



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

EPA Public Hearing: Supplemental Notice of Proposed Rulemaking, RFS Program, Standards for 2020

Docket Number EPA-HQ-OAR-2019-0136

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

For far too long, farmers and renewable fuel producers who have been trying to help EPA successfully implement the Renewable Fuel Standard (RFS) have instead encountered an Agency persistently riding the brakes on the program and constraining opportunities to blend more ethanol. To make matters worse, EPA's recent abuse of Small Refinery Exemptions (SREs) recklessly turns the keys to the RFS to refiners who have taken the program on a joy ride.

While EPA's supplemental proposal is intended to get the RFS back on track, it falls short in three areas.

First, it does nothing to reallocate the 85 refinery exemptions which eroded more than 4 billion gallons from statutory levels from 2016 through 2018. There may be other ways to rectify this oversight, but that is cold comfort given the fact D6 RIN values have collapsed by 80 percent.

Second, the proposal represents a missed opportunity to restore 500 million gallons to the 2016 compliance year as remanded to EPA by the DC Circuit Court in 2017.¹

Third and most importantly for the purpose of this rulemaking, EPA's "prospective reallocation" methodology betrays what was represented to us and elected leaders who thought they had a deal on how to ensure at least 15 billion gallons in the RFS for 2020 and beyond after a meeting with the President.

Administration officials pledged to us EPA would seek comment on a range of options for prospective reallocation, including our preferred option of accounting for the average of *actual waived volume*, 1.35 billion gallons, from 2016 through 2018.

Instead, in a classic bait and switch, EPA's supplemental proposal brazenly attempts to revise history and reallocate about half the volume we expected.

ACE members are furious with EPA's double-standard: when it came to helping refineries escape RFS obligations, EPA rejected Department of Energy (DoE) recommendations to exercise restraint, but now

¹ Americans for Clean Energy et al vs EPA. U.S. Court of Appeals for the District of Columbia. Argued April 24, 2017. Decided July 28, 2017.

that EPA must restore volume to the RFS, the Agency is suddenly embracing DoE recommendations because the result will keep a lid on refinery blending obligations going forward.

While this proposal is not going to make renewable fuel producers whole for EPA's prior abuse of SREs, we urge the Agency to take a small step in the right direction by issuing a final rule which reallocates the *actual average volume waived* from 2016 through 2018 and ensures at least 15 billion gallons for the 2020 compliance year.

Refineries should no longer be allowed to drive the RFS in the ditch, it's time for EPA to finally take back the keys to the program.