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The EPA's Recent Announcement on Renewable Fuel Standards June 6, 2022

The Environmental Protection Agency (EPA) is requiring refiners to mix 20.63 billion gallons of renewable fuels into gasoline and diesel this year, a 9.5% increase over last year's target. In a final rule on Friday, the agency also said it was retroactively paring the 2020 biofuel-blending quota to 17.13 billion gallons and setting the overall 2021 target at 18.84 billion gallons to reflect actual consumption. There is a 60-day comment period on the final RFS levels from the date the notice is published in the Federal Register.

- [Link](#) to pre-publication version of final 2020, 2021 and 2022 RFS levels.
- [Link](#) to pre-publication version of Regulatory Impact Analysis.
- [Link](#) to prepublication comments document.
- [Link](#) to prepublication version of proposed alternative RIN retirement schedule for small refiners.
- [Link](#) to prepublication version of Notice of June 2022 Alternative Compliance Demonstration Approach for Certain Small Refineries Under the RFS program.
- [Link](#) to explanation of denial of petitions for SREs.

In Friday's announcement, the EPA:

- Retroactively lowered the amount required for 2020 to 17.13 billion gallons, down from the 20.09 billion gallon target the agency had set in late 2019, the last time the blend rate was set. This includes 12.5 billion gallons of conventional biofuel. This reflects actual gasoline usage for 2020.
- Required refiners to add 18.84 billion gallons of ethanol and other biofuels to be blended into gasoline for 2021, up from 18.52 billion gallons originally proposed. There was a reduction made in the cellulosic biofuel and advanced biofuel components, resulting in an increase in the level for conventional biofuel — finalized at 13.79 billion gallons versus the 13.32 billion gallons proposed. The EPA said the 2021 final levels are “equal to the actual volumes of cellulosic biofuel, advanced biofuel, and total renewable fuel that were used in the U.S. in 2021.”
- Raised the biofuel mandate for 2022 to 20.63 billion gallons, which it said would be the highest requirement ever for total renewable fuel, but down from 20.77 billion gallons originally proposed. The reduction, however, came in cellulosic and advanced biofuels, leaving the conventional ethanol component at 15 billion gallons as was proposed in December, with advanced biofuels supplying at least 5.63 billion gallons. That reflects a decrease from the 5.77 billion gallons advanced biofuel target initially proposed for 2022.
- Required refiners and fuel importers to blend an additional 250 million gallons of biofuels this year on top of the quotas in an EPA bid to address a court-ordered rebuke of six-year-old targets.

- Rejected applications from 69 small refineries seeking exemptions from earlier quotas spanning 2016 to 2021 — but is proposing to give small refineries more time to comply with those past targets. EPA cited the action taken in April to reject 31 SREs for 2018 that had previously been approved. EPA said they were applying rules on SREs based on the Court of Appeals for the Tenth Circuit decision. “The Tenth Circuit held that SREs may only be granted when a small refinery’s hardship is caused by compliance with the RFS program,” EPA stated. “After reviewing more than a decade of RFS market data, public comments on a proposal EPA issued in December 2021, and confidential information submitted by petitioners, EPA concluded that none of the 69 SRE petitions demonstrated disproportionate economic hardship caused by compliance with the RFS program.” EPA data currently shows three SREs still pending but noted their denial action “included a subset of three SRE petitions for the 2016 and 2017 compliance years that EPA had previously granted, but that were remanded to the Agency by the U.S. Court of Appeals for the Tenth Circuit after the original grants were challenged.” The EPA said they were supplementing their April “Alternative RFS Compliance Demonstration Approach for Certain Small Refineries” to include these three additional SRE petitions, which the EPA said will provide those refineries “with an alternative approach to demonstrating compliance with their 2016 and 2017 RFS obligations.” This means that the three small refineries affected can use the alternative compliance approach that the EPA set for April and those denied with the announcement today “may meet certain 2016, 2017, and/or 2018 compliance obligations without purchasing or redeeming additional RFS credits.” EPA said the decision was taken as they believe there are “extenuating circumstances” that apply in this situation relative to the 2019 and 2020 compliance years “including a limited availability of RINs [Renewable Identification Numbers] and the significant delay in EPA issuing its decisions on SRE petitions for these compliance years.” But as noted, there will be no SREs for the 2022 compliance year.
- Announced a proposed rule which provides for an alternative RIN retirement schedule for small refiners that gives them extra time and a “broader range of RINs” to comply with 2020 RFS obligations. EPA said the alternative RIN retirement plan is coming as they believe there are “extenuating circumstances specific to the 2020 compliance year, including a limited availability of RINs and the significant delay in EPA issuing its decisions on SRE petitions.” There will be a public hearing on the proposed plan that will take place June 28 via Zoom with no opportunity for in-person presentations. The alternative plan only applies to the 2020 compliance year relative to the rejected SREs. The alternative schedule includes five quarterly RIN retirement deadlines that extend into the 2024 calendar year, which EPA said will “allow small refineries to potentially use 2021, 2022, 2023, and 2024 RINs to satisfy a portion of their 2020 RVOs [Renewable Volume Obligations].” The agency said they are proposing this to run over 18 months between the denials announced today and the final 2020 RVO quarterly RIN retirement deadline of Feb. 1, 2024, for small refineries to satisfy, in full, their 2020 RVOs.” EPA said this schedule also will not overlap with other RFS compliance reporting deadlines.
- Announced it is finalizing provisions allowing the use of biointermediates “because we believe that the use of biointermediates to produce renewable fuels will be a reasonable and positive development for future growth in production, particularly of cellulosic and

advanced biofuels.” The final rule from EPA deals with the processes they used on biointermediates and other rules and regulations covering their use under the RFS.

- Noted the USDA is making \$700 million to help lower costs and support biofuel producers who faced unexpected market losses due to the Covid-19 pandemic. The USDA is making payments to 195 biofuel production facilities. [Link](#) to the USDA release.

Final Volume Requirements for 2020-2022 in Billions of Gallons

	2020 Proposed	2020 Final	2021 Proposed	2021 Final	2022 Proposed	2022 Final
Cellulosic Biofuel	0.51	0.51	0.62	0.56	0.77	0.63
Biomass-Based Diesel	2.43**	2.43**	2.43**	2.43**	2.76	2.76
Advanced Biofuel	4.63	4.63	5.20	5.05	5.77	5.63
Total Renewable Fuel	17.13	17.13	18.52	18.84	20.77	20.63
Supplemental Standard	N/A	N/A	N/A	N/A	0.25	0.25

*All values are ethanol-equivalent on an energy consult basis, except for biomass-based diesel (BBD), which is biodiesel-equivalent.

**The 2020 and 2021 BBD volumes were established in previous RFS annual rulemaking.

Environmental Protection Agency Administrator Michael Regan said that the decision will reduce U.S. reliance on oil and that the administration is “laser-focused on providing more options for consumers at the pump.”

Impacts: EPA analysts say the decision is expected to increase consumer gas prices by less than 1 cent a gallon. But as usual, oil refiners and ethanol supporters gave divergent viewpoints. The EPA said the final rule will “reduce the imports of crude oil and refined products by approximately 2.9 billion gallons,” which the agency said will “result in \$227 million of energy security benefits.” However, the EPA noted that the actual figure could be higher as the action “does not consider military cost impacts of changes to U.S. imports of crude oil and refined products.”

Reactions:

- Chet Thompson, chief executive of the American Fuel & Petrochemical Manufacturers, which speaks for refiners, called the 2022 mandate “bewildering and contrary to the administration’s claims to be doing everything in their power to provide relief to consumers... Unachievable mandates will needlessly raise fuel production costs and further threaten the viability of U.S. small refineries, both at the expense of consumers,” he said.
- Refiners said the 2022 target would boost industry compliance costs with some of the burden passed on to consumers. The value of RINs, the tradable credits used to fulfill

the quotas, softened slightly during Friday's trading session, in part because of the reduction for advanced biofuels. Record refining margins may have provided breathing room for the plan, despite oil industry pressure to lower targets, analysts noted.

- Biofuel groups countered that ethanol is usually less expensive than petroleum-based gasoline. They said that there isn't a strong correlation between the price of gasoline and market credits that refiners purchase to comply with the mandates. "By requiring petroleum refiners to blend larger volumes of low-cost biofuels like ethanol, today's actions will put downward pressure on gas prices and provide economic relief to American families facing record high pump prices," Renewable Fuels Association (RFA) Chief Executive Geoff Cooper said. The plan for 2022 shows the Biden administration intends to "lean in" on biofuels, said Emily Skor, head of the ethanol advocacy group Growth Energy. "We are finally getting to the place where the RFS is starting to be administered the way it is supposed to be administered."
- Senator Chuck Grassley (R-IA) tweeted: "EPA barely met deadline 4 the RFS final rule where it rejected harmful small refinery exemptions = commonsense move BUT EPA went back in time to lower biofuel blend levels in 2020 = Creates uncertainty + if Biden admin wants 2 lower gas prices need 2use more homegrown biofuels."

RFS Outlook for 2023 and Beyond: The EPA is working on plans for 2023 for biofuels levels. With no statutory levels contained in law beyond 2022, the EPA is considering several factors ahead, including electric vehicles (EVs), how RINs from producing power for EVs will be handled, how the agency intends to address the expected increase in renewable diesel production in the U.S. as companies gear up for a possible boost in Sustainable Aviation Fuel (SAF). The EPA must meet a September 16th deadline for decisions that were negotiated in court.