Comments of the American Coalition for Ethanol (ACE)

EPA Public Hearing for Renewable Fuel Standard Program: Standards for 2020 and Biomass-Based Diesel Volume for 2021, Response to the Remand of the 2016 Standards, and Other Changes


By
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My name is Katie Fletcher, Communications Director for the American Coalition for Ethanol (ACE). Thank you for the opportunity to testify on behalf of ACE members today.

Our testimony will focus on three topics: (1) the difference between EPA’s proposed 2020 Renewable Volume Obligations (RVOs) and the real-world effect small refinery exemptions (SREs) have on RFS blending obligations; (2) the need for EPA to reallocate gallons waived for SREs and restore the 500 million gallons unlawfully waived from 2016; and (3) the economic hardship facing farmers and U.S. ethanol facilities.

RFS Volumes & Waived Blending Obligations
While EPA is proposing to maintain the 15-billion-gallon conventional biofuel blending target for 2020, refinery exemptions absent reallocation of waived volumes have effectively reduced the RFS by more than 2 billion gallons below statutory volumes.

The proposed 2020 RVO marks the second compliance year EPA is professing to follow statutory volumes on paper but, in reality, is allowing refiners to escape their lawful responsibility to blend renewable fuel with the petroleum products they make.

The severity of demand destruction from EPA’s use of SREs is a topic of debate, but it is without question year-over-year domestic ethanol use declined in 2018 for the first time since 1998, falling from 14.49 billion gallons in 2017 to 14.38 billion gallons in 2018. The national ethanol blend rate retreated from 10.13 percent in 2017 to 10.07 percent in 2018. ACE members are convinced EPA refinery waivers contributed to these historic setbacks.

We are grateful EPA recently finalized the rule extending the 1-psi Reid vapor pressure waiver for E15, but the net effect of this final rule without reallocating waived gallons means we are still “in the hole” from an RFS demand perspective.

President Trump asked EPA to remedy this issue following his recent trip to Iowa to announce the availability of E15 year-round and we view this proposed rule as a missed opportunity to make good on his request of the Agency.

The Need to Reallocate Waived Gallons & Restore the 500 Million Gallons Waived for 2016
ACE calls on EPA to issue a final RVO for 2020 which sets undifferentiated renewable fuel at a minimum of 15.5 billion gallons in compliance with the D.C. Circuit Court’s order that the Agency restore the 500 million gallons unlawfully waived from the 2016 compliance year.
For EPA’s proposal to blatantly ignore the court order based on the “retroactive nature of an increase in the volume requirement” and the “additional burden that such an increase would place on obligated parties” undermines the integrity of the RFS and flies in the face of Congressional intent.

The irony of not restoring this shortfall as ordered by the court is that EPA has found creative ways to retroactively grant more than 50 so-called “hardship” waivers for small refineries. The message EPA is sending is it will do whatever it takes to help relax RFS compliance for refiners but when it comes to farmers and renewable fuel producers, EPA is unwilling to abide by a Court order to fulfill the letter and spirit of the law.

The “additional burden” placed on refiners, some of which are reporting double-digit profits, by EPA following a court order and the law pale in comparison to the burdens this demand destruction has placed on rural America.

**Economic Pain is Real for Rural America**
Speaking of rural America, net farm income has declined by 50 percent from the 2013 high and prices are depressed for farmers and ethanol producers because of man-made limits or waivers on demand for their products. Economic hardship is real, but not for oil refiners, some of whom have reported double-digit profit margins in recent years. The fact that very large and profitable oil refiners such as ExxonMobil and Chevron are among those who received RFS waivers is insult to an injured rural America.

EPA’s mismanagement of the RFS has placed an artificial lid on domestic ethanol demand causing dozens of ethanol plants to consider slowing production or shutting down. The best way to improve conditions in rural America is to increase the production and use of renewable fuels. This is even more critical given the uncertainty created by trade wars and efforts to renegotiate existing trade pacts. We look forward to detailing how EPA can help get the RFS back on track in our written comments.