



## Testimony of Brian Jennings on behalf of the American Coalition for Ethanol (ACE)

### EPA Public Virtual Hearing: Proposed Rulemaking, RFS Program, Standards for 2023 – 2025 and Other Changes (i.e., the “Set” Rule)

January 10, 2022

Thank you for the opportunity to testify. My name is Brian Jennings, and I am the CEO of the American Coalition for Ethanol (ACE).

This “Set” rule proposal represents a significant new phase for the Renewable Fuel Standard (RFS), one which entrusts EPA with more discretion to determine future renewable volume obligations in accordance with Congressional intent.

Due to the sheer size and magnitude of this rulemaking, our testimony today will focus on a few key topics. We will provide more comprehensive feedback in our written comments.

We strongly support setting an effective conventional biofuel requirement of 15.25 billion gallons for 2023 through 2025, and as a party to the “ACE” litigation which successfully challenged EPA’s unlawful 2016 “blend wall” waiver, we are pleased the Agency is proposing to restore the final 250-million-gallon remedy as a supplemental requirement for 2023.

Conversely, we believe the advanced biofuel blending targets are inadequate and encourage the Agency to increase volumes consistent with new production capacity scheduled to come online.

While the multi-year nature of the Set rule provides obligated parties and market participants the certainty they need to plan for the future, EPA risks undermining that certainty by suggesting it may retroactively use its waiver authority to reduce blending levels established by this rulemaking. Moreover, we strongly oppose EPA’s “alternative approach” to reduce conventional biofuel blending below 14 billion gallons for 2024 and 2025. The Agency should clarify it does not intend to issue retroactive waivers of volumes or reduce conventional biofuel requirements in the final rule.

Following EPA’s decision last year to deny all pending Small Refinery Exemptions (SREs) for the 2016 through 2020 compliance years, we applaud the Agency for projecting no such exemptions for 2023 through 2025, and reiterating the fact that refineries are able to pass on RIN costs to their customers in the form of higher prices for petroleum products.

Lastly, we are grateful the Agency finally concedes its antiquated greenhouse gas (GHG) model needs to be updated. To this end, ACE has repeatedly encouraged EPA to adopt the global gold standard developed by the U.S. Department of Energy’s Argonne National Lab: the GREET model. Congress agrees, evidenced by the Inflation Reduction Act (IRA) directing the Treasury Department to use GREET for the new 45Z clean fuel production tax credit. We appreciate EPA feels the need to go through a modeling comparison, but consistent with Congress and Treasury, we implore EPA to adopt GREET for its lifecycle modeling.

EPA has rightfully noted climate-smart agriculture practices can measurably reduce corn ethanol’s carbon intensity. ACE is currently leading a USDA project, in partnership with top land-grant scientists and Sandia National Lab, to validate current model results showing significant GHG benefits of reduced tillage, cover crops, and nutrient management on ethanol’s carbon footprint. We have briefed top EPA leadership on this project and want to work in collaboration with the Agency to ensure corn ethanol’s benefits are acknowledged by EPA as part of the climate solution.

Thank you for the opportunity to testify.