



Common Misconceptions about the RFS after 2022

Two common misconceptions about the Renewable Fuel Standard (RFS) are 1) it expires or sunsets after 2022 and 2) EPA has leeway to do anything it wants with the RFS beyond that time. Below are the facts:

The RFS does not sunset. The law requires EPA to issue volumes for 2023 and beyond.

There is no expiration date or sunset in the RFS statute. The RFS does not phase out or wind down. The confusion stems from the fact that the calendar years for which Congress specified statutory volumes for total renewable fuel, advanced biofuel, cellulosic biofuel, and biomass-based diesel span 2006 through 2022, but that isn't the end of the program.

Congress understood that refiners would not continue blending biofuel without requirements to do so. That's why the statute requires future volume obligations "for calendar years after the calendar years specified." Refiners will need to blend biofuel for 2023 and beyond based on volumes established by EPA.

EPA must set volumes based on criteria like jobs, crop prices and the rural economy.

EPA can't do anything it wants with the RFS after 2022. The statute requires EPA to determine future volume requirements for total, advanced and cellulosic biofuel, in coordination with the Secretary of Energy and the Secretary of Agriculture, based on a review of the RFS preceding 2022, the expected annual rate of future production of renewable fuels, and an analysis of the impact of the production and use of renewable fuels on:

- the environment,
- energy security,
- infrastructure,
- cost to consumers,
- job creation,
- the price and supply of agricultural commodities,
- rural economic development, and
- food prices.

EPA could not reduce ethanol volumes after 2022 without negative impacts on many of the factors the agency is required to analyze in setting the volumes.

Furthermore, advanced biofuel volume can be no lower in percentage terms than the 2022 volume set by EPA and cellulosic biofuel must be set at a volume that won't trigger the cellulosic waiver authority. Finally, the law requires EPA to promulgate rules establishing post-2022 volumes "no later than 14 months before the first year for which such volumes will apply." Since 2023 would be the first year which post-2022 volumes would apply, EPA must promulgate rules in the 2021 calendar year.