

**Department of Legislative Services**  
Maryland General Assembly  
2009 Session

**FISCAL AND POLICY NOTE**

Senate Joint Resolution 8 (Senators Lenett and Frosh)  
Education, Health, and Environmental Affairs

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**Federal Mandates Regarding Environmentally Damaging Corn Ethanol**

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This joint resolution (1) urges the U.S. Congress to amend federal law to require that all biofuels eligible for the federal renewable fuel standard (RFS) must create lower lifecycle greenhouse gas emissions than gasoline, including the consideration of emissions from indirect land use changes, and not have other significant adverse environmental effects; and (2) resolves that the General Assembly petition the Administrator of the U.S. Environmental Protection Agency (EPA) to waive the federal RFS as it applies to corn-based ethanol based on specified grounds.

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**Fiscal Summary**

**State Effect:** The joint resolution does not directly affect State operations or finances.

**Local Effect:** None.

**Small Business Effect:** None.

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**Analysis**

**Background:** Biofuel production in the United States is predominately made up of corn-based ethanol. The production and use of biofuels in the United States has increased significantly in recent years, but makes up a relatively small amount of the transportation fuel used in the United States.

The federal Energy Independence and Security Act of 2007, however, established a RFS that requires increasing amounts of biofuels to be included in the transportation fuel used in the United States, reaching 36 billion gallons in 2022. In 2007, according to the

Renewable Fuels Association, 6.5 billion gallons of ethanol were produced in the United States.

There are considered to be limits on the amount of U.S. corn that can be used for ethanol production and, under RFS, increasing amounts of the required biofuel use will need to be made up of “advanced biofuels,” including cellulosic biofuels, that are derived from other feedstocks such as perennial grasses, woody material, and crop residue. Advanced biofuel is defined under RFS as renewable fuel, other than ethanol derived from corn starch, that has lifecycle greenhouse gas emissions, as determined by the EPA Administrator, after notice and opportunity for comment, that are at least 50% less than baseline lifecycle greenhouse gas emissions.

The Clean Air Act authorizes the EPA Administrator, in consultation with the Secretaries of Agriculture and Energy, to waive the requirements of RFS, in whole or in part (on petition by one or more states, any person subject to the requirements, or by the administrator’s own motion), by reducing the national quantity of renewable fuel required under the standard. However, the administrator has to determine, after public notice and opportunity for public comment, that:

- implementation of RFS requirements would severely harm the economy or environment of a state, a region, or the United States; or
- there is inadequate domestic supply.

A waiver terminates after one year but may be renewed by the EPA Administrator after consultation with the Secretaries of Agriculture and Energy.

The Governor of the State of Texas requested a waiver of 50% of the RFS mandate for the production of ethanol derived from grain in April 2008. The request was denied by EPA in August 2008.

**Small Business Effect:** The joint resolution does not directly affect small businesses; however, to the extent the resolution may lead to a waiver of, or amendment to, RFS affecting the eligibility of corn-based ethanol to be used to satisfy the standard, small businesses in the State that are directly or indirectly affected by the production or use of corn-based ethanol may be meaningfully impacted.

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## Additional Information

**Prior Introductions:** None.

**Cross File:** HJ 8 (Delegate Hucker) - Rules and Executive Nominations.

**Information Source(s):** Maryland Department of Agriculture, Maryland Department of the Environment, Renewable Fuels Association, Department of Legislative Services

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