

## CLIENT ALERT

### Fuels Alert: EPA's E15 and RIN Market Reform Proposed Rules out for Public Comment (Due April 29)

March 21, 2019

Making good on Administrator Wheeler's promises to Congress earlier this year, EPA published in today's Federal Register its long-awaited proposal that could have the effect of expanding summer use of E15, and that could change regulations affecting Renewable Identification Numbers (RINs) used to comply with the annual Renewable Fuel Standard. [84 Fed. Reg. 10,584 \(Mar. 21, 2019\)](#). Those proposals can be summarized as follows:

#### E15:

EPA is proposing to change its interpretation of its Clean Air Act authority to allow E15 (a blend of 85 percent gasoline and up to 15 percent ethanol) to qualify for a 1 pound-per-square-inch (psi) waiver from May 1 to September 15 of each year. In practice, this means that E15 would only need to meet a 10 psi volatility standard, instead of a statutory 9 psi requirement. E10 (a gasoline/ethanol blend containing between 9 and 10 percent ethanol) currently has the benefit of the 1 psi waiver. Other gasoline and gasoline blends must meet the statutory standard.

#### RIN Market Reform:

EPA is proposing four measures in response to President Trump's [directive](#) last fall, as well as the concerns expressed by some stakeholders over the risk of RIN market manipulation. The first three measures target only separated D6 (conventional corn ethanol) RINs, and would:

- Prohibit parties other than obligated parties, exporters, and corporate and contractual affiliates of obligated parties from being able to purchase separated D6 RINs.
- Require public disclosure when holdings of D6 RINs surpass tiered thresholds calculated by EPA to exceed "normal business practices," thereby reflecting an "intent to exert inappropriate market influence."
- Limit the length of time certain non-obligated parties can hold separated D6 RINs acquired through the blending of fuel by requiring such parties to retire or sell an equal amount of separated D6 RINs by the end of the same quarter in which the RINs were initially acquired.

The final measure would, if finalized, require compliance with RIN retirement obligations across all RIN categories on a quarterly basis, rather than the current annual basis. EPA is proposing to afford some flexibility in this new quarterly compliance obligation by applying only 80 percent of applicable annual Renewable Volume Obligations (RVO) for the first three quarters of each compliance year, with a true-up to 100 percent of the total RIN retirement obligations at the final, fourth quarter compliance deadline.

With comments due April 29, interested parties will have to act fast to make their voices heard. Extension of the deadline is unlikely, given the previous commitments made by the Administration to finalize the E15 rule before the summer driving season.

For more information, please contact the professional(s) listed below, or your regular Crowell & Moring contact.

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