small%20Refinery%20Letter%204.12.18.pdf> (Explaining that recent reports indicate “the EPA has already issued 25 ‘disproportionate economic hardship waivers’” and requesting that EPA “[p]rovide 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.”) This letter is attached as Appendix A.

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**RULE 26.1 CERTIFICATE OF CORPORATE DISCLOSURE OF
ADVANCED BIOFUELS ASSOCIATION**

Pursuant to Federal Rule of Appellate Procedure 26.1, the Advanced Biofuels Association (ABFA) certifies that it is an independent 501(c)(6) non-profit trade association registered in the District of Columbia since 2009. ABFA has no parent corporation, and no publicly held company has ten percent or greater ownership in ABFA.

ABFA represents more than 35 companies in the United States and around the world engaged in the production, marketing, and distribution of advanced renewable fuels regulated under the Clean Air Act's Renewable Fuel Standard. Currently, ABFA members produce over 4.4 billion gallons of renewable fuel each

year, including billions of gallons of biodiesel and renewable diesel as well as a variety of drop-in fuels such as isobutanol, dimethyl ether, cellulosic ethanol, and cellulosic heating oil. ABFA's mission is to secure a stable regulatory environment and level playing field for advanced renewable fuels on behalf of its members.

Date: May 1, 2018

Respectfully submitted,

/s/

Rafe Petersen
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CERTIFICATE OF SERVICE

I hereby certify that the foregoing Petition for Review and Rule 26.1

Disclosure Statement were served by placing them in the U.S. mail, first class,

postage prepaid, this 1st day of May, 2018, upon each of the following:

Attn: Scott Pruitt
Administrator
Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Mail Code: 1101A
Washington, D.C. 20460

Honorable Jeff Sessions
Attorney General
U.S. Department of Justice
950 Pennsylvania Ave., N.W.
Washington, D.C. 20530

Attn: Matthew Z. Leopold
General Counsel
Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
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Date: May 1, 2018

Respectfully submitted,

/s/

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