

Streamlining Advanced Biofuels Registration Act of 2020

THE PROBLEM

Under the Renewable Fuel Standard (RFS), a low carbon transportation program nestled in the Clean Air Act, American energy innovators are encouraged to produce low carbon fuels from cellulosic biomass. To be eligible, cellulosic fuels — defined broadly to include both cellulosic biofuels and renewable electricity for electric vehicles — must attain at least a 60 percent reduction in carbon intensity compared to petroleum. Innovators have pioneered new industrial processes to produce low carbon fuels and renewably produced electricity for electric vehicles. However, dozens of these new RFS eligibility applications have not yet been approved by the Environmental Protection Agency (EPA) to participate in the program. Years of delay and an arbitrary and capricious application of the law threaten to permanently damage renewable energy providers.

Specifically, EPA has both refused to finalize long-outstanding pathway applications and follow its own guidance for certifying eligibility through existing pathways. Despite clear direction from Congress in its RFS2 law passed in 2007, the EPA has yet to allow any renewable electricity producer to participate in the program. This inaction has artificially driven down the amount of low carbon fuels produced under the RFS, stranded investment in U.S. technologies and undercut the commercialization of low carbon transportation solutions. It has also denied access to the program for deserving participants that produce electricity from farm and forest feedstocks that are already qualified under the RFS.

WHO IS IMPACTED?

Nearly every state produces biomass and energy feedstocks that could benefit from a functional EPA review process of RFS pathways and registrations. Farmers and biofuel producers have been heavily impacted by EPA's refusal to allow new registrations for a 2014 RFS pathway for corn kernel fiber, the fibrous outer shell of a kernel of corn. In 2014, after extensive scientific review and public comment, EPA granted this biomass a classification as cellulosic biofuel. However, the current EPA is refusing to let biofuel companies using this pathway to be eligible for the RFS, effectively blocking market access for the fuel. We estimate close to 50 biofuel facilities would like to utilize this pathway but have been blocked by EPA.

Similarly, EPA granted a pathway for biogas-to-electricity in 2014, which would allow electricity produced from animal waste and crop residuals on farms to receive RFS credits. However, the EPA has not approved a single application from an electricity producer. Electricity from wood and agricultural waste, as well as from municipal solid waste, does not yet have a pathway but is produced from RFS qualified feedstocks and should be able to participate in the program as well.

Additionally, paper pulp technologies, advanced energy dedicated crops, wood waste processes amongst others, all are being strangled out of existence by a non-compliant EPA. Farmers lose a critical new market for biomass and lose value in conventional biofuel feedstock, as do biomass and waste-to-energy electricity producers. Biofuel producers who have invested heavily in new ways to produce more low carbon biofuels miss out on the opportunities to market cellulosic biofuels. And global investment dollars in low carbon fuels, once destined for U.S. projects, move offshore.

HOW DOES THE BUSTOS/HAGEDORN BILL SOLVE THE PROBLEM?

This bill forces the EPA to act on outstanding applications submitted to the agency before November 17, 2020. The EPA must either accept or reject these back-logged applications, and the bill compels the agency to decide by deeming them accepted if, after 90 days, this fuel could participate in at least one state's clean transportation program. Finally, the bill also requires the EPA to act within 180 days of the bill's passage on pathway applications that the agency deemed complete for 180 days or more before the passage of the bill.