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Headline News

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Energy Bill Expanding RFS Signed Into Law

With the stroke of a pen this morning, President George W. Bush signed into law the second energy bill of his term, containing the first increase to national average fuel economy standards in more than 30 years and the second increase to national biofuels requirements in three years.

"Today, we make a major step toward reducing our dependence on oil, fighting global climate change, expanding the production of renewable fuels and giving future generations of our country a nation that is stronger, cleaner and more secure," Bush said at the bill signing, hosted at the Department of Energy's headquarters.

The bill signing caps the nearly year-long congressional battle to enact a new energy policy. The House passed the final version of the bill yesterday by a 314-100 vote and in the spirit of the conservation language included in the legislation; it was transported to the White House last night in a hybrid Toyota Prius.

The 822-page energy bill, an amalgamation of previously passed House and Senate energy legislation, contains a nationwide corporate average fuel economy (CAFE) increase to 35 miles per gallon by 2020 -- 10 miles per gallon above where the CAFE requirement is today -- and a 36 billion gal/yr renewable fuels standard (RFS) by 2022, to be administered by the U.S. Environmental Protection Agency.

The new RFS would begin in 2008, requiring 9 billion gallons of biofuels and 11.1 billion gallons the following year. The RFS contains three carve-outs: requiring 21 billion gallons of the overall mandate to contain "advanced biofuels" by 2022, with 16 billion gallons of that amount, under the same timeframe, from cellulosic biofuel. For the third carve-out, up to 1 billion gallons by 2012 is required to be from biomass-based diesel.

"Advanced biofuels" are defined as cellulosic ethanol, ethanol derived from sugar or starch (other than corn starch), biogas, biomass-based diesel, butanol or other alcohols and other fuel derived from cellulosic biomass. Additionally, biomass-based diesel is defined as renewable fuel that is biodiesel, although fuel derived from co-processing biomass with a petroleum feedstock would be considered an advanced biofuel and not biomass-based diesel.

With much more aggressive biofuel targets, this expanded RFS is likely to have more of an immediate impact than what was required under the original RFS, contained in the 2005 energy bill. According to the Renewable Fuels Association (RFA), the U.S. ethanol industry currently has the capacity to produce 7.4 billion gallons of the fuel, with another 6.05 billion gallons of ethanol under construction. Meanwhile, there is currently no production of commercial-scale cellulosic ethanol, although the "advanced biofuels" carve-out begins in 2009, requiring 0.6 billion gallons of the fuel.

The original RFS did not contain carve-outs, but required increasing amounts of biofuels that were achieved several years before their mandated time. For example, in 2007, the RFS called for 4.7 billion gallons, nearly 3 billion gallons below what the U.S. ethanol industry has the capacity to produce today. Those easily achievable targets were what drove biofuel interests to push for a second, more aggressive mandate.

Among other biofuel highlights of the bill:

--establishes a new grant program for retailers to install E85 dispensers. The bill authorizes \$200 million for FY2008-2014, for a maximum grant per station of \$180,000. E85 station mandates, which had been previously discussed, were not included.

--amends the Petroleum Marketing Practices Act to ensure that franchisees are empowered to install or convert equipment to offer alternative fuels, provided they have the liability associated with the decision. This is to address previous concerns that oil majors were preventing alternative fuels, specifically E85, from being sold under their canopy.

--requires several biofuel-related studies, including on the feasibility of a dedicated ethanol pipeline and on the adequacy of rail transportation of ethanol.

In order to gain Republican support for the bill, both the \$21 billion tax package that would have repealed some incentives to oil and natural gas producers -- but also contained extensions of several biofuel-related tax incentives -- and a renewable electricity mandate were removed before the Senate approved the bill last week. However, congressional Democrats have vowed to revisit the issues next year, likely during debate over legislation addressing global warming.

A slew of biofuel trade organizations and companies -- such as RFA, the American Coalition for Ethanol, Archer Daniels Midland and VeraSun -- issued press releases shortly after this morning's bill signing, praising the passage of the increased biofuels requirement. Petroleum trade associations, which had previously voiced their strong opposition to the mandate, were noticeably silent on the president's action.