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EPA Releases 2018 Final RFS Blending Requirements

The RFS Fight is Not Over

Yesterday, the EPA finalized its 2018 biofuel volumes for the RFS. The RFS rule maintains the current 15-billion-gallon ethanol mandate for 2018 and reduces the current 311-million-gallon cellulosic biofuel volumetric blending mandate to 288 million gallons for 2018. This mandate covers fuel considered the “next generation” ethanol and maintains the current 2018 biomass-based diesel volumetric blending mandate of 2.1 billion gallons for 2019. This mandate covers biodiesel most often made from soybeans, vegetable fats and animal fats.

After an uprising from Midwestern Senators regarding potential reductions in biofuel quotas for the RFS, EPA Administrator Scott Pruitt responded in a letter assuring them that he would no longer consider cutting biofuel quotas in the RFS. Several Senators outside of the Midwest responded with a letter to President Trump insisting that he meet them as well as the Midwestern Senators to work out an agreement to reduce RIN values which are negatively impacting refiners and some small business petroleum marketers who are unable to take advantage of blending at the terminal rack.

PMAA is disappointed with the EPA Administrator’s letter to Midwestern Senators because higher ethanol blends may lead to a de facto E15 mandate which will place petroleum marketers in a precarious situation. On November 9, PMAA sent a [letter \(http://www.pmaa.org/weeklyreview/attachments/PMAA_RFS_ltr_Senators_Nov_2017.pdf\)](http://www.pmaa.org/weeklyreview/attachments/PMAA_RFS_ltr_Senators_Nov_2017.pdf) to Senate Environment and Public Works Committee Chairman John Barrasso regarding concerns over the ethanol mandate. In the letter, PMAA highlights that the vast majority of the nation’s retail outlets, 95 percent of which are owned by independent petroleum marketing businesses, cannot legally store and dispense blends of gasoline over 10 percent ethanol. Existing equipment is certified for a maximum E10 blend. Currently, there is no viable way for UST system operators to demonstrate that existing equipment is compatible with gasoline blends over E10.

Today, chairman of the Senate Committee on Environment and Public Works John Barrasso (R-WY), sent a [letter \(https://www.epw.senate.gov/public/cache/files/9/c/9ca9b125-51a3-4b50-bf92-ff6fa933ef42/25FA4F0A118D0F634DA8E82C8EB35411.12.1.17-barrasso-pruitt-rfs-letter.pdf\)](https://www.epw.senate.gov/public/cache/files/9/c/9ca9b125-51a3-4b50-bf92-ff6fa933ef42/25FA4F0A118D0F634DA8E82C8EB35411.12.1.17-barrasso-pruitt-rfs-letter.pdf) to EPA Administrator Scott Pruitt calling for the completion of overdue studies on the impact of the RFS on the environment. In the letter, Sen. Barrasso notes that “under section 211(v) of the Clean Air Act, EPA was required, by May 19, 2009, to study whether the RFS “will adversely impact air quality.” To date, EPA has never completed that study.” Furthermore, Sen. Barrasso references testimony from Jonathan Lewis of the Clean Air Task Force in which he stated that EPA’s own data shows that the additional production of corn ethanol under the RFS “has higher lifecycle greenhouse gas emissions than gasoline.”

Although PMAA is disappointed with the EPA’s decision, it’s possible that the EPA could still use its reset authority to lower the ethanol mandate as soon as next year. In addition to finalizing the biofuel volumes under the RFS yesterday, the EPA published a 14-page document titled "Periodic Reviews for the Renewable Fuel Standard Program" essentially stating that the agency has satisfied a statutory requirement to conduct periodic reviews of biofuel production technologies, the feasibility of meeting RFS standards and other facets of the program. Federal law requires the EPA to review the implementation of the RFS program before it can make changes to the overall biofuel volume requirements. Congress can also fix the broken RFS through legislation. PMAA will continue to push for logical biofuel quotas under the RFS.

Senate Likely to Vote on Tax Reform Legislation Today

On Wednesday, the Senate voted to begin formal debate on a tax overhaul bill and a vote is expected later today. Although the GOP’s tax bill gained momentum yesterday morning, some GOP Senators have demanded that changes are needed for the bill to avoid a large deficit increase. Other Senators are holding out until changes are made to accommodate pass through businesses. Specifically, Senator Ron Johnson (R-WI) said he was holding out on supporting the bill, and was looking to add an amendment that would raise the pass-through deduction to about 25 percent, which would be paid for by eliminating the corporate deduction for state and local taxes. Sen. Susan Collins (R-ME) said yesterday morning that it “would be very difficult” to support the Senate tax bill unless Congress agrees to preserve an individual deduction for state and local property taxes and passes separate legislation to support the individual health care market. Sens. John McCain (R-AZ) and Lisa Murkowski (R-AK) were holdouts on the bill until Thursday when they announced their support for the measure. Included in the Senate version is a provision which would allow for oil and gas development of the Arctic National

Wildlife Refuge (ANWR). Republicans have a slim majority in the Senate, and can only afford to lose 2 of its 52 members to pass a bill without Democratic support.

The House passed its version of a tax reform bill earlier this month and is waiting to see if the Senate passes its own bill. If the Senate can pass its version of the bill, then each chamber will need to reconcile differences. That bill would then need to be approved by both chambers before heading to Trump's desk. Lawmakers are hoping to put a final comprehensive tax bill on President Trump's desk before Christmas.

The Small Business Legislative Council (SBLC) recently released a comparison summary of the House passed tax reform package and the Senate Finance Committee passed version. However, the Senate's version is likely to change as amendments are being voted on today ahead of the final vote. Go to (http://www.pmaa.org/weeklyreview/attachments/SBLCAAlert_2017_No_18.pdf) to read the analysis. PMAA sits on the SBLC Board of Directors and provides input on tax related issues facing petroleum marketers. PMAA will keep everyone updated on the issue as we learn more.

EPA Denies Requests to Move Point of Obligation Under the RFS

Recently, the EPA denied petitions for rulemaking seeking to move the point of obligation under the Renewable Fuel Standard (RFS) from refiners to position holders at the terminal rack. The petitions for rulemaking were filed by merchant refiners who do not blend renewable fuel but instead rely on the volatile and costly RIN market to purchase credits to meet their annual volumetric blending mandates under the RFS.

The petitioners argued that position holders at the terminal rack, many of whom are retailers themselves, are using the huge profits gained from RIN sales to undercut prices at the pump. In addition, they say the combination of high RIN costs and below market pricing at the pump are threatening the long-term viability of their operations. Moving the point of obligation downstream to position holders at the terminal rack would eliminate their RIN costs and make prices more competitive at the pump, the petitioners argued.

The petitioners cause gained momentum after the 2016 presidential election brought the Trump Administration to power along with its close political ties to one of the merchant refiners asking for the move. In the end, those ties didn't pan out in the face of strong opposition from renewable fuel producers, major integrated oil companies and large chain retailers which urged the EPA to maintain the point of obligation at the refiner level.

Initially, PMAA supported keeping the point of obligation at the refiner level but changed to a neutral position to reflect the differing opinions on the issue among petroleum marketers.

Congress Hopes to Avoid a Government Shutdown

Congress must reach a deal by December 8 to keep the government funded and avoid a government shutdown. It is likely that Congress will need to pass another stopgap spending bill that delays for two more weeks some difficult choices on funding the government and on many other issues that lawmakers are scrambling to complete before the end of the year. Budget negotiations are coming at a crucial time, as Republican lawmakers are still desperately trying to pass a comprehensive tax reform bill that Democrats strongly oppose. As the deadline to avoid a government shutdown gets closer, Democrats have added leverage for their end-of-year priorities because under Senate rules their votes are necessary to cut off unlimited debate.

The original plan had been to pass a disaster relief measure combined with a budget deal and two-week continuation of current spending levels, according to a Democratic aide. Lawmakers would then work on an omnibus spending bill. However, the timetable is now in doubt as time is running out to reach an agreement on a trillion-dollar, all-inclusive spending package before Congress recesses for the Christmas break. There is momentum to extend current spending levels into mid-to-late January when Congress will likely need to raise the federal debt ceiling. Republican defense hawks have made it clear that they will not support a longer stopgap spending bill, known as a continuing resolution, that would extend funding into January or February without a significant increase in the \$549 billion cap for defense spending.

Democrats are seeking equal increases for non-defense spending agencies. They are divided over walking away from a budget deal that doesn't include a provision that provides permanent legal status for some people who were brought into the U.S. illegally as children as part of the deal, something most Republicans are resisting. Lawmakers must also decide whether to include a renewal of insurance subsidies under Obamacare. Although the two sides are far apart in

negotiations, both sides want to include additional funding for hurricane disaster relief for Texas, Florida and Puerto Rico. However, the funding amount is open to debate.

The bottom line is that a long-term deal is highly unlikely, so Congress will likely pass a short-term deal.

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Petro Pete: "Sometimes, when I'm cruising the city in a \$200K vehicle, I lean back and think, "If the bus driver doesn't speed up I'll be late for work.""

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