

## EPA's Proposed 2014 RVO Damages U.S. Economic, Energy & Environmental Policy

According to numerous reports, EPA's pending proposal for 2014 renewable volume obligations (RVOs) under the RFS will actually *reduce* the amount of renewable fuel currently blended into gasoline in response to oil company complaints that they have hit the so-called "blend wall," the point at which oil companies must use more than 10% ethanol blends in order to comply with the increasing volumes required by the RFS. But the whole point of the RFS was to force market change, energy diversity and consumer choice by having oil companies use greater than 10% ethanol blends. Now that we are at the point where market change must occur, reports suggest EPA plans to reward the oil companies for not allowing the use of higher renewable fuel blends. **By allowing the "blend wall" to be a limiting factor in the implementation of the RFS, EPA is unnecessarily and illegally abrogating the Renewable Fuel Standard.** If recent media reports are true, oil companies will now determine how much renewable fuel is used based solely on how much they want to blend.

Some reports suggest that EPA intends to reduce the baseline 2014 RVO for renewable fuel from 14.4 billion gallons to just 13 bgy. That is 800 million gallons LESS than what was required in 2013. Slashing this portion of the RFS from 14.4 BG to 13.0 BG could have the following impacts:

**1. Devastating Rural Economies:** American farmers are currently harvesting the single largest corn crop in history, potentially a record 14 billion bushels. Corn prices are falling as a result, and currently stand close to where they were when the RFS was enacted in 2007. A cut of 1.4 BG to the RFS would cause corn prices to fall by an additional \$0.80-1.10/bushel, potentially plunging prices below the cost of production and the total value of the corn crop by \$13 billion. As corn typically affects all other commodities, such a decrease in corn prices would negatively affect profitability for all U.S. farmers and reverse the trend toward higher net farm income. Land values across rural America will fall. A shock of this magnitude to agriculture markets would be particularly unwelcome given the unsettled and uncertain future of the Farm Bill.

**2. Increased Demand for Gasoline and Higher Pump Prices:** Gasoline demand would increase to fill the 1.4 BG void in ethanol blending. The lost ethanol volume would likely be replaced with gasoline refined from a combination of imported oil and unconventional crude from tight oil (fracking) or tar sands. Increased demand for gasoline would obviously lead to higher gasoline prices. Economists at Louisiana State University found that "...every billion gallons of increase in ethanol production decreases gasoline price as much as \$0.06 cents. Adding ethanol to gasoline has the same impact on gasoline as a positive shock to gasoline supply." Thus, removing 1.4 BG of ethanol from the marketplace would cause gas prices to increase by more than \$0.08 per gallon. Accordingly, U.S. consumers would spend some \$10.6 billion more on gasoline in 2014.

**3. Increased GHG emissions from Transportation Sector:** The RFS is the most effective climate change policy currently in place. According to the latest GREET analysis published by DOE scientists, average corn ethanol reduces GHG emissions by 34% compared to gasoline (*including* hypothetical land use change emissions). Thus, replacing 1.4 BG of ethanol with an energy-

equivalent amount of gasoline would add 3.7 MMT of CO<sub>2</sub>-equivalent GHG to the atmosphere. That's like adding 725,000 cars to the road overnight.

**4. Puts American Jobs at Risk:** Based on recent economic analysis, the production of 1.4 BG of ethanol would support 7,400 direct jobs and 30,000 indirect and induced jobs. Thus, these jobs would be lost if the Big Oil dream scenario were to become a reality.

**5. Discourages Investment in Biofuel Infrastructure:** Since the beginning of 2013, about 200 retail gas stations have added E85 pumps. These investments were made because the 2013 RFS volumes sent a strong signal to the marketplace to add infrastructure capable of dispensing higher-level blends. As detailed in a recent series of reports by the Center for Agricultural and Rural Development, the RIN mechanism and RFS policy signals are encouraging the market to breach the "blend wall" through the increased use of E85. The investment in higher-level ethanol blend infrastructure will evaporate under EPA's proposal.

**6. Deters Investment in Advanced and Cellulosic Biofuels:** Potential investors in advanced and cellulosic biofuels are watching the 2014 RVO discussion closely. The EPA's 2014 RVO proposal sends an unmistakable signal to the investment community that the Administration's commitment to biofuels *of all types* is wavering. As described above, a significant reduction in the 2014 RVOs would slow or halt investments in the infrastructure needed to distribute larger volumes of ethanol. The future of the advanced and cellulosic ethanol sector depends in large part on the development of an infrastructure network capable of bringing higher-level ethanol blends to the consumer.

### **The Law**

The RFS provides a great deal of flexibility to adjust required volumes to reflect the reality of renewable fuel *production*. Indeed, last year the Agency appropriately reduced the cellulosic ethanol requirement by 99.5%. But in its proposed 2014 RVO, the Agency is apparently relying upon its general waiver authority to reduce the RFS independent of available ethanol supply. There are two tests for a general RFS waiver. First, EPA could waive the RFS in whole or in part upon a demonstration of "severe economic harm." But with ethanol currently ~\$0.60-1.00/gallon cheaper than gasoline, such a demonstration cannot be made.

Second, EPA may waive the RFS in the case of "inadequate domestic supply." EPA's definition of "inadequate domestic supply" is at the heart of the current controversy. In a contortion of the statute, oil companies now allege the provision refers to the supply of *gasoline*, not renewable fuel. And they argue the "blend wall" forces them to reduce refinery output and increase exports of gasoline because the amount of renewable fuel required exceeds the 10% blend level they believe cannot be overcome. In other words, the oil companies have said they will short the U.S. gasoline market, rather than blend more renewable fuel. And by shorting the market, they create "inadequate domestic supply" of gasoline! The statute itself does not define "inadequate domestic supply." But EPA has offered interpretations of the terminology in the past. EPA's historical interpretations of "inadequate domestic supply" clearly refer to "qualifying renewable fuel," not gasoline or diesel.<sup>1</sup>

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<sup>1</sup> In the RFS2 final rule (see 75 Fed. Reg. 14,698), EPA wrote: "We also note that it is ultimately the availability of qualifying renewable fuel, as determined in part by the number of RINs in the marketplace, that will determine the extent to which EPA should issue a waiver of RFS requirements on the basis of inadequate domestic supply (emphasis added).

**Infrastructure & Surplus RINs**

Oil companies claim the current vehicle fleet and refueling infrastructure are incapable of consuming more than ~13 billion gallons of ethanol. This is false. The 15+ million FFVs on the road today *alone* could consume 8-9 billion gallons of ethanol, while 75% of the current fleet is approved to operate on E15. Meanwhile, the 3,200 existing E85 stations could easily dispense the 1.1 BG of ethanol required over the “blend wall.” Even if there is a “gap” between the 14.4 BG RFS requirement and blending of physical gallons, there will be enough surplus RINs available in 2014 to cover the shortfall.