

Suspend and Eventually Eliminate the Renewable Fuel Standard Costly Program Fails to Deliver Energy Security, Economic, or Environmental Benefits

By Ben Lieberman*

The Renewable Fuel Standard (RFS) has faced many unexpected turns since it was created by Congress in 2005 and expanded in 2007, so the impact of the COVID-19 health crisis is just the latest surprise. Proponents of the RFS claim it provides energy security, economic, and environmental benefits, but the program has consistently failed to deliver on any of them. The RFS, which requires that corn ethanol and other biofuels be added to the nation's gasoline and diesel supply, contains emergency waiver provisions to avoid severe economic hardship. Governors of five states have asked the Environmental Protection Agency (EPA) for waivers as a consequence of the coronavirus-induced drop in fuel demand and prices. Granting the waivers would be a good start towards reining in this regrettable program and may help boost the post-coronavirus recovery.

A History of the RFS. Most of the surprises since the program was last revised in 2007 have undercut the problematic rationale for mandating biofuels. At the time, demand for gasoline was rising while domestic oil output was falling and import dependence growing. Stretching the fuel supply with (presumably) domestic biofuels seemed like a good idea to many in Congress. But soon after 2007, these trends unexpectedly reversed. Gasoline demand started falling while the fracking revolution led to a rebirth of American oil production and a sharp decline in imports.

At the same time the energy independence rationale for the RFS was eroding, the economic rationale was not doing much better. The costs of compliance never came down enough for the RFS to become economical, especially in the high volumes mandated. These costs can be measured by the price of Renewable Identification Numbers (RINs), the tradeable compliance credits which add significantly to the cost of producing each gallon of gasoline and diesel fuel.¹

This is especially true of the biodiesel portion of the RFS. In addition, the promised big breakthroughs in “next generation” cellulosic biofuels never materialized.

With or without the RFS, a good deal of ethanol would still be added to the gasoline supply because of its benefit in raising octane levels, as even refiners critical of the program admit.² But it is the last billion or so gallons out of the annual 15 billion-gallon de facto mandate

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that causes all the problems by potentially increasing the percentage in gasoline to levels where it may cause engine damage.

Another big change since 2007 is the program's declining standing with environmentalists. Several green groups that originally supported or were at least neutral toward the RFS have since soured on the program. For example, the Sierra Club won a lawsuit last year forcing the EPA to review the RFS' environmental impacts.³ This review will undoubtedly include research findings that corn ethanol has led to higher greenhouse gas emissions than an equivalent volume of petroleum-derived gasoline.⁴ Beyond comparative emissions, environmental activists also see the RFS and its overwhelming focus on liquid fuels as out of step with their preference for electrification of the transportation sector.

Overall, the circumstances that led Congress and President George W. Bush to support expanding the RFS then could hardly be more different than today.

The Impact of Coronavirus. As a result of the nationwide lockdowns, the governors of Louisiana, Oklahoma, Texas, Utah, and Wyoming have asked the EPA to waive the program's requirements for the rest of the year.⁵ The problem is not adverse consumer impacts—gasoline is cheaper today than it has been in years—but the ability of refiners to remain in operation. Many are struggling with sharply reduced demand and low prices. Thus, the high cost of complying with the RFS may be enough to force some to shut down. Shuttered refineries will cost jobs and hamper post-coronavirus economic recovery.

On the other hand, corn growers and ethanol producers make similar arguments against waivers, pointing out that their sales have also dropped, and that suspending the mandate now would kick them when they are down.⁶ They have strident supporters in Congress, especially a bipartisan group of Senators from the corn belt who have always been willing to go to bat for the RFS.

The EPA will decide whether to grant these waivers. If precedent is any guide, the five governors and the refining sector will be disappointed. Even the serious drought of 2012, which reduced corn yields and sent prices skyrocketing, was not enough for the agency to say yes to any relief. The EPA's logic then was that the "severely harm the economy" standard had to be attributable to the RFS alone and not the underlying drought.⁷ The agency may now say the same thing about the coronavirus health crisis. However, a more rational interpretation of the waiver language—one that looks at the refiners' predicament and the need for a strong post-coronavirus recovery—suggests that now is a good time to grant waivers.

The Trump administration has spent the last few years trying in vain to find the middle ground on this issue. It granted ethanol producers a regulatory change that facilitated the use of 15 percent ethanol to gasoline rather than just 10 percent, while giving more small refineries exemptions from the program.⁸ Neither side was happy and both have sued.⁹ The recent decision on small refinery exemptions also factors into the governors' waiver requests, as it greatly increased compliance costs for refiners by prompting a jump in the

price of Renewable Identification Numbers (RINs), the compliance credits refiners must either generate or buy.

Time to Rein in the RFS. The EPA has 90 days to decide on the waiver requests. The agency ought to grant them. Even better would be a legislative sunset of the program. The RFS is an unnecessary attempt by the federal government to dictate the recipe for gasoline and diesel fuel, and its shaky original rationale has only weakened with time.

Notes

¹Wesley Swift, Platts, “RIN Prices Soar After Report about Refinery Exemptions,” S&P Global Platts, February 26, 2020, <https://www.spglobal.com/platts/en/market-insights/latest-news/agriculture/022620-rin-prices-soar-after-report-about-refinery-exemptions>.

²Geoff Moody, American Fuel and Petrochemical Manufacturers, “Correcting the Record on RFG General Waivers and Severe Economic Harm Amid Covid-19,” American Fuel and Petrochemical Manufacturers blog, April 16, 2020, <https://www.afpm.org/newsroom/blog/correcting-record-rfs-general-waivers-and-severe-economic-harm-amid-covid-19>.

³Ben Lieberman, “EPA Finally Initiates Air Quality Assessment of Renewable Fuel Standard,” *OpenMarket*, Competitive Enterprise Institute, March 1, 2019, <https://cei.org/blog/epa-finally-initiates-air-quality-assessment-renewable-fuel-standard>.

⁴John M. DeCicco, Danielle Yuqiao Liu, Joonghyeok Heo, Rashmi Krishnan, Angelika Kurthen, and Louise Wang, “Carbon Balance Effects of U.S. Biofuel Production and Use,” *Climatic Change*, Vol. 138, (August 25, 2016), pp. pages 667–680, <https://link.springer.com/article/10.1007/s10584-016-1764-4>.

⁵Elvina Nawaguna, “Oil-State Governors Seek Renewable Fuel Waiver For Refiners,” *Roll Call*, “April 16, 2020, <https://www.rollcall.com/2020/04/16/oil-state-governors-seek-renewable-fuel-waiver-for-refiners/>.

⁶Bart Pfankuch, “Coronavirus Hammers Ethanol Industry after Terrible Year in 2019,” *Rapid City Journal*, August 25, 2016, https://rapidcityjournal.com/news/local/coronavirus-hammers-ethanol-industry-after-terrible-year-in-2019/article_1fd1d872-c5e4-50a0-9c18-971d366480bd.html.

⁷Environmental Protection Agency, “EPA Decisions to Deny Requests for Waiver of the Renewable Fuel Standard,” November 2012, <https://nepis.epa.gov/Exe/ZyPDF.cgi?Dockey=P100FCJM.pdf>.

⁸Ben Lieberman, “‘Art of the Deal’ Meets Renewable Fuel Standard,” *OpenMarket*, Competitive Enterprise Institute, October 11, 2019, <https://cei.org/blog/art-deal-meets-renewable-fuel-standard>.

⁹“Court Rules Against EPA on Small Refinery Waivers,” *Capital Press*, January 27, 2020, https://www.capitalpress.com/ag_sectors/grains/court-rules-against-epa-on-small-refinery-waivers/article_49771b8e-413b-11ea-bf40-a788e58bf81a.html.