

## Focus on Fuels

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#### Between a Rock and A Hard Place

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Chris Grundler, Director to the EPA's Office of Transportation and Air Quality, indicated at the February 20, 2015 National Ethanol Conference that the EPA would set the 2014, 2015 and 2016 RFS RVOs by June 20, 2015. Grundler indicated that the 2014 RVO would be set at the actual 2014 consumption levels. Similarly, the 2015 level would be set at the actual usage as of the date it is set plus projection of usage for the remainder of the year. He indicated the primary objective of the Agency was to set the RFS program on a sustainable trajectory with long term growth of renewable fuel.

### Between a Rock and a Hard Place- Setting the Renewable Fuel Standards for 2014, 2015 and 2016

*by Tom Hogan*

Grundler indicated the reduction in gasoline demand, as well as the ethanol saturation of the gasoline pool (otherwise known as the blend wall) has caused the EPA to struggle to comply with the Congressional mandate for increasing renewable fuel volumes. The Agency attempted to address the problems in an NPRM published in November of 2013 proposing to set the 2014 RVOs at something less than the statutory mandate primarily due to the blendwall. Predictably, renewable fuel producers objected to this proposal and no RVO has yet been set for 2014.

If the EPA does promulgate the 2014 and 2015 RVOs as suggested, what are the implications to the program? One unknown to all but the EPA is the definition of "2014 actual". The EPA's 2014 RIN activity listings at <http://www.epa.gov/otaq/fuels/rfsdata/2013emts.htm#rinVolumeTable> indicate that about 17.2 billion RINs were generated. However, only separated RINs are available to satisfy an RVO.

RIN separation in 2014 is shown below.

### TM&C Services in Fuel Regulations

TM&C provides a full range of services in its fuels regulatory practice. Some of these services are listed below.

- Preparing, reviewing and submitting fuels reports, including CDX submissions.
- Facility audits for compliance with fuels programs.
- Interaction with EPA to pose fuels related questions.
- Industry specialist assistance for required gasoline attestations.
- Industry specialist assistance for in-line blending audits.
- Assistance in setting

- up a fuels compliance group/program.
- Personnel reviews of compliance related groups.
- Compliance status reviews and recommendations.
- Negotiations/consultation during EPA enforcement actions.
- 3rd Party Engineering reviews.
- Due diligence reviews of facilities and companies in RFS RINs Program.

2014 RIN Separation, billions				
RIN Type	Export	Receipt by OP	Blending	Other
Cellulosic			0.009	0.005
Biomass Based Diesel (D4)	0.1	1.5	0.9	0.05
Advanced Biofuel (D5)		0.1	0.1	0.02
Renewable Fuel (D6)	0.2	11.3	2.1	0.05
Total	0.3	12.9	3.1	0.2

The only RINs available to be retired to meet the RVO obligation for 2014 are the sum of the RINs separated by an obligated party plus the RINs separated due to blending into renewable fuel or 16.0 billion. If the obligation were set at 16 billion, it is unlikely that all obligated parties would have enough 2014 RINs to meet their obligation. RINs can be transferred between parties but it is unlikely that there would be a perfect distribution between all of the obligated parties. Therefore, it is likely some parties would use prior year RINs from their inventory or carry a deficit into 2015. Theoretically, the number of prior year RINs would be the same beginning in 2015 as at the beginning of 2014. The only potential difference is this inventory might be in different hands from year to year.

Finally, the legislation requires the EPA to promulgate new renewable fuel levels if the volume of renewable fuels in any category into transportation fuels in any two consecutive years falls short of the originally mandated volume by 20%. (See the full citation below).

*"(F) MODIFICATION OF APPLICABLE VOLUMES.-For any of the tables in paragraph (2)(B), if the Administrator waives-*  
*"(i) at least 20 percent of the applicable volume requirement set forth in any such table for 2 consecutive years; or "(ii) at least 50 percent of such volume requirement for a single year, the Administrator shall promulgate a rule (within 1 year after issuing such waiver) that modifies the applicable volumes set forth in the table concerned for all years following the final year to which the waiver applies, except that no such modification in applicable volumes shall be made for any year before 2016. In promulgating such a rule, the Administrator shall comply with the processes, criteria, and standards set forth in paragraph (2)(B)(ii)."*

Actual vs Mandated Biofuel Usage, billion gallons						
	2014			2015 (assume similar to 2014)		
	Actual	Mandated	% Reduction	Projected	Mandated	% Reduction
Cellulosic	~0	1.75	100	~0	3	100
Biomass Based Diesel	2.4	1.0+	none	2.4	1.0+	None
Advanced Biofuel *	2.7	3.75	28	2.7	5.5	51
Total Renewable **	16	18.15	12	16	20.5	22

- \*Includes biomass based diesel
- \*\*Includes all renewable fuels (cellulosic)

The actual 2014 and projected 2015 renewable fuel usage indicates that the Administrator will be required to modify the mandated volumes for cellulosic biofuel usage beginning in 2016. It is likely that the Administrator will need to modify the advanced biofuel mandate beginning in 2016. And it is likely that the Agency will need to modify the mandated volumes for total renewable fuel beginning in 2017. These required modifications are primarily due to the lack of cellulosic

biofuel production which was expected to be at least 3 billion gallons in 2015. However, even if cellulosic biofuel production was on track with the original projections, the blendwall would limit the amount of cellulosic plus corn ethanol that can be absorbed into the transportation pool and total renewable fuel would still be limited to about 16 billion gallons. If cellulosic ethanol became available, the big loser would be corn ethanol producers.

Turner, Mason & Company follows these developments closely and can help you navigate these uncharted and ever changing conditions. Give us a call if you have any questions.

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