



May 13, 2022

## WHAT YOU NEED TO KNOW ABOUT **Biofuels**

### PRO POINTS

- **The Environmental Protection Agency will finalize** biofuel volume mandates under the Renewable Fuel Standard over the next few weeks, setting the amounts of corn ethanol biodiesel to be used in the fuel markets for 2021 and 2022 and likely retroactively adjusting levels for 2020.
- **The agency is also slated to soon propose levels for** years 2023 and beyond — granting the Biden administration a chance to craft the future of the contentious program now that the volumes proscribed by Congress in 2007 have expired.
- **The program has long caused political headaches for** presidents of both parties, since it does not follow the typical partisan divide that defines debates in Washington. President Joe Biden had criticized former President Donald Trump's moves that exempted many refiners from compliance, but the current administration may face many of the same pressures as it decides the future of the program.

### HOW WE GOT HERE

The Renewable Fuel Standard has been a politically treacherous program to navigate for presidents. Biden has sought to align himself with biofuel producers, who are often at odds with the oil industry, and had panned Trump for "nearly four years of retroactive damage that's decimated our trade economy and forced ethanol plants to shutter."

Biden was critical of Trump's frequent approvals for small refineries exemptions, which he said came at the expense of farmers, and called the Renewable Fuel Standard program representative of "our bond with our farmers and our commitment to a thriving rural economy." His administration also sided with biofuel makers in the exemption case at the Supreme Court, which ultimately upheld refiners' contention that EPA had wide latitude to issue the compliance waivers.

But since entering the White House, Biden has found himself straddling the same line between corn and oil state interests. EPA in December waded directly into the fight with its first proposal setting the biofuel blending mandates for 2020, 2021 and 2022 that sought to account for diminished fuel demand during the Covid pandemic.

EPA proposed retroactively reducing the amount of ethanol that refiners have to blend in gasoline for 2020 to accommodate the drop in fuel consumption when the economy stalled as the pandemic spread, and for levels to align with market demand for 2021. It also called for lifting the levels for 2022 and proposed denying dozens of applications from refiners for exemptions from the program. Taken together, the Biden proposal was seen as a mixed bag for both the biofuels and oil sectors.

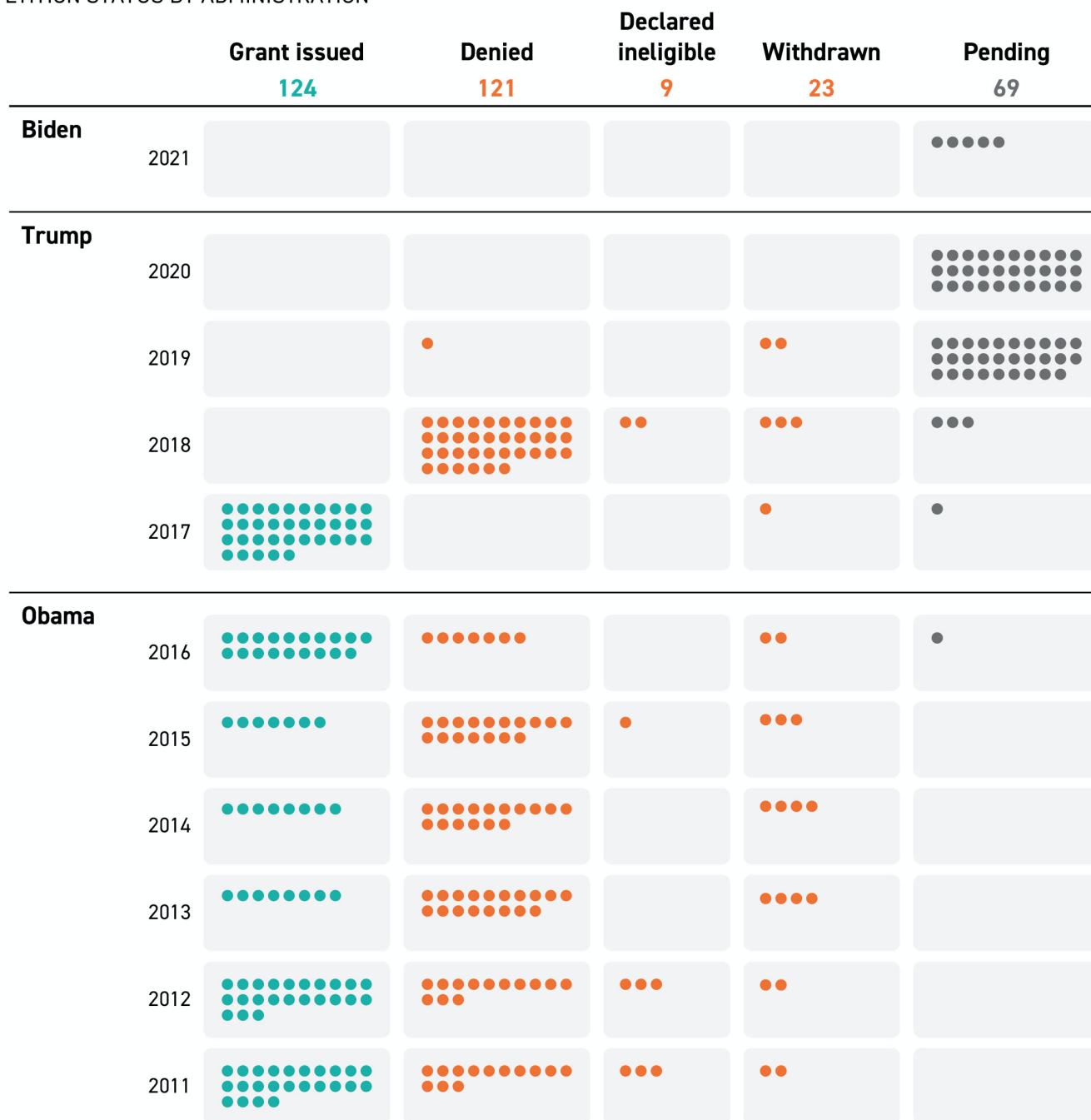
More recently, the Biden administration issued an emergency waiver to override fuel volatility restrictions and allow the temporary sale of gasoline blends with 15 percent ethanol during the summer months — an action



it said would benefit consumers suffering from high gas prices brought on by the Russian invasion of Ukraine. The move was a win for ethanol proponents who've long called for the year-round sale of so- called E15, particularly after a federal court struck down Trump's effort to make E15 year-round.

## Nearly half of small refinery exemptions submitted under Trump still pending

PETITION STATUS BY ADMINISTRATION



Source: Environmental Protection Agency



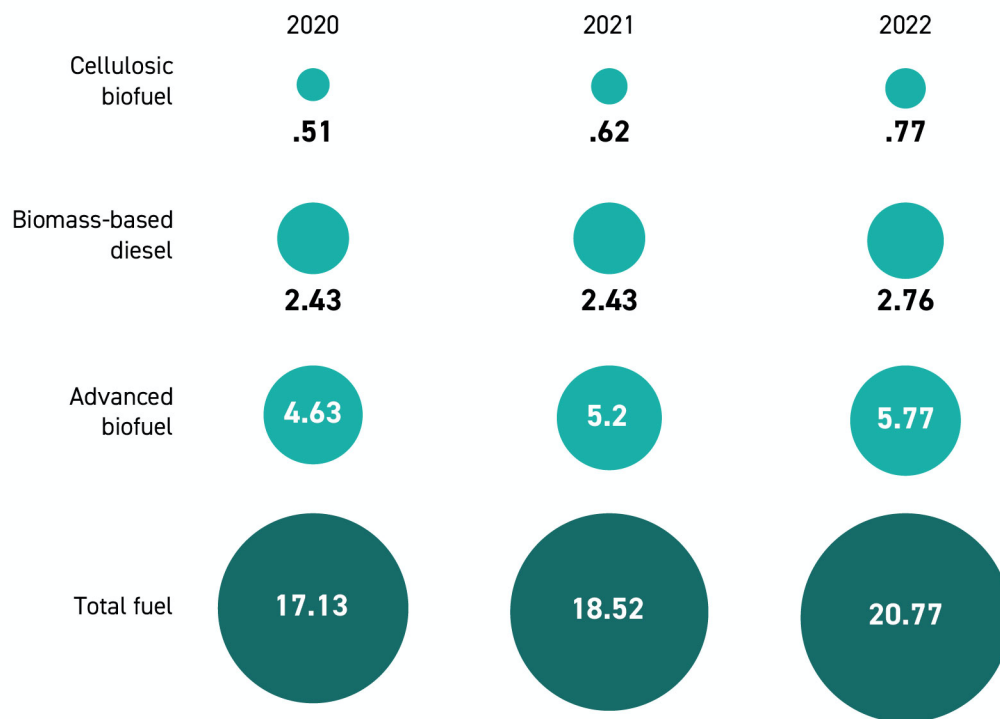
## WHAT'S NEXT

Under an agreement struck between EPA and a biofuels trade group in the courts, EPA has until June 3 to finalize its biofuel blending volumes for 2021 and 2022. The agency recently sent the blending mandates to the White House for a final review, signaling its release is likely to come soon — though it's not known how the final levels will align with last year's proposal.

The agency is also slated to unveil a separate rulemaking later this year on the future of the RFS program. Under the law, Congress set overall annual volumes of renewable fuel required through the year 2022, but handed the decision to EPA to set the volumes beginning in 2023.

### EPA proposes renewable fuel standards

PROPOSED VOLUME REQUIREMENTS IN BILLIONS OF GALLONS



Source: Environmental Protection Agency

EPA has already missed the deadline for the so-called set rule proposal, but agency officials have signaled work is underway and that it could potentially tackle multiple years at a time.

The greater leeway that EPA now has under the law offers the Biden administration an opportunity to factor in different approaches and technologies, including potentially for electric vehicles. Still, EPA officials have made clear the agency is bound by statutory language, limiting how much the agency can do.



## POWER PLAYERS

- ❁ **Michael Regan:** The EPA administrator has asserted the Biden administration's work is restoring certainty under the Renewable Fuel Standard, telling senators the agency is "finally on a path to stabilize" the program despite pushback from both the oil and ethanol industries. He has also called the upcoming 2023 rule an "opportunity to stop ping-ponging back and forth, learn from the past lessons of what the courts have dictated and move forward in a very sound way to meet Congress' intent of getting the biofuel levels introduced into this market that I think we all want to achieve."
- ❁ **Joe Goffman:** Biden nominated Joe Goffman to run EPA's air office, which oversees the Renewable Fuel Standard. Previously an adviser in the Obama EPA, Goffman was the acting head of the office for months under Biden and has said the agency is determined to get the lagging program back on schedule.
- ❁ **Tom Vilsack:** The former governor of Iowa who returned to the Agriculture secretary position he had previously held in the Obama administration has long heard complaints over the Renewable Fuel Standard program from farmers and corn-state lawmakers. The secretary has defended Biden's approach to the program, telling industry Biden has "faith" in the renewable fuel sector and its capacity to cut greenhouse gas emissions.