



AFCC News & Reports – December 2019: EPA Makes Final Ruling on RVOs / FY2020 Spending Bills Signed into Law

The 2020 Biofuels Renewable Volume Obligations (RVOs)

The White House is sticking with its 2020 biofuels plan, despite farmer objections. This decision could undermine President Trump's support among farmers in the 2020 elections coupled with the prolonged trade war with China.

EPA finalized the RVOs for 2020 under the Renewable Fuel Standard (RFS) as well as the biomass-based diesel volume for 2021. EPA is proposing the rule would ensure the use of 15 billion gallons of biofuels in 2020, an increase of almost 170 million gallons over the 2019 volume.

In reality, the rule does not provide this certainty, since going forward, EPA will be calculating biofuel volumes and exemptions using a three-year rolling average based on Department of Energy recommendations – which the EPA has proven unwilling to do, by issuing 85 exemptions to the RFS in three years, totaling 770 million gallons exempted.

The Trump administration's EPA has roughly quadrupled the number of the so-called Small Refinery Exemptions, something corn farmers and biofuel producers say has deeply undercut demand for ethanol.

What they're saying: "Instead of certainty, we are essentially being told to trust the EPA to uphold the RFS in the future even though for the past three years the EPA has routinely undermined the program," says Monte Shaw of the Iowa Renewable Fuels Association (IRFA). "Every farmer and biofuel supporter I have talked to is deeply disappointed, frustrated and, quite frankly, angry. I don't think the White House truly understands the depth of discontent in farm country."

The oil industry says the waivers are needed to preserve blue-collar refining jobs and disagrees with the claim that the waivers destroy demand. The EPA plan, devised after weeks of negotiations with both the oil and biofuel industries to resolve the issue, would raise the biofuels volumes that some refineries must blend in 2020 based on U.S. Energy Department recommendations for volumes that should be exempted.

Biofuel interests wanted the regulation to be based on volumes that have actually been waived, since the EPA has routinely waived more blending volumes than the DOE has recommended.





Valero Energy Corp. and American Fuel & Petroleum Manufacturers (AFPM) trade group asked the nation's highest bench to scrutinize EPA's implementation of its renewable fuel standard. The U.S. Court of Appeals for the District of Columbia Circuit last year rejected a challenge to EPA's 2010 "point of obligation" rule, which requires refineries and importers — but not blenders — to comply with the standards.

Valero and AFPM asked the Supreme Court to weigh in on whether EPA must regularly reconsider the point of obligation and whether EPA can continue to "evade" that responsibility. "Just think about it once a year," Valero and AFPM wrote in their petition Monday. "That's what Congress asks of EPA: just to consider, during annual rulemaking, whether a multi-billion-dollar obligation falls on the 'appropriate' parties."

It takes the vote of four justices to agree to hear a petition. The court takes up about 1% of cases that it receives.

Spending Bills Signed into Law



President Trump signed \$1.4 trillion spending bills into law on December 20, 2019, preventing a government shutdown and keeping the government running through September 30, 2020, in a more than 2,000-page package that will fund all federal agencies for the remainder of fiscal 2020.

The Senate voted 71-23 to approve the broader of the two fiscal 2020 spending packages which contains domestic and international assistance package —the Labor-Health and Human Services-Education, Agriculture, Energy-Water, Interior-Environment, Legislative Branch, Military Construction-Veterans Affairs, State-Foreign Operations, and Transportation-Housing and Urban Development bills. A second national security minibus package carried the Defense, Commerce-Justice-Science, Financial Services and General Government, and Homeland Security bills, and passed the Senate 81-11.

The House also approved the measures with bipartisan support, and passed [H.R. 1865](#), the vehicle for funding domestic programs and international aid efforts. The bipartisan compromise released includes spending increases for EPA and the Interior and Energy departments.

The tax incentives package, which retroactively extends incentives for biodiesel, advanced and cellulosic biofuels, are part of the national security spending bill for FY2020. The tax package which retroactively extends incentives for biodiesel, advanced and cellulosic biofuels, found [here](#), has been a long awaited incentive for the biotech innovation and rural economies.

The tax incentives are part of the national security spending bill for FY2020. Here's a summary of what's in it:

- Second generation biofuel producer credit extended retroactively for 2018 and 2019 through 2020 to January 1, 2021.



- Special allowance for second generation biofuel plant property extended retroactively for 2018 and 2019 through 2020 to January 1, 2021.
- Biodiesel and renewable diesel extended retroactively for 2018 and 2019 until December 31, 2022.

Here are the winners and losers in the massive, more than 2,000-page package that will fund all federal agencies for the remainder of fiscal 2020.

Winners

- **Clean energy research:** Rep. Marcy Kaptur (D-Ohio), the House's top Energy and Water Development appropriator, called the package "the most important climate bill this Congress will pass in this session." Since the measure is loaded with clean energy spending for the Department of Energy, including large boosts for the Office of Energy Efficiency and Renewable Energy, the Advanced Research Projects Agency-Energy, the Office of Science and national laboratories. The dollars are a down payment on a Manhattan Project-style approach to addressing climate change through research that enjoys bipartisan support.
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- **EPA:** Agencies receiving a 2% raise may not be a large increase, but for EPA, it's a victory after flat funding and proposals for deep cuts since POTUS took office. The \$9 billion EPA budget is spread across bipartisan programs, such as clean air and water grants and conservation efforts, and maintains funding for more controversial programs such as chemical safety testing. Lawmakers are hoping the increase will halt the exodus of EPA employees.
 - **PFAS research:** Backers of regulating the carcinogenic class of chemicals known as per- and polyfluoroalkyl substances, or PFAS, may have fallen short in getting tougher regulations into law this year, but the omnibus provides more than \$300 million for PFAS cleanup work and research. They see it as a success. "If I take a step back and realize a year ago, when we were all waving our arms around about PFAS, nobody knew what we were talking about. Now you look at what we actually got in, it's pretty substantial," said Rep. Dan Kildee (D-Mich.), co-chair of the Congressional PFAS Task Force.
 - **Federal workforce:** Not only does the deal keep federal workers from being furloughed by a shutdown, but they'll also get their largest pay raise in about a decade. Their 3.1% pay hike matches the one military personnel are getting. POTUS, who previously proposed no increase for civilian workers, has been especially generous to feds this holiday season. He even signed an executive order giving them Christmas Eve off.



Losers

- **Green groups:** Environmental organizations, including the League of Conservation Voters and the Sierra Club, bashed Democrats for failing to deliver spending or policy priorities in this year's largest bill. Greens were especially frustrated that it provides more than \$1 billion for U.S.-Mexico border wall construction, which they see as damaging the Rio Grande Valley. They were also incensed that existing riders, such as one preventing the listing of the sage grouse as an endangered species, were kept in. House Appropriations Chairwoman Nita Lowey (D-N.Y.) said she was surprised by the criticism, adding, "I don't remember rejecting anything that they presented to me. I'm happy to work with them. There's going to be another bill" next year.
- **Clean energy taxes:** Clean economy advocates are frustrated that a series of renewable energy tax extenders fell out during eleventh-hour negotiations. Among those dropped were incentives for electric vehicles, battery storage, offshore wind and solar energy. Backers said an accord never materialized that would have traded the energy breaks for technical corrections to the 2017 tax law. Democrats, including Minority Leader Chuck Schumer of New York, said they'll push for them again next year, while Senate Finance Chairman Chuck Grassley (R-Iowa) said he, too, would have liked a broader deal.
- **Nuclear waste:** An expected breakthrough on nuclear waste never materialized this year, leaving lawmakers uncertain of where to go next. There was bipartisan support in both the House and Senate for funding interim nuclear waste storage sites until Congress could come to an agreement on the long-stalled Yucca Mountain nuclear waste repository. But the accord died over House lawmakers' worries that a Senate plan to tap the Nuclear Waste Fund for interim storage would deplete future dollars for Yucca.
- **Shasta Dam:** Despite a big boost for the Army Corps of Engineers and a high-level push, no funds were included for the controversial raising of Northern California's Shasta Dam. House Minority Leader Kevin McCarthy (R-Calif.) made a late push for the project, which is important to his Central Valley district's farm interests. He had hoped to trade dam funding for dollars sought by Speaker Nancy Pelosi (D-Calif.) for rehabilitation work at the Presidio national historic site. In the end, Pelosi got the entire \$10 million she sought for the Presidio in her district. McCarthy and the dam, which were derided by environmentalists, were left out.

