



U.S. EPA ENTERS CONSENT DECREE AIMED AT GETTING RFS SCHEDULE BACK ON TRACK

MONDAY, April 13, 2015 - The U.S. Environmental Protection Agency (EPA) has announced that 2014, 2015 and 2016 volumetric blending mandates required under the Renewable Fuel Standard (RFS) will be finalized by November 30, 2015. The EPA also set the same deadline for the 2017 volumetric mandate for biomass-based diesel. The new deadline is the result of a proposed consent decree in ongoing litigation against the EPA by the American Petroleum Institute (API) and American Fuel and Petrochemical Manufacturers (AFPM). Under the consent decree, the EPA said that it will propose 2015 RFS volumetric mandates by June 1, 2015 and finalize volumetric requirements for both 2014 and 2015 no later than November 30, 2015. Outside of the decree, the EPA will also propose 2016 RFS volumetric mandates by June 1, 2015 and finalize them by the November 30, 2015 deadline as well. The agency is also committed to finalize the RFS biomass-based diesel volumetric mandates for 2017 on the same schedule. The EPA will re-propose 2014 volumetric mandates by June 1 that reflect the volumes of renewable fuel that were actually used in 2014. The EPA said its goal under the consent agreement is to provide the market with the certainty it needs to continue to grow renewable fuel volumes.

The EPA has consistently missed the statutory deadlines for volumetric blending requirements set under the Clean Air Act. The agency is stuck in the middle between refiners advocating for repeal of the RFS and the ethanol industry which strongly supports it. The consent decree does not resolve the issue of how the EPA will set volumetric requirements that balance the competing demands of both the petroleum and renewable fuel industries. Furthermore, the 2005 renewable fuels legislation calls for increasing the use of ethanol made from cellulosic materials, making it more difficult for the EPA to resolve the ethanol blend wall issue. The missed deadlines reflect the challenges that face the EPA in determining how to implement the requirements of the RFS in the face of the impending ethanol blend wall and weakening U.S. gasoline demand.

The consent decree is not final and cannot be entered by the court until the EPA administrator provides a public notice and comment period in the Federal Register to provide all stakeholders an opportunity to comment in writing. PMAA will file comments to remind the EPA once again of the still unresolved issue regarding the compatibility of higher ethanol blends with existing retail storage and dispensing equipment.