



Insight

Seven Unanswered Questions Regarding EPA's Ethanol Rule

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This afternoon, the Environmental Protection Agency (EPA) released its draft proposal for the 2014 Renewable Fuel Standard (RFS) blend requirements. For the first time in the program's eight-year history, EPA is requiring an ethanol blend below that specified in statute, an indication that the RFS requirements are incompatible with the current state of the industry.

Blend Requirements: EPA 2014 Proposal vs. Legislative Language (in billions of gallons)

	Total Renewable Fuels	Total Advanced Biofuels	Biomass-based Diesel	Cellulosic Ethanol
2014 EPA Proposal	15.21	2.20	1.28	0.017
2014 Legislative Language	18.15	3.75	>1.0	1.75

This proposal reflects two concerns. First, levels of cellulosic ethanol fall well below the specifications of the authorizing law. In the Energy Independence and Security Act of 2007 (EISA), cellulosic ethanol production and blend levels were established to exceed 1 billion gallons by 2013. Actual production of cellulosic fuel has not yet reached even 1 percent of that target.

Second, fuel and auto manufacturers have expressed concern that older vehicles would be unable to handle fuel with ethanol content above 10 percent without engine damage or a decline in fuel economy. As U.S. gasoline demand declines, the volume of blended ethanol required under the RFS would have to decline as well.

This proposal is a step in the right direction from EPA, but several questions about this proposal and the RFS program remain.

1. Does EPA have the authority to deviate from blend levels required by law?

EISA authorized EPA to adjust the volume requirements for advanced biofuels if the legislative levels exceed what will actually be available. By law, if EPA reduces the required volume of advanced biofuel, the agency may also reduce the level of the overall RFS by the same or a lesser amount (Section 211(o)(7)). In this proposal, the EPA adjusts the advanced biofuel blend requirement down 1.55 billion gallons, but adjusts the total renewable fuel standard requirement down 2.94 billion gallons.

In this case, EPA is employing its authority to grant a general waiver, allowable if implementation of the statutory RFS would "severely harm the economy or environment." In order to support the proposed 2014 levels, EPA must substantiate that exceeding the 10 percent fuel blend wall would cause harm. The agency's

refusal to adjust the 2013 blend requirement after a severe drought (which increased corn prices more than 40 percent during the growing season) may complicate this effort.

2. Do these blend requirements reflect the capabilities of the advanced biofuels industry?

A 2013 decision by the U.S. Court of Appeals for the District of Columbia compelled the EPA to establish advanced biofuel blend requirements that more accurately reflect projected production levels. The U.S. biofuels industry is struggling to build cellulosic ethanol capacity, and feedstock prices for biomass-based biodiesel keep production costs high. While blend requirements for biomass-based biodiesel are technically achievable, cellulosic levels may not be; the U.S. produced just 22,000 gallons of cellulosic ethanol in 2012 and forecasts for 2013 production remain bearish. If these advanced biofuels are a true priority, it may be time to reevaluate what investments in research and development are necessary.

3. Is this policy an invitation for Brazilian sugar cane ethanol?

The proposed 2014 blend requirements for cellulosic ethanol and biomass-based diesel account for just 88 percent of the overall advanced biofuel levels (per legislated volume equivalents). The remaining 260,000 gallons can be satisfied using any other “advanced biofuel,” including Brazilian sugarcane ethanol. At the same time the 2014 requirement is poised to shrink the domestic ethanol market, it also appears to invite large-scale imports of foreign-produced ethanol.

4. Does this proposal adequately reflect the limits of the blend wall?

The Energy Information Administration projects that the U.S. will consume just over 133 billion gallons of gasoline in 2014. Recognizing the blend limits implied by the 10 percent blend wall, the EPA should theoretically require just 13.3 billion gallons of ethanol fuels. While newer engines and flex fuel vehicles can properly burn ethanol blends exceeding 10 percent, this proposed level may still create problems for the existing vehicle fleet and fuel retailers.

5. Will the EPA accept requested waivers from API, AFPM, and refiners?

The American Petroleum Institute, American Fuel & Petrochemical Manufacturers, and individual refineries have requested that EPA grant a partial waiver for the 2014 RFS standard. Asserting that the 2013 RFS advanced biofuel blend requirements are unlikely to be attained, the concerned parties stipulate that compliance with the 2014 requirements will also be unachievable. If the volume of advanced biofuels supplied falls below the blend requirements, refiners will have no choice but to constrain the supply of gasoline and diesel. This would increase fuel prices and cause obvious economic harm. Such a waiver may be necessary to guard the recovering economy against further damage.

6. Will the 2014 RFS Program be properly enforceable?

The EPA uses a trading system for Renewable Identification Numbers (RINs) to ensure compliance with the RFS mandates. Plagued by a number of high-profile fraud cases in 2011 and 2012, EPA is in the process of

reforming the RIN program. In January of this year, EPA proposed improvements. Though public comment closed in April, these steps to verify the validity of RINs and clarify compliance liability are not yet finalized, eroding EPA's capacity to enforce the program.

7. Is this the right program to promote the use of ethanol?

The RFS was designed to reduce dependence on foreign oil at a time that the U.S. was importing well more than half of its demand and concerns about energy and national security were paramount. Now that the United States is on track to supply 72 percent of its oil domestically in 2014, the intent of this program is past its prime.

While ethanol production may remain a priority in achieving transportation fuel diversity or reducing greenhouse gas emissions from the transportation sector, annual blend requirements are a solution to a problem of the past.