

Biofuels Groups, API Seek Vehicle For New Deal On E15, RFS Waivers

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Biofuels groups and major refiners are urging lawmakers to support a new compromise deal that would see 15 percent ethanol fuel (E15) authorized year-round in return for policy easing some refiners' ability to win waivers from the renewable fuel standard (RFS), but other refiners are opposing the plan, which currently lacks a legislative vehicle.

In a draft bill first reported by Argus Media, biofuels groups and the American Petroleum Institute (API) seek to authorize E15 in the summer months, when it is otherwise barred under federal fuels regulations. The draft bill also seeks to ease issuance of waivers from RFS biofuel blending volumes for truly small refineries -- but not medium-sized refiners now eligible for the exemptions.

However, the language -- which is expected to revise legislation known as the Nationwide Consumer and Fuel Retailer Choice Act, which Sen. Deb Fischer (R-NE) introduced in 2025 -- did not make the interior and environment appropriations bill the Senate approved Jan. 15.

As a result, supporters are now looking for an alternative legislative vehicle, such as upcoming transportation or farm bills, sources say.

The draft bill language, confirmed by sources to Inside EPA, would from 2028 create automatic RFS waivers for small refiners, amounting to 75 percent of their RFS compliance obligations, removing the need for refiners to petition EPA for so-called "disproportionate economic hardship" waivers.

Exempted RFS volumes would not be "reallocated" to larger, non-exempt refiners.

But the draft language also redefines what is a "small refiner" eligible for a waiver. Currently, small refiners are considered to be individual refineries processing up to 75,000 barrels of crude oil per day. Under the proposed revision, a small refiner cannot process more than 75,000 barrels per day across all of its individual refineries.

Biofuels sources suggest that the change would be broadly beneficial, and popular.

Refiners such as Marathon, Phillips 66, and Chevron would lose the ability to apply for waivers for their refineries that meet the current definition.

"But these companies, and many other large and mid-sized refining companies, support the legislative change currently under consideration, as it would create a more level playing field in the oil refining sector," biofuels advocates say in remarks urging lawmakers to support the bill.

This explains the support of API, which initially backed a year-round authorization of E15 in 2025, only to withdraw support for a preexisting bill and seek a different compromise, citing changed federal policy on the RFS, biofuel imports, waivers and tax incentives.

“Of the 48 companies operating refineries in the United States, the overwhelming majority support, or would benefit from, the proposed legislative change,” biofuels sources say.

Refiner Opponents

But “a much smaller group of mid-sized refining companies appear to be opposing the change. It appears that just 6-7 multi-billion [dollar] refining companies are opposing the policy change, while the remaining refining companies -- including truly small refiners -- support it.”

Biofuels advocates cite companies resisting the draft deal as: Delek US Holdings, which operates plants in Texas, Arkansas and Mississippi; Par Pacific, which operates four facilities in Hawaii, Montana, Washington, and Wyoming; HF Sinclair, with eight refineries across multiple states; Suncor, a Canadian company with a plant in Colorado; CVR/Icahn Enterprises, with plants in Oklahoma and Kansas; and Cenovus, another Canadian-based energy company, operating two U.S. refineries in Ohio and Wisconsin.

“Far from experiencing ‘economic hardship,’ these companies have often outperformed their peers financially in recent years, due in large part to the windfall resulting from” waivers, advocates of the new bill claim.

But other refiners are pushing back, with some in the sector claiming that under the proposal, as many as two-thirds of refineries that currently qualify for waivers -- provided they can demonstrate disproportionate economic hardship -- would not do so under the draft bill. Lawmakers with refineries in their states and districts are likely to resist the waiver changes, sources say.

The fight over future waiver policy comes as numerous refiners are suing EPA over its partial approvals or denials of waiver petitions. The Trump EPA issued dozens of waiver decisions, in an initial wave in August, and another in November, approving many waivers, partially granting others, and denying others outright.

Waiver policy is further at issue in EPA’s pending final RFS volumes regulation for 2026 and 2027, which is overdue and now anticipated by the agency in the first quarter of this year. The rule will address whether and how to reallocate waived volumes from exempt small refiners to larger, non-exempt refiners. -- Stuart Parker (sparker@iwpnews.com)