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New Biofuels Regs Could Still Face Fight From Capitol Hill

By ALLISON WINTER of [Greenwire](#)

New Obama administration biofuels regulations would give ethanol a larger share of the U.S. renewable fuels mix, but not enough to satisfy some farm-state lawmakers on Capitol Hill.

U.S. EPA Administrator Lisa Jackson yesterday announced the new regulations for low-carbon fuels, which would implement the long-awaited renewable fuels standard that Congress included in the 2007 energy bill. The final rule is friendlier to ethanol than a proposal EPA floated last year, which incited bipartisan rage from Midwestern lawmakers, who thought the analysis was unfair to farmers and ethanol producers.

The new analysis of greenhouse gas emissions from renewable fuels finds that if developed in energy-efficient ways, ethanol can have a smaller carbon footprint than gasoline.

But some lawmakers are not backing down in their efforts to fight the rule, despite the fact that the final rule won hesitant support from the ethanol industry and praise from environmental groups. Lawmakers in the House and Senate who have fought to block EPA's work on the rules indicated last night that they will continue to oppose the agency's work on the effort.

"Typical of most decisions made in Washington, there is some good and some bad in the renewable fuel standard final rule announced today," House Agriculture Chairman Collin Peterson (D-Minn.) said in a statement yesterday. "To think that we can credibly measure the impact of international indirect land use is completely unrealistic, and I will continue to push for legislation that prevents unreliable methods and unfair standards from burdening the biofuels industry."

Last year Peterson successfully tacked language on to the House-passed climate bill (H.R. 2454) that would have delayed EPA's work on the regulations. He also cosponsored a bill earlier this week that -- among other things -- would stop the agency from using land-use calculations as part of its assessment of ethanol's carbon footprint.

Now that EPA has finalized the rules, legislative efforts to block the effort would be more complicated. But Peterson and other lawmakers could try to advance similar bills to keep EPA from expanding the regulations or issuing new regulations with different science in the future. They could also use spending bills in an effort to squelch funding for their implementation.

A stab at the agency's appropriations could come from Rep. Jo Ann Emerson (R-Mo.), a cosponsor of the bill with Peterson who sits on the House Appropriations Committee.

Emerson offered an amendment to EPA's 2010 spending bill that would have barred the agency from considering the effects of international land-use changes when calculating the carbon footprint of biofuels.

The committee narrowly rejected that proposal, 29-30.

Emerson's spokesman, Jeffrey Connor, said last night that the congresswoman would continue to look for ways to fight the regulations this year -- either through legislation or appropriations.

"She still feels that both those efforts are very important to maintain the voice that Congress has and ought to have in the matter," said Connor.

In the Senate, the regulations met quick rebuke yesterday from Midwestern Republicans with major ethanol interests in their states.

Sens. Chuck Grassley (R-Iowa), John Thune (R-S.D.) and Mike Johanns (R-Neb.) said consideration of indirect land use incorporates dicey science, punishes domestic fuels and runs counter to the intent of the 2007 energy bill, which they had hoped would elevate the importance of biofuels.

"By using this unproven and murky theory, the EPA has done a disservice to America's renewable fuel producers by diminishing their benefit to the environment," Grassley said.

But those critics would have to get past the many supporters of the regulations, like Senate Clean Air Subcommittee Chairman Tom Carper (D-Del.), who said the rules "struck the right balance" between support for biofuels and the environment.

Not 'dumbing down' the process

The new rules released yesterday are part of a suite of policies President Obama unveiled in an effort to spur the development of biofuels and bolster "green jobs."

As part of the effort, an interagency working group also released a new report that lays out a road map for how federal agencies can help spur growth of the biofuels industry. The Agriculture Department also issued new rules for a program that will give farmers incentives to grow crops for next-generation biofuels.

The EPA regulations came in response to the renewable fuels standard that Congress included in the 2007 energy bill. That bill escalated goals for the use of ethanol and other biofuels, reaching 36 billion gallons a year in 2022. But the law requires most of the new ethanol to have a smaller carbon footprint than gasoline and sets higher standards for "advanced" biofuels.

The law allows at least 15 billion gallons for corn ethanol, but the rest must come from biofuels whose greenhouse gas emissions are 20 percent lower than gasoline.

EPA worked for years to develop a "lifecycle" analysis of biofuels emissions to estimate what could qualify for federal incentives.

The battle has been over whether the assessment should consider indirect emissions from international land use -- emissions caused when farmers clear forests to plant crops. Environmentalists say such considerations are necessary to determine the full impact of biofuels. Ethanol industry advocates question the science and whether it is good enough to draw a link between U.S. biofuels and land cleared in the Amazon.

EPA did not back down from considering land use in its final rules, but the agency took new information into account that led to a more favorable calculation for ethanol. The major driver of that decision, according to EPA's Jackson, was new science and better data on crop yield and productivity, more information on co-products that could be produced from advanced biofuels and expanded land-use data for 160 countries, instead of the 40 considered in the proposed rule.

Under the configuration, some ethanol gets in under the wire, with 21 percent fewer overall emissions than gasoline. But not all ethanol would qualify for the energy bill standard, Jackson said, only the really "smart" plants that use the highest energy efficiency.

"We did not change the science to fit any outcome," Jackson said, "I understand advocacy, and I understand for many of us, when we look at the fuels, we want to make sure they really are renewable fuels, that we weren't dumbing down the process."

'Great news' for the biofuels industry

Off the Hill, the regulations appeased many of the groups that were on opposite sides of the debate over how to measure lifecycle emissions for biofuels.

Tom Buis, CEO of biofuels advocacy group Growth Energy, said the regulations are "great news" that show ethanol has an opportunity to invigorate the economy as a low-carbon fuel.

Renewable Fuels Association President Bob Dinneen was more guarded but still accepted the rules. Dinneen said the regulations are "workable" -- even though he still thinks international land-use data is "dubious."

The announcement also won praise from biodiesel groups, the American Soybean Association and American Farm Bureau Federation.

Companies working on advanced biofuels and cellulosic ethanol said their industry would be helped by the regulations and the administration's new biofuels policy. And environmental groups applauded EPA's scientific analysis to consider the emissions from biofuels.

"With the tools that EPA has developed, we can finally start to hold biofuel corporations accountable," said Nathanael Greene, director of renewable energy policy for the Natural Resources Defense Council.

One major detractor was the American Petroleum Institute, which said the complex standards may not be realistic and workable for the oil and gas industry, which blends ethanol in its fuel.

Beyond the agency's rule, the new biofuels strategy from the Energy Department, EPA and USDA is an attempt to look for ways the federal government could accelerate the commercial establishment of next-generation biofuels, like cellulosic ethanol. The report calls for greater investment in research and development for next-generation biofuels.

It also lays out responsibilities for each of the agencies to work to advance biofuels and attempts to streamline the process for efforts like the beleaguered loan guarantee program, which has been slow to get off the ground.

"In the past, agencies have been duplicating efforts," said Agriculture Secretary Tom Vilsack. "This delineates responsibilities, so we can concentrate our resources ... and get to work as quickly as possible."

The energy task force report predicts U.S. biofuels production is not likely to meet the ambitious goals Congress set for 36 billion gallons of production. But agency officials said yesterday they hope the new policies will help spur more production.

Current domestic biofuels production is about 10.6 billion gallons, one-third the level lawmakers have mandated by 2022.

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