

Renewable fuel standard needs to be modified, not repealed

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Credit: L. Brian Stauffer

(Phys.org) —Congress should minimally modify – and not, as petroleum-related interests have increasingly lobbied for, repeal – the Renewable Fuel Standard, the most comprehensive renewable energy policy in the U.S., according to a new paper from two University of Illinois researchers.

In the study, U. of I. law professor Jay P. Kesan and Timothy A. Slating, a regulatory associate with the Energy Biosciences Institute, argue that RFS mandates merely ought to be adjusted to reflect current and predicted biofuel commercialization realities.

"The RFS is the first and only federal policy that directly mandates the use of [renewable energy](#) in the worthwhile effort to displace the use of fossil fuels for our energy needs," said Kesan, who also is the principal investigator for the Biofuel Law and Regulation project at the institute.

"As with any pioneering regulatory regime, unforeseen implementation issues will arise," Kesan said. "But this does not justify throwing out the baby with the bath water. Every effort should be made to keep the RFS in place, but efforts should also be made to revise its regulatory regime to make it operate as efficiently as possible."

In the paper, Kesan and Slating contend that the RFS can serve as a "model policy instrument" for the federal support of all types of socially beneficial renewable energy technologies.

"By mandating a market for emerging biofuels, it sends a clear signal that if they are produced, they will be effectively commercialized," said Slating, who also is an adjunct professor in the law school. "This, in turn, provides the necessary certainty to free up credit constraints and incentivize investment in the socially beneficial biofuels industry. Additionally, it does so with very little impact on the federal budget because regulated parties bear its costs."

"While the federal government has traditionally incentivized renewable energy development through tax credits and funding R&D grants, these approaches are more costly than simply mandating a market," said Kesan, who also holds U. of I. appointments in the College of Business, the Institute for Genomic Biology, the department of electrical and

computer engineering, and the department of agricultural and consumer economics.

The researchers also contend that the biofuel categories of the RFS ought to be expanded to encompass all emerging biofuel technologies, as well as having its biomass sourcing constraints relaxed.

But while the current RFS policy is by no means flawless, and some of the current implementation issues would necessitate statutory changes, the authors say it would be more efficient for these changes to be made by the Environmental Protection Agency, as opposed to Congress.

"We recommend that Congress simply amend the RFS' statutory provisions to grant the EPA the authority to address its implementation issues via the regulatory rulemaking process," Kesan said. "For example, the RFS's volumetric mandates need to be adjusted to reflect current biofuel production realities. But since Congress has demonstrated an inability to properly set these mandates in the past, it would be more efficient for the EPA to set the RFS mandates for future years through a formal rulemaking process with input from all affected stakeholders."

"It's clearly a step in the right direction that the EPA has finally initiated rulemaking to address the issue of RIN fraud and help promote liquidity in the RIN market," Slating said. RIN stands for renewable identification number, a number assigned to a given amount of biofuel by the EPA so that its production, use and trading can be tracked.

Although the biggest issue with traditional biofuels usually can be reduced to the food vs. fuel argument, the researchers stress that if the RFS is successful in achieving its goals, it will usher in the use of emerging biofuels that will have significantly less impact on food-related markets.

"The ultimate goal of the RFS is to incentivize the increased commercialization of second-generation biofuels, such as cellulosic biofuels that do not rely on food-related feedstocks for their production," Slating said. "But in order to efficiently accomplish this goal, the RFS also must continue to incentivize the use of first-generation biofuels like corn ethanol."

"In the short-term, if any food vs. fuel tradeoffs result from the RFS' implementation, they will likely be minimal and probably justified in order to effectuate the long-term goal of facilitating the widespread adoption of second-generation biofuels."

Kesan and Slating's study also notes that the RFS has only been fully implemented in its current form for three years, and legislatively revising it in an overly reactionary manner would be ill advised at this point.

"Stakeholders and markets must be given time to adjust to the existing regime before serious and informed discussion about significantly altering the RFS, beyond what we propose, can be had," Kesan said. "Likewise, you've got to allow some time for the maturation of this pioneering and socially beneficial renewable energy policy."

The research will be published in a forthcoming issue of the *New York University Environmental Law Journal*.

More information: The paper, "The Renewable Fuel Standard 3.0?: Moving Forward with the Federal Biofuel Mandate," is available online: papers.ssrn.com/sol3/papers.cfm?abstract_id=2141862

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