

EPA needs better Regulatory Flexibility Act compliance for proposal on year-round E15 and RIN Market Reforms

On April 29, 2019, the Office of Advocacy submitted public comments on EPA's proposed rule (1) to allow gasoline with 15 percent ethanol (E15) to be sold year-round and (2) impose new restrictions on the purchase, sale and holding of RINs used for compliance with the Renewable Fuel Standard program. Advocacy advises EPA that its certifications under 5 U.S.C. § 605(b), that the proposed rule will not have significant economic impact on a substantial number of small entities, appear to lack the necessary factual support. Advocacy recommends that:

- EPA conduct a screening analysis to support the certification of the E15 portion of the rule, including its possible impacts on small entities that sell gasoline and blend ethanol into gasoline.
- EPA exempt all small entities from the proposed restrictions on the RIN market, avoiding the need for further analysis under the Regulatory Flexibility Act.

