

BIOFUELS

Lawmakers intensify pressure on EPA over electricity fuels

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Sen. Susan Collins (R-Maine) and other lawmakers have been pushing to make sure electricity produced using biogas qualifies under the renewable fuel standard. Francis Chung/E&E News

EPA's juggling act over renewable fuels may soon become a little more complicated.

Senators who support renewable electricity in the fuels law — a sideshow to the battle over liquid biofuel that goes in cars and trucks — want the agency to take action on applications that have sat idle.

The long-building dust-up over the so-called electric pathway in the renewable fuel standard comes as EPA grapples with a bigger fight over biofuel mandates that has reached the highest levels of the Trump administration.

A recently passed spending bill for fiscal 2020 in the Senate includes a provision by Sen. Susan Collins (R-Maine) directing EPA to act within 90 days on pending applications for the electricity production under the RFS. That's stronger than a provision lawmakers included in EPA's budget for this year, in which they urged action within 90 days.

Congress added electricity, such as from biogas, to the RFS in 2007. EPA wrote related regulations in 2014 but hasn't acted on more than 40 applications submitted, industry sources said. The spending measure, which will be finalized by House and Senate leaders in the coming weeks, could force the agency's hand.

"Congress included electricity in the RFS2 bill nearly 12 years ago, and the EPA's failure to enact Congress' mandate is hurting biomass, biogas and waste-to-energy power producers across the country," said Bob Cleaves, president and chief executive officer of the Biomass Power Association, a trade group.

EPA has cited the complexity of applications under the so-called pathways that provide for various alternative fuels. In addition, the agency has blamed short-staffing and limited resources to review them, said Carrie Annand, the Biomass Power Association's executive director.

"It's just stalled," Annand said.

In some cases, pathways have been approved but specific applications are awaiting action. In other cases, applicants are waiting for EPA to approve the pathway itself, as in the case of waste-to-energy, Annand said.

Other examples of renewable electricity would include anaerobic biogas digesters on farms, which sell electricity to the power grid, she said.

Some producers of biogas and waste-derived biofuels are making their product available for transportation but not receiving credit under the RFS, they said.

Farms that generate electricity from manure digesters, for instance, would be able to generate renewable fuel credits, which are traded like currency to make the RFS work. And municipalities generate power from waste-to-energy facilities and would see a return on their investment, the association said.

The pressure on electricity comes as EPA navigates the main battleground over the RFS — ethanol and similar biofuels. The agency is taking public comment until Nov. 29 on a proposal to tweak that part of the biofuel mandate, which calls for 15 billion gallons a year in conventional ethanol.

The Trump administration has said its proposal would ensure that the minimum volume is met even as EPA grants exemptions to some small refineries because of economic hardship.

Corn-state lawmakers and ethanol industry groups say that proposal falls short of President Trump's promise to maintain the RFS, including minimum volumes dictated by Congress, and ensure that the ethanol industry remains viable for farmers. Sens. Chuck Grassley and Joni Ernst, Republicans from Iowa, reinforced that message with a letter to Trump last week.

A point in the fine print is proving pivotal to biofuel groups.

The senators said they had been led to believe in an Oval Office meeting in September that EPA would make up for the amount of exempted biofuel by calculating a three-year rolling average of gallons waived, and reallocate that to other refineries.

But the proposal later published by EPA would rely on exempted volumes recommended by the Department of Energy, rather than actual amounts waived.

"Unfortunately, as you can see in our enclosed comments responding to the proposed supplemental rule, we interpret EPA's action to fall far short of what was agreed to in the Oval Office," the senators said in their [letter](#).

"This assessment is shared by ethanol, biodiesel, and other agriculture stakeholders across the heartland," they said, "and is confirmed by leading market indicators."

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