

FUELS

Internal deliberative pre-decisional - FOR USE BY 2024 PRESIDENT-ELECT TRANSITION TEAM MEMBERS ONLY

ISSUE SUMMARY:

EPA is required to implement the Renewable Fuel Standard (RFS) program established by Congress in the 2005 Energy Policy Act and revised in the 2007 Energy Independence and Security Act (EISA). These mandates call for an ongoing series of actions to be taken, including setting annual standards, determining lifecycle greenhouse gas (GHG) emission assessments for new fuels/production processes/feedstocks (pathways), ensuring program compliance, and implementing regulatory changes on an as-needed basis to maintain and enhance the program.

KEY POINTS:

- **Fuels Regulatory Streamlining Technical Amendments Rulemaking (“STAR”)**
 - In August 2024, EPA proposed minor technical amendments to EPA’s fuel quality regulations recently finalized in the Fuels Regulatory Streamlining Rule. These regulatory amendments would fix minor typographical errors, provide additional clarification to reporting and recordkeeping regulatory provisions, and amend the sampling and testing requirements for fuels to be more consistent with industry practice.
- **RFS Program: Standards and Other Changes (“Set2”) Rulemaking**
 - Under the Clean Air Act, EPA is required to determine the applicable volume requirements for the Renewable Fuel Standard (RFS) for years after those specified in the statute. This action will propose the applicable volumes and percentage standards beginning in 2026 for cellulosic biofuel, biomass-based diesel, advanced biofuel, and total renewable fuel.
- **Inflation Reduction Act (IRA) 45Z Clean Fuel Production Credit**
 - The 45Z credit under IRA provides credit for the production of transportation fuels that meet certain GHG reduction requirements. Department of Treasury (UST) plans to issue guidance soon to ensure taxpayers can access the credit for fuels produced in 2025. UST and Department of Energy (DOE) are leading the process to develop this guidance, along with the tools and metrics which will be used to evaluate the GHG intensity of fuels for the purposes of calculating tax credit values. UST and DOE have indicated that they plan to engage with EPA throughout this process and into 2025.

ONGOING/UPCOMING REVIEWS FOR FY2025:

- **Fuels Regulatory Streamlining Technical Amendments Rulemaking (“STAR”)**
 - The Spring 2024 Regulatory Agenda states December 2024 for publication of the final rulemaking.
- **RFS Program: Standards and Other Changes (“Set2”) Rulemaking**
 - The Spring 2024 Regulatory Agenda states March 2025 for the publication of the Notice of Proposed Rulemaking.

KEY EXTERNAL STAKEHOLDERS:

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| <input checked="" type="checkbox"/> Congress | <input checked="" type="checkbox"/> Industry | <input checked="" type="checkbox"/> States | <input type="checkbox"/> Tribes | <input checked="" type="checkbox"/> Media | <input checked="" type="checkbox"/> Other Federal Agency |
| <input checked="" type="checkbox"/> NGO | <input type="checkbox"/> Local Governments | <input checked="" type="checkbox"/> Public | | | |

In general, stakeholders are concerned about whether the Agency's RFS volume requirements are too high or too low, whether barriers to greater volumes exist or can be removed, and whether the analytical basis for our rules is accurate.

- **Oil Industry:** Generally, opposes the RFS program because of mandatory biofuel blending requirements, which displace fossil fuel market shares. *However, as they invest more heavily in biofuel production (e.g., ethanol and renewable diesel), they are more diverse in their positions. Their main focus now is supporting liquid fuels over electricity.*
- **Ethanol and Biofuel Industries:** Generally, very supportive of the RFS program and would like to see higher volumes for more ethanol and other biofuels to enter the market.
- **Non-governmental Organizations (NGO):** Often split on the environmental benefits of the RFS program because many question the actual GHG savings and its effects on air and water quality, wildlife habitat, and vehicles.
- **Congress:** Split largely along regional lines. Agricultural states are often supportive and fossil-producing states are often opposed to the program.
- **Foreign Countries:** Depending on their own biofuel industries, different countries have different perspectives on the RFS program. Some see a market opportunity and some worry about perceived/potential US-protectionist policies. Key countries include Brazil (sugarcane ethanol producer), Malaysia and Indonesia (palm oil producers (biodiesel), and the EU (primary alternative market for renewable fuels and feedstocks).

MOVING FORWARD:

Moving forward, EPA's focus in implementing the RFS program is on (1) continued development and promulgation of the annual volume rules, and (2) effective implementation of the rules (ensuring compliance, reducing fraud, etc.).