Renewable Fuel Standard
(RFS)

The primary reason Congress enacted the RFS was to reduce greenhouse gas (GHG) emissions by requiring oil refiners to blend increasing volumes of renewable fuels in the motor fuel they make. By this measure, the RFS is a success. According to the Renewable Fuels Association (RFA), ethanol-blended gasoline in 2018 helped reduce transportation GHG emissions by 55 million metric tons, the equivalent of removing 12 million cars from the road for an entire year. Ethanol also displaces petroleum-based aromatics in gasoline, cutting toxic emissions which harm humans.

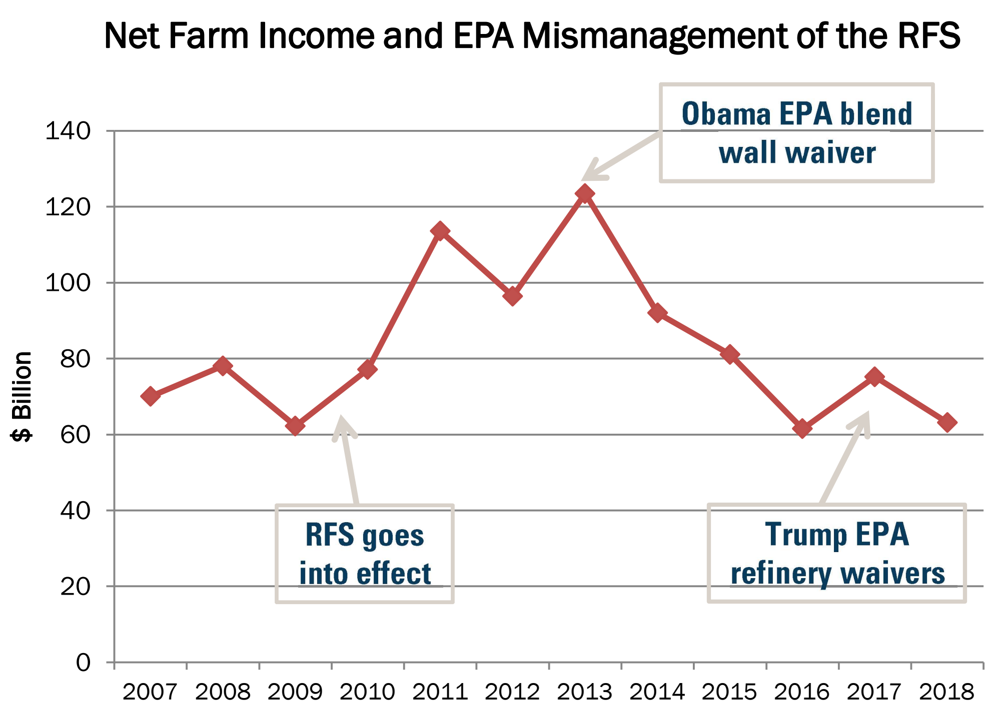
Congress was also convinced the RFS would support new value-added markets for farmers and jobs in rural America. Congress was right. The RFA reports that in 2018 a typical ethanol plant added nearly $2 of additional value to every bushel of corn processed through the production of ethanol, distillers' grains, and corn distillers' oil. What's more, the U.S. ethanol industry supported 71,000 direct jobs, 294,000 indirect and induced jobs, and generated $46 billion to U.S. gross domestic product in 2018.

American consumers have also benefited from the RFS because it provides lower-cost and cleaner fuel options at the pump. In 2018, average wholesale ethanol prices were 55 cents per gallon less than wholesale gasoline prices.

<u>EPA Mismanagement of the RFS Hurts Farmers and the Rural Economy</u>

Unfortunately, recent mismanagement of the RFS by the Environmental Protection Agency (EPA) has undermined the progress of the program and caused economic pain for farmers and rural communities.

Under President Obama, EPA bowed to oil refiners and waived RFS blending obligations below statutory levels due to the so-called "blend wall," sending net farm income into a freefall. ACE and others filed suit, and in 2017, the U.S. Court of Appeals for the DC Circuit ruled EPA violated the statute and ordered the restoration of 500 million gallons back to the 2016 RFS compliance year. So far EPA has not followed the court order.



(RFS)

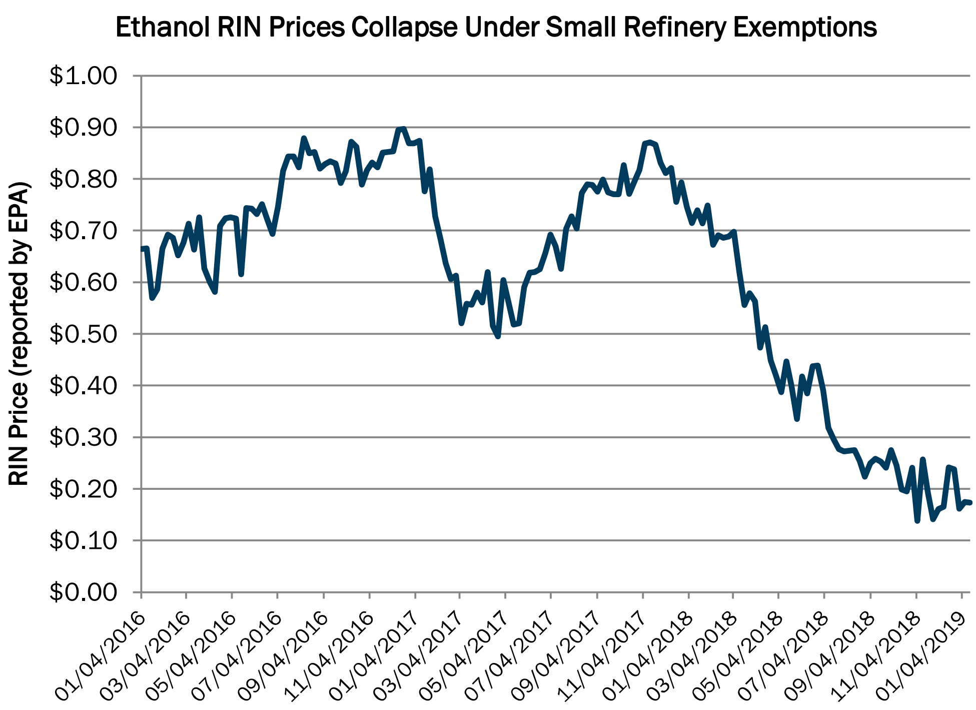
Under President Trump, EPA has retroactively granted more than 50 so-called "hardship" waivers for small refineries, erasing 2.61 billion gallons worth of RFS blending obligations for the 2016 and 2017 compliance years. This is equivalent to eliminating the market for Indiana's corn growers who produced just over 900 million bushels in 2017. EPA's mismanagement of the RFS has contributed to a 50 percent cut in net farm income and rising farm debt. If the nearly 40 Small Refinery Exemption (SRE) petitions pending (as of March 26, 2019) for the 2018 compliance year are also approved by EPA, it will make bad conditions even worse for rural America. While designed for small refineries, companies such as ExxonMobil and Chevron have benefited from EPA's hardship waivers. Refiners are reporting double-digit profits[1] but the heart of America is being left behind. The best way to spur market-based demand for farmers and improve economic 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.

ACE has joined with other groups to challenge EPA's abuse of the SREs in court, but Congress could help by urging EPA to get the RFS back on track, return to the rule of law, and reallocate the waived blending obligations.

Refinery Waivers Remove the Incentive to Blend Ethanol

According to RFA, 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. EPA refinery waivers contributed to these setbacks.

An oil refiner can comply with the RFS in one of two ways. It can buy and blend ethanol with the gasoline it makes, or, it can purchase RFS compliance credits, called Renewable Identification Numbers (RINs), from another refiner that blends more ethanol than required under the law. A RIN is equivalent to one gallon.



[1]https://www.bloomberg.com/news/articles/2018-02-01/billions-from-trump-tax-cuts-supercharge-fossil-fuel-industry

Ethanol RIN credit prices averaged approximately 70 cents in 2016 and 2017. But in 2018, as EPA retroactively granted more than 50 SREs and allowed the refineries to keep the compliance credits, a surplus of RINs led to an 80 percent collapse in prices. Low RIN prices took pressure off refiners to blend ethanol. At the beginning of 2018, a 70-cent ethanol RIN was a strong incentive for refiners to blend ethanol. But by the end of 2018, as the supply of compliance credits swelled and RIN prices cratered, a refiner could buy more than 12 RINs (representing 12 gallons of ethanol for RFS compliance purposes) for the cost of just one gallon of ethanol, creating an even stronger artificial incentive to buy cheap RINs and avoid blending ethanol.[2] As EPA's waivers took pressure off refiners to blend in 2018, ethanol prices fell to record lows and many farmer and locally-owned ethanol plants were forced to reduce output or shutdown. RFA estimates the losses could total $1 billion for the ethanol industry.

The "Reset" is an Opportunity to Reallocate Blending Obligations and Get the RFS Back on Track

Sometime in 2019, EPA is expected to propose a rule to "reset" RFS volumes for years 2020 through 2022. The reset is triggered because volumes for advanced and cellulosic biofuel have fallen short of the statutory levels set by Congress.

Congress can help ACE urge EPA to use the reset as an opportunity to increase undifferentiated renewable fuel volume beyond 15 billion gallons for 2020 to 2022 by reallocating the 2.61 billion gallons waived so far for small refineries and following the court order to restore the 500 million gallons to the 2016 compliance year.

What Happens to the RFS after 2022?

While there is no expiration date or sunset in the RFS statute, the calendar years for which Congress specified statutory volumes for total renewable fuel, advanced biofuel, cellulosic biofuel, and biomass-based diesel end in 2022 and EPA is given greater discretion to set future volumes.

EPA has limited discretion with the RFS after 2022. The statute requires EPA to determine future volumes, 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 ag commodities, rural economic development, and food prices.

The reset stipulates that 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. 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.

While ACE believes 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, it is also true that under Presidents Obama and Trump, EPA has abused the law to find ways to reduce blending obligations for refiners.

[2]Ethanol and RIN prices as reported by the Oil Price Information Service (OPIS)