

## Focus on Fuels

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June 2015

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The U.S. Environmental Protection Agency (EPA) has struggled for almost two years to set the renewable fuel volume obligations (RVO) for 2014 and 2015. The 2014 obligation was statutorily obligated to be set by November 2013 and the 2015 obligation by November 2014. They were unable to meet those deadlines because the congressionally set obligations were unachievable and the politics of the situation didn't allow them to set obligations below the original mandate. However, in response to litigation the EPA committed to a proposal to set the obligations for 2014, 2015 and 2016 by June 1, 2015. Those RVOs and other items required since setting the obligation were announced by the EPA today, May 29, 2015. The proposal will be published in federal register as a notice of proposed rulemaking (NPRM). The proposed obligations compared with the original obligations are shown in the table below.

### EPA Announces 2014, 2015, and 2016 Renewable Fuel Obligations

*by Tom Hogan*

#### 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

### Proposed 2014, 2015 and 2016 RVOs

Renewable Fuel Obligations, billion gallons				
	Cellulosic	Biomass Based Diesel	Advanced	Renewable Fuel
<b>2014</b>				
Proposed (5/29/15)	0.033	1.63	2.68	15.93
Original	1.75	TBD	3.75	18.15
<b>2015</b>				
Proposed (5/29/15)	0.106	1.7	2.9	16.3
Original	3	TBD	5.5	20.5
<b>2016</b>				
Proposed (5/29/15)	0.206	1.8	3.4	17.4
Original	4.25	TBD	7.25	22.25

Based on the estimates of gasoline and diesel production in those years (which are used to calculate the obligated parties' RVO), these volumes result in the RVOs shown below.

Renewable Fuel Obligations, percent				
	Cellulosic	Biomass Based Diesel	Advanced	Renewable Fuel
<b>2014</b>				
Proposed (5/29/15)	0.019	1.42	1.52	9.02
Original <sup>1</sup>	1.01	TBD	3.35	10.28
<b>2015</b>				
Proposed (5/29/15)	0.059	1.41	1.61	9.04
Original <sup>1</sup>	1.67	TBD	3.05	11.37
<b>2016</b>				
Proposed (5/29/15)	0.114	1.49	1.88	9.63
Original <sup>1</sup>	2.35	TBD	4.01	12.31

<sup>1</sup>Calculated by actual volume/proposed volume X proposed percentage.

### Other Proposed Changes

The EPA's proposal also resets several reporting deadlines due to the delay in setting the obligations. Those revised reporting dates are shown below.

<b>2013</b>		
Annual compliance reports		January 31, 2016
Attestations	For obligated parties and exporters of renewable fuel	June 1, 2016
	For all other parties	January 31, 2016
<b>2014</b>		
Annual compliance reports	For obligated parties	June 1, 2016
RFS Reports required in 80.1451(a)(1)(i),(ii),(vi),(viii), and (x)	For exporters of renewable fuel, from January 1, 2014, through September 16, 2014	January 31, 2016
Attestations	For obligated parties	December 1, 2016
	For all other parties	January 31, 2016
<b>2015</b>		
Annual compliance reports	For obligated parties	December 1, 2016
Attestations	For obligated parties	June 1, 2017

**What does it all mean?**

- 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.

The EPA has chosen a middle ground in setting the future RVOs. The preamble to the NPRM makes two comments that give significant insight into the future of the program. For the first time, the EPA has flatly stated that the original mandates were unachievable. Also, the NPRM notes that the original intent of the legislation was to encourage the use of renewable fuel without limitation caused by lower gasoline demand, the "blendwall" or other obstacles. As a result, the EPA is proposing to begin increasing the obligation in 2016 beyond the expected blendwall. However, the proposed 2016 obligation of 17.4 billion gallons is significantly lower than the original mandate of 22.25 billion gallons. This seems to be a compromise to allow the market place to begin to move more slowly toward higher renewable fuel usage. The proposed 17.4 billion gallons in 2017 is achievable with minimal production of E15 and E85. In fact, if biodiesel production is increased, there might not be an increase in ethanol usage.

The proposal looks like a politically expedient solution to move the discussion on what to do with very high renewable fuel usage out of the next two years into 2017 and beyond. 2016 is a presidential election year. The proposal will allow the Democratic administration to avoid dealing with extraordinary market changes to accommodate the RFS mandate. In addition, the proposal can be sold to the environmental lobby as a sign that the Democrats are being proactive in the use of renewable fuels.

The final judgement on the NPRM is that the administration has proposed to kick the can of the renewable fuel obligations down the road, to be dealt with in 2017.

TM&C keeps up to date on this and other fuels regulatory issues. Contact us if you have any questions in these areas.

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