

# RFS Annual Rules:

## Reflect Market Realities and Support Program Stability

- Reducing the annual volume standards is necessary to ensure near term market and program stability.
  - Program integrity is critical as the program transitions away from volume targets set by congress.
- EPA's proposed use of the RFS Reset authority (CAA 211(o)(7)(F)) is appropriate
  - Once triggered, EPA must modify the applicable volumes for all subsequent years, e.g., 2022, using the statutory criteria set forth in CAA 211(o)(2)(B)(ii).
- Increased RFS standards have not significantly increased ethanol use
  - The implied 15-billion RIN volume for conventional biofuel can be satisfied by any renewable fuel, i.e., not a mandate exclusively for corn ethanol
  - Historically, biodiesel has been used for compliance for volumes above the E10 blendwall
  - E15 market penetration is limited by infrastructure and vehicle compatibility constraints
- Imported biodiesel is the source of marginal supply to meet the 15-billion-gallon standard

## 2020 & 2021 Compliance Percentages

- We support EPA's proposal to set 2020 and 2021 standards to match volumes consumed.
  - Volume standards should be based on EPA's EMTS data
  - If the volume standards exceed the quantity of biofuels available in the market, the use of carryover RINs for compliance would be required
- There is significant risk of depleting the bank of carryover RINs unless EPA finalizes volumes at the level of actual use, as proposed.
  - Retirement of carryover RINs should not be considered as a viable mechanism to meet infeasible RFS standards
  - A "RIN Bank" is intended to ensure market liquidity and to help mitigate unexpected events
  - *"An adequate RIN bank serves to make the RIN market liquid" and "drawdown of the carryover RIN bank leading to a scarcity of RINs may stop the market from functioning in an efficient manner."* - Final Rule 12/18/2018

## 2022 Compliance Percentages

- EPA should set 2022 standards based on volumes consumed to date and a feasible projection for the remainder of 2022
  - A reduction of the 2022 proposed standards is necessary to avoid drawing down the RIN bank
  - EPA’s Draft Regulatory Impact Analysis indicated a shortfall compared to the proposed standard
  - EMTS Data through March 2022 indicates the potential for a greater shortfall

Proposed 2022 Total Volume Standard		EMTS Data and Forecast	
	Billion RINs		
Total Renewable Fuel Standard	20.770		
Supplemental Standard	0.250		
Total Effective Volume Standard	21.020		
<b>Draft Reg Impact Analysis: Projected Volumes of Biofuels Available in 2022*</b>		EMTS thru	Projected
	Billion RINs	March 22	YE 2022 **
		Billion RINs	Billion RINs
Cellulosic Biofuel	0.770	0.093	0.372
Biomass Based Diesel	5.610	1.241	4.964
Sugar Cane Ethanol	0.161	0.018	0.072
Other Advanced Biofuels	0.128	0.041	0.164
Corn Ethanol	13.788	3.55	14.2
Total Projected Volume Available	20.457	4.943	19.772
Potential Shortfall	0.563		1.248

\* Projected volumes from Draft Regulatory Impact Analysis, pages 166, 178, 181, 182, and 185

\*\*Extrapolated from March EMTS data

# Small Refinery Exemptions (SRE) and Reallocation

- EPA should finalize its proposal to deny remaining SRE, and not reallocate SRE volumes
  - Regulatory text changes in the 2020 Final Rule should be reversed
    - (40 CFR 80.1405c - Definitions for terms *GE* & *DE* were changed to “*projected to be exempt*”)
- API supports the commitments EPA has publicly made on discontinuing past SRE policy

## 2016 Remand

- DC Circuit court remanded the 2016 RFS Final Rule to EPA to address the 500 million RINs that were waived from the total renewable fuel volume standard.
- EPA should zero-out the remand volume
  - EPA should not supplement the RVO based on the remand of the 2016 rule. There is no way to retroactively correct the volume of renewable fuel blended in 2016, and only accelerates the depletion of the RIN bank.
  - If EPA proceeds, it should apply the full volume of the 2016 cellulosic waiver to the total renewable fuel standard.
    - Full use of the cellulosic waiver in 2016 would have reduced the total renewable fuel standard by an additional 380 million RINs.
    - Therefore, 120 million RINs is the maximum adjustment that should be considered for the total renewable fuel standard in 2021.

# Biointermediates

- EPA should finalize its biointermediates proposal to increase opportunities for carbon emission reductions in the RFS program.
  - Encourages utilization of existing technologies and innovative new technologies
- Limits on biointermediate transfers inhibit innovation and competition
  - A mandatory QAP program provides integrity assurance
  - A single transfer limit is not workable in the event of unplanned maintenance or other unexpected issues.
  - If a transfer limit is set:
    - EPA should provide a process for petitioning the Agency to allow additional transfers
    - Biointermediate production facilities should be able to transfer to more than one renewable fuel production facility
    - Any limits should be imposed on the corporate entity, not individual facilities.
- EPA should not limit quantification to Carbon-14 dating only
  - <sup>14</sup>C is costly, time-consuming and not widely available.
  - API supports <sup>14</sup>C as an option. A mass balance approach is more appropriate in some processes
    - EPA should permit a process to demonstrate the accuracy of a mass balance approach in specific applications.
  - Congress encouraged EPA to allow both methods for co-processed fuels
    - H.R. 133 *Consolidated Appropriations Act, 2021 (Enacted Dec. 2020) Report language (Division G)*