

# WHERE DOES RFS2 GO FROM HERE: THE FUTURE OF RFS2

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## Overview

- EISA 2007
  - RFS2 Overview
  - RFS2 Categories
  - RFS2 Volume Requirements
- EPA's Regulatory Authority
- Enforcement / Fraudulent RINs
- Enforcement Response Policies
- Quality Assurance Plans



## EISA 2007 – Overview

- Establishes RFS2 Program
  - Increases mandated volume to 36 BGY
  - Extends time frame through at least 2022
  - Four separate / nested categories:
    - total renewable fuels, advanced biofuels, biomass-based diesel, and cellulosic biofuel
  - Minimum lifecycle GHG emission performance
  - Renewable biomass feedstock requirement
  - Restrictions on land use for feedstocks
  - Inclusion of specific types of waivers and EPA-generated credits for cellulosic biofuel

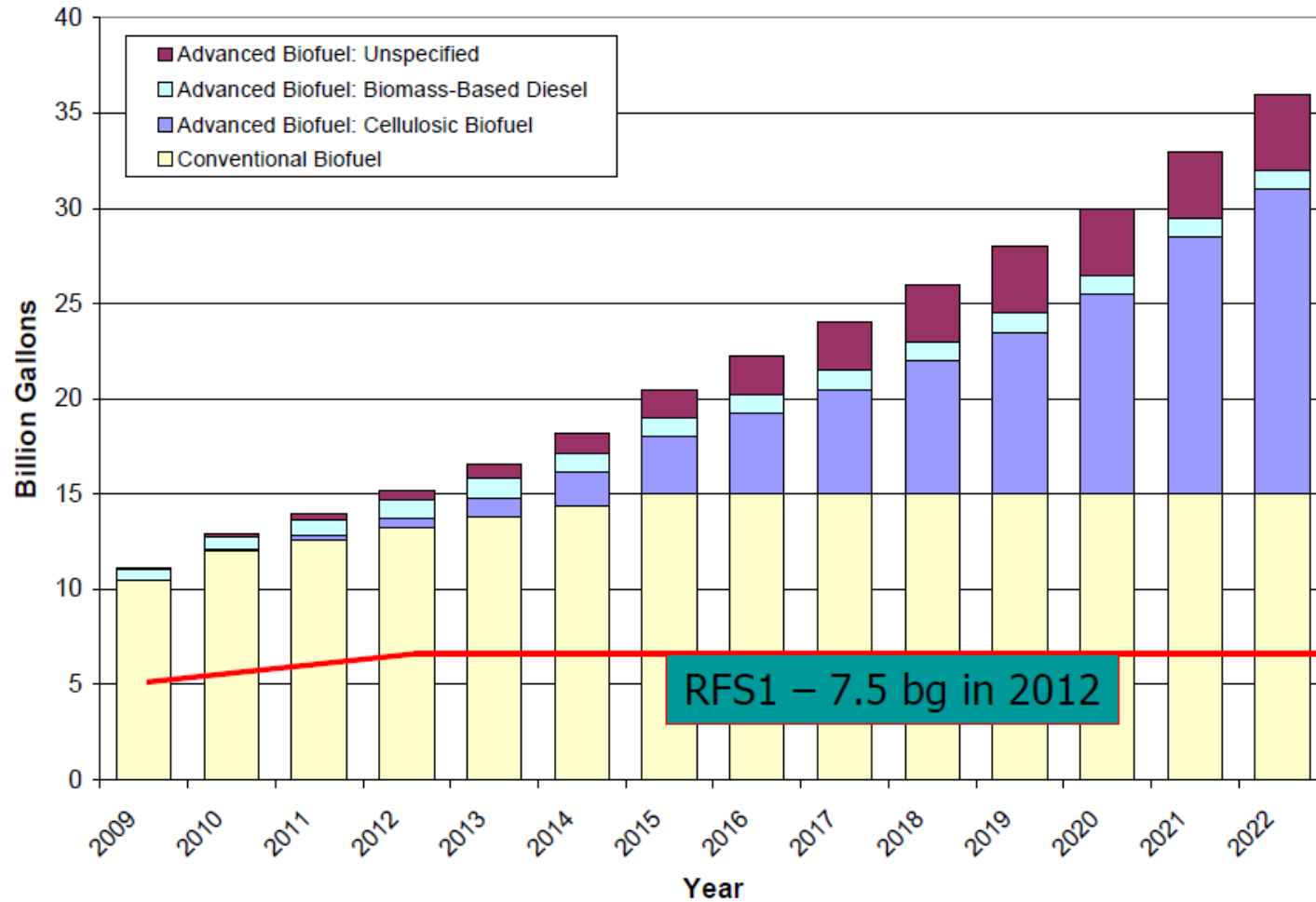


## EISA 2007 – RFS2 Categories

- Biomass-Based Diesel
  - 1 BGY by 2012 and beyond (EPA may increase 2013+)
  - 50% lifecycle GHG threshold
- Cellulosic Biofuel
  - 16 BGY by 2022, but subject to annual assessments
  - 60% lifecycle GHG threshold
- Advanced Biofuel
  - Total of 21 BGY by 2022
  - 50% lifecycle GHG threshold
- Renewable Biofuel
  - Total of 36 BGY by 2022
  - 20% lifecycle GHG threshold for new facilities



# EISA 2007 – RFS2 Volumetric Requirements





## EPA's Regulatory Authority

- Annual RVO percentage standard
- Annual cellulosic biofuel standard
- RFS2 and/or cellulosic biofuel standard waivers
- EPA-generated waiver credits / price
- Facility registration / engineering review / updates
- Lifecycle GHG analysis / new pathway qualification
- Modification of GHG reduction thresholds
- Renewable biomass compliance survey plans
- RIN quality assurance plans
- CY 2013+ biomass-based diesel volume ( $\geq 1$  BGY)
- CY 2023+ RFS2 mandate



## Enforcement / Fraudulent RINs

- Clean Green Fuels, LLC
  - 32M invalid biomass-based diesel RINs
  - Sentence: 12 years prison, \$9.1M forfeiture, \$42M restitution
- Absolute Fuels, LLC
  - 48M invalid biomass-based diesel RINs
  - Sentence: 15 years prison, \$175k fine, \$54.9M restitution
- Green Diesel, LLC
  - 60M invalid biomass-based diesel RINs
- Compliance / due diligence obligation rests with OP
  - EPA issues NOVs, and enters into ASAs under the CAA, to 32 companies that retired invalid RINs



# EPA Enforcement Response Policies

- Interim Enforcement Response Policy (3/12)
  - Stress OP compliance/due diligence obligation
  - Use Violation and Shortfall Violation: penalty amounts per RIN
  - Maximum civil penalties (per producer and aggregate)
  - RIN Integrity Report
- 2<sup>nd</sup> Interim Enforcement Response Policy (1/13)
  - Confirms applicability of 2012 Policy to invalid 2012 biomass-based diesel RINs
  - Retrospective affirmative defense for use of invalid 2013 RINs for entities that enact Quality Assurance Plans in compliance with EPA's NPRM, and meet reporting / remedial actions requirements





## “Voluntary” Quality Assurance Plans

- EPA NPRM (2/13)
  - Minimum requirements for QAP
    - Verification of feedstocks
    - Confirmation that fuel production and RINs generated are consistent with feedstock use
    - Qualification of 3<sup>rd</sup> Party Auditors
    - Minimum audit requirements
    - Conditions for establishment of affirmative defense
    - Identification of party responsible for replacing invalid RINs
    - Assurance mechanisms for invalid RIN replacement
  - Two QAP options proposed
- Pre-registration of 3<sup>rd</sup> Party QAPs



Questions?

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