

ISSUE BRIEF:
EPA PROPOSAL TO LIMIT BIODIESEL BLENDS IN HEATING OIL

February 10, 2023

Background:

The Renewable Fuel Standard (RFS) was created by Congress in 2005 and amended in 2007. Its purpose is to strengthen energy independence, reduce consumption of fossil fuel, and lower greenhouse gas emissions by requiring that renewable fuels be incorporated into the transportation fuel market, such as being blended with gasoline and diesel fuel. Congress initially established specific volumes of renewable fuels to be blended each year, but it only did so through 2022. Beginning this year, the EPA has flexibility in establishing annual volumes.

The annual volume requirements are known as “renewable volume obligations” or “RVOs.” The regulated businesses that must comply with this mandate, or “obligation,” are known as “obligated parties.” Namely, refiners and importers of transportation fuels.

This is a market-based program that uses tradable credits, known as “renewable identification numbers” or “RINs,” to track compliance. RINs are generated and attached to a gallon of renewable fuel when it is created. It travels with the fuel and is separated when it is blended into petroleum-based transportation fuel. Once blending occurs and the RINs are separated, the RINs can be sold into the RIN market to parties that might need them and used for compliance.

Over ten years ago, the EPA officially began allowing renewable fuels (e.g., biodiesel) blends in heating oil to generate RINs. Because heating oil is not an obligated transportation fuel under the RFS law, obligated parties can do so without much regulatory burden. Also, heating oil can handle much higher blends than the transportation sector, which expands the market for renewable fuels and helps with compliance. This policy of allowing heating oil to contribute to the RFS program has encouraged high rates of blending in the Northeast, thereby lowering home heating costs and reducing GHG emissions in the building sector.

It is important to note that high biofuel blending in heating oil is not only dramatically reducing greenhouse gas emissions, but the market-based system that creates RINs has significantly reduced the cost of heating fuel to consumers.

The Issue:

In late 2022, the EPA published a proposed rule to “set” RVOs annually through 2025, commonly referred-to as the “set rule.” We and other proponents of renewable fuels do not feel the volumes are high enough for advanced biofuels, including the category for “biomass-based diesel” which includes biodiesel and renewable diesel. Higher volumes will result in greater demand for RINs, including in the heating oil market, and further lower home heating costs and reduced emissions in our market.

The EPA is also proposing several substantial changes to the program, including changing the rules under which the biodiesel and heating oil industry have been operating. One proposed change could effectively ban the separation of RINs for biodiesel blends in diesel fuel above 20% (B20). This would not affect ethanol, renewable diesel, or other fuels. Heating oil would be significantly affected because the related provision refers to blending in transportation fuel and heating oil, and the applicable definition of “diesel” fuel may be broader to cover, e.g., bioheat. Even if the 20% limit were restricted to on-road diesel fuel blends, heating oil would be directly affected because this could affect supply into the heating oil market. Unlike other proposed changes to the program, the EPA did not provide any rationale or explanation.

Currently, the EPA allows RINs to be separated at biodiesel blends of up to 80% (B80). This allows a small amount of petroleum fuel to be blended into pure biodiesel to obtain the biodiesel tax credit, usually 1% distillate fuel, producing a 99% or B99 blend, which can then be further blended downstream. EPA has restricted the ability of biodiesel producers to separate RINs (and also proposes to prohibit even the allowances they currently have), which makes the B80 blending provision the most efficient means to bring RIN value into the heating oil market. Not only should the EPA not lower the B80 threshold, but it should also probably increase it to encourage higher blends. Additionally, the EPA is proposing to limit the number of RINs attached to each gallon, which is also a means of supplying “RIN-less” biodiesel into the heating oil market at a lower cost without all the attendant regulatory compliance costs. It says this is to prevent alleged “RIN flashing,” which it describes as a sort of double dipping practice. However, there is no evidence of this occurring in the heating oil sector. This attempt to police this alleged activity through questionable rule changes will harm heating oil businesses and consumers.

The net effect of these proposed changes would be to discourage higher blends of renewable fuels in home heating oil. It would be more difficult to deploy biodiesel (i.e., Bioheat Fuel®) blends above 20% (B20) in this market. The only pathway to decarbonize this sector would be electrification of five million homes and businesses through costly conversion to air source heat pumps. That will take a long time. In the meantime, the EPA’s proposals will increase heating oil costs and greenhouse gas emissions.

The Ask:

The heating oil industry urges the EPA to enact policies that will increase renewable fuel use in the heating oil sector, not make it more difficult and costly. This includes more robust renewable volume obligations for advanced biofuels, including biodiesel, and keeping the current RIN separation limit of at least 80% (B80). We also believe the EPA should police any allegations of dubious activities, i.e., its description of “RIN flashing,” through enforcement, not arbitrary and erroneous rule changes.

Status:

On February 10, 2023, NEFI submitted comments to the EPA in opposition to these proposed changes. We also launched a call to action that generated more than 500 letters of opposition to the EPA during this period. The EPA will now write a final rule, which is expected sometime around June 2023. We will brief supporters of renewable liquid heating fuels in Congress on this issue and ask them to communicate their opposition to EPA as it writes this final rule.

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