

## Renewable Fuel Standards

**Action needed: Grant pending petitions to expand the regulatory definition of “obligated party”; initiate and complete a rulemaking ASAP.**

### Background on Point of Obligation

On November 10, 2016, EPA issued a proposed denial of petitions filed by multiple merchant refiners and AFPM, the refiner trade association. The petitions ask EPA to expand the regulatory definition of “obligated party” under the Renewable Fuel Standard (RFS) to align the point of obligation with the point of compliance.

The Agency issued a factually inaccurate and poorly reasoned 50 page paper to explain the proposed denial and opened a public comment period that closed on February 22, 2017.

There is sufficient evidence in the docket to support a decision by EPA to change course, grant the petitions, and initiate an expedited rulemaking to expand the regulatory definition of “obligated party” under the RFS.

This action is necessary to preserve merchant refining and jobs. Under the current system, these refineries must buy credits known as renewable identification numbers (RINs) and turn them in to EPA to demonstrate compliance with the RFS each year.

RINs have become the single largest operating expense for these merchant refineries, exceeding labor, maintenance and energy costs. These refineries are now spending well over \$1 billion annually for RINs. This cost is unsustainable and, if not changed, will likely cause a number of refining bankruptcies.

The current definition of “obligated party” distorts the market and creates a windfall for blenders who control RINs and can sell them to refiners, importers or unobligated speculators.

Aligning the point of obligation with the point of compliance will improve the efficiency, fairness and effectiveness of the RFS program. In addition to helping to preserve merchant refiners and refining jobs, this action will benefit renewable fuel producers and small retailers.

Under a new definition that includes refiners, importers and blenders who own fuel at the terminal rack – the point at which most blending decisions are made -- the market would operate more efficiently and equitably.

Notwithstanding the unsupported assertions being made by opponents of the change, evidence in the administrative record shows that:

- 1) The current program is neither efficient nor effective;
- 2) The current program unnecessarily creates “winners and losers”; it is harming merchant refiners, small retailers and is a serious threat to thousands of jobs;
- 3) Changing the point of obligation will not increase the complexity of the program. It will not –

- a) Significantly increase the number of obligated parties; the number of obligated parties will stay about the same as it is now;
  - b) Adversely affect small entities;
  - c) Create substantial burdens for newly obligated parties;
  - d) Cause significant market disruption;
  - e) Increase the potential for noncompliance; or
  - f) Adversely affect EPA's ability to conduct program oversight and enforcement.
- 4) Changing the point of obligation will make the program more efficient and effective; it will --
- a) Improve incentives to promote renewable fuel use;
  - b) Reduce opportunities for speculation, manipulation and fraud in the RIN market;
  - c) Eliminate a serious threat to the continued viability of merchant refiners and thousands of jobs that rely on the merchant refining industry; and
  - d) Benefit small retailers by creating a level playing field for all transportation fuel market participants.