



RFS Point of Obligation

Why we oppose moving the RFS point of obligation from refiners to downstream marketers

Valero and other “merchant” refiners petitioned EPA in 2016 to move their legal obligation under the Renewable Fuel Standard (RFS) downstream to fuel marketers and blenders.

On Nov. 10, 2016, EPA announced it was proposing to deny the petitions after it determined that moving the point of obligation downstream would cause practical problems for the RFS and likely result in a decrease in the production, distribution and use of renewable fuels, particularly in the near term. EPA invited public comment on their proposed denial until Feb. 22, 2017.

ACE agrees with EPA that moving the point of obligation will not increase the use of higher ethanol blends and would disrupt implementation of the RFS. We join the following organizations in opposition to moving the RFS point of obligation: American Petroleum Institute, National Association of Convenience Stores, Society of Independent Gasoline Marketers, National Association of Truck Stop Owners, American Railroad Association, American Trucking Association, Advanced Biofuels Business Council, Growth Energy, and the Renewable Fuels Association.

Changing the point of obligation will not increase the use of higher ethanol blends. It would only serve to reward a limited class of refiners who for several years have chosen not to adapt to the realities of the RFS program.

Maintaining the RFS point of obligation is one of the most important remaining tools to help drive the use of higher blends of ethanol. It creates pressure for refiners to make investments in ethanol infrastructure or purchase Renewable Identification Number (RIN) blending credits from non-obligated parties who have a strong incentive to increase ethanol blending.

Shifting the obligation point downstream would remove the incentive for blenders, marketers and retailers to offer fuels such as E15, E30 and E85. It would also depressurize the RIN market, which currently drives investment in higher ethanol blends throughout the fuel system and lowers the cost of fuel for consumers. It would leave blenders at the mercy of refiners, who will have a huge incentive to increase the cost of blend stocks. Consumers currently buy ethanol blends because they cost less, but changing the point of obligation will allow refiners to create expensive blend stocks, leaving blenders with no alternative to raising consumer prices.

Merchant refiners such as Valero have complained about the “cost” of RINs. But Valero has many options to act upon their RFS obligation. They can obtain ethanol and separate RINs for compliance (and sell the RIN-less ethanol downstream), they can purchase RINs from other parties, or, like other merchant refiners, Valero can invest in ethanol infrastructure. In most cases, these investments cost less than buying RINs from other parties.

EPA found that merchant refiners aren’t singled out under the current system: “...merchant refiners can indeed expend significant funds to purchase RINs needed to demonstrate compliance with the RFS program, but the cost is offset by a corresponding increase in the price of the fuel they sell. That market price reflects the cost of RINs. The same dynamic applies to both merchant and integrated refiners.”

Changing the point of obligation would substantially increase regulatory burdens on small businesses, penalizing many of the early adopters of higher ethanol blends and costing EPA more to administer the program.

Increasing regulations on small businesses directly contradicts the campaign promises and goals of President Trump. Today, approximately 150 refiners and importers are obligated parties under the RFS. Moving RFS compliance downstream could result in at least 1,000 blenders and marketers becoming new obligated parties.

Increasing the number of businesses that are obligated under the RFS would increase regulations and costs on small businesses, increase taxpayer costs for EPA to enforce the program, and make compliance inefficient.

Changing the point of obligation would be time-consuming and take the RFS program off-track, causing uncertainty in RIN markets and economic pain in rural America.

Speculation that EPA may reverse course on the point of obligation issue has already led D6 RIN values to drop by more than 50 percent since the first of the year. Since EPA proposed to deny petitions to change the point of obligation on Nov. 10, 2016, under the Administrative Procedures Act, if the Agency were to reverse course and propose changing the point of obligation, it would require a new proposed rulemaking, including a new comment period and a final rulemaking. The final rulemaking would be subject to litigation. This would all take an enormous amount of time, probably more than one year. During this time, RIN prices for conventional, cellulosic and advanced biofuels could fall even further, and stall investment and commercialization of cellulosic and advanced biofuels.

This would occur at the same time economic distress is already hitting farmers and rural America. The continued growth of ethanol use is important to rural economies because ethanol production is a critical market for U.S. farmers. U.S. corn production has increased from 11.2 billion bushels in 2004 to a record 15.4 billion in 2016 – a 27.5 percent increase. Ethanol production, spurred by the RFS, has become an important buyer of this increased corn production. In 2015, ethanol producers purchased approximately 35 percent of the corn produced in the United States using approximately 24 percent of the crop to produce 15.1 billion gallons of ethanol and returning the remaining 11 percent to the livestock feed market as high quality distillers grains. This has helped stabilize commodity prices and rural economies over the last decade.

That said, the productivity of U.S. farmers continues to increase. With corn surpluses from the previous crop year of 1.73 billion bushels, total corn supplies exceed 17 billion bushels today. Current corn demand is projected at just 14.6 billion bushels for 2017, resulting in surplus stocks of 2.4 billion bushels. As growth in the ethanol sector has slowed, these corn surpluses are putting pressure on prices and rural economies. Corn prices are below the cost of production. According to USDA, net farm income has dropped from \$123.7 billion in 2013 to \$66.9 billion in 2016 – a decrease of 46 percent. From 2015 to 2016 alone, net farm income has fallen 17.2 percent. USDA projects net farm income will fall again in 2017 to \$62 billion. Farm sector equity decreased \$130 billion and farm debt rose 5.2 percent in 2016. USDA projects the value of farm sector assets to decline \$31 billion in 2017 and reports liquidity ratios and working capital have deteriorated to their weakest levels in 15 years. Agricultural states like Iowa (13.5 million acres of corn, worth \$8.7 billion in 2015), Michigan (2.35 million acres of corn, worth \$1.2 billion in 2015), Ohio (3.26 million acres of corn, worth \$1.9 billion in 2015), and Wisconsin (4 million acres of corn, worth \$1.7 billion in 2015) will be hard hit absent increased demand for corn.