August 8, 2025

The Honorable Lee Zeldin
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20469

Docket ID No. EPA-HQ-OAR-2024-0505

Submitted via Federal eRulemaking Portal: www.regulations.gov

RE: Proposed Rulemaking. Renewable Fuel Standard Program: Standards for 2026 and 2027 and Other Changes

Dear Administrator Zeldin:

On behalf of the members of the American Coalition for Ethanol (ACE), I appreciate the opportunity to comment on the Environmental Protection Agency's (EPA) notice of proposed rulemaking for the 2026 and 2027 Renewable Fuel Standard (RFS) program, commonly referred to as the "Set 2" rule.

ACE is a grassroots advocacy organization, powered by rural Americans from all walks of life who have built an innovative industry that delivers homegrown biofuel and food for a growing world. Our nearly 300 members include U.S. ethanol biorefineries, investors in biofuel facilities, farmers, and companies that supply goods and services to the U.S. ethanol industry.

In 2005 Congress enacted the original RFS statute and President G. W. Bush signed it into law at a ceremony attended by the President of the Board of ACE at the time. As such, the 20th anniversary of the original RFS coincides with this comment deadline to determine blending levels under the program for 2026 and 2027. ACE was the first organization to support the RFS and our leadership was pivotal in mobilizing other groups to help us urge Congress to eventually adopt it 20 years ago. Following passage of the original RFS in 2005, to counteract an economic downturn in rural America, Congress significantly expanded the RFS in 2007 to increase domestic ethanol blending. Through this action, Congress intended for the RFS to be a transformational policy to disrupt the status-quo grip expensive fossil fuel had on the marketplace at the time of its adoption. When implemented properly by EPA, the RFS indeed has successfully increased the production and use of domestic renewable fuel, improved U.S. energy security, cleaned the air, boosted the farm economy, and reduced pump prices.

The "Set" phase of the RFS is noteworthy because Congress essentially entrusted EPA with significant discretion to determine renewable volume obligations (RVOs) beyond calendar year 2022. While Congress provided EPA with more flexibility over volume determinations, the overall goal of the RFS remains to increase the percentage of renewable fuels consumed in the U.S. to meet Congressional purposes including increasing U.S. energy security and supporting our nation's farm economy.

With respect to the pending proposal, we applaud the increased RVOs for 2026 and 2027 and support other features of "Set 2," but we also have concerns about some aspects of the proposal. Our specific comments are below:

Renewable Volume Obligations (RVOs)

As indicated above, ACE supports EPA proposing the highest RVOs to date, including more than 24 billion gallons of total renewable fuel for 2026 and 2027. We applaud EPA for proposing advanced biofuel levels exceeding 9 billion gallons in each of those years, and particularly support biomass-based diesel levels topping 7 billion gallons for 2026 and 2027. These levels result in an "effective" conventional biofuel requirement of 15 billion gallons for the next two years, which is in our view the minimum obligation level EPA should set.

As you know, ACE has urged EPA to consider utilizing its statutory authority to set volumes so that conventional biofuel exceeds 15 billion gallons. We continue to encourage EPA to consider this for a couple of reasons. First, potential export market losses borne by America's farmers and ethanol producers can be offset by increasing domestic ethanol blending through the RFS. Second, the Biden Administration's EPA previously set inadequate advanced biofuel RVOs which forces surplus biomass-based diesel renewable identification numbers (RINs) to displace corn ethanol use in conventional biofuel.

The nested or bucketed nature of the RFS means any excess volume of advanced or cellulosic biofuel is also able to spill into and be used to comply with the residual undifferentiated conventional biofuel bucket. In the past, obligated parties have used stockpiled or excess RINs from other renewable fuel buckets to comply with the conventional requirement, which decreases physical use of ethanol. The transformational, market-forcing nature of the RFS means RVOs should be set to maximize the blending of physical gallons of ethanol. This is how EPA can ensure Congressional objectives are met.

As such, in response to EPA's request for comment on the various volume scenarios in the proposal, we support the higher volume scenario with respect to biomass-based diesel as it would help to ensure higher blends of ethanol (E15 and E85) are blended via the conventional biofuel RVO.

We also support the multi-year nature of the Set 2 rule because proposing volumes for two years provides obligated parties and all other market participants with the certainty they need to plan for the future.

Import RIN Reduction

We strongly support EPA's proposal to implement a new "import RIN reduction" to benefit American farmers and ethanol producers. Under this proposal, imported renewable fuel and domestic renewable fuel from foreign feedstocks would generate 50 percent fewer RINs than American-made and derived renewable fuels.

This step is justified and necessary based on the recent flood of foreign feedstocks used to produce renewable fuel eligible for RINs under the RFS. Legitimate concerns have been raised about the authenticity of some of these foreign feedstocks, particularly used cooking oil (UCO) and tallow. These

foreign feedstocks are used to produce advanced biofuel which, combined with inadequate advanced and biomass-based diesel RVOs in the past, has undercut the use of E15 and E85 in the U.S.

Refiners and other obligated parties should get less credit for RFS compliance by importing foreign feedstocks or fuels, and EPA rightfully indicates the statute does not require it to provide the same benefits to foreign and domestic feedstocks or fuels. We agree this step aligns with the RFS goals of making the U.S. more energy secure and boosting the American rural economy.

Small Refinery Exemptions (SREs)

While SREs are allowed in the statute, we are concerned that in the past EPA abused its authorities to grant an excessive number of waivers, which has the effect of discouraging the use of physical gallons of ethanol beyond E10. That's why we strongly support EPA's proposal to ensure the RVOs for 2026 and 2027 will remain whole even if the Agency approves any SREs for those compliance years. ACE's view has always been that EPA is legally required to ensure waived volumes from SREs are reallocated to non-exempt obligated parties, so we applaud you for taking this step for the Set 2 rule.

Nevertheless, there are nearly 200 SREs pending from previous compliance years, and EPA has yet to indicate how it intends to dispense with those petitions. We note legal precedent and the statute requires the Agency to take a limited and judicious approach, ensuring that any refinery seeking a waiver prove "disproportionate economic harm" tied only to RFS compliance and not other economic rationales.

E15 and E85 Blends

EPA's projections of ethanol consumption in the proposal seem unrealistically low, forecasting E10 use will decline in the future more than any increases in ethanol use from E15 and E85.

In reality, E15 and E85 use should be higher in future years as several important state markets are now allowing the sale of E15 year-round, EPA's emergency waivers kept E15 use available nationwide over the course of the 2025 summer, California's use of E85 continues to set records, and overall blending economics for ethanol remain positive with relatively strong RIN prices. It is important to remember part of ethanol's blending economics is RIN value. As EPA itself has noted in the past, a high RIN price (in this case for D6 conventional biofuel, assumed to be corn-starch-based ethanol in this example) is a very strong incentive for refiners and others to blend more than E10 into gasoline. Experience tells us much of this RIN value is passed downstream and ultimately translates into price savings for motorists at the pump.

We thank EPA for allowing some Midwest states to offer E15 year-round beginning this Spring, and reiterate our gratitude for emergency waivers for other areas of the U.S. during the summer driving season. ACE and several other groups are working with Congress to adopt the bipartisan Nationwide Consumer and Fuel Retailer Choice Act to enable permanent and nationwide market access and prevent a confusing patchwork of state regulations. We are reasonably confident Congress will advance this legislation soon which will help increase the use of E15 in the U.S.

<u>Land Use Change and Greenhouse Gas (GHG) Modeling Comparison</u>
We take issue with EPA's methodology for the GHG emissions from biofuels, particularly because of your faith in the so-called Modeling Comparison Exercise (MCE) report and unreliable economic modeling for indirect land use change (ILUC).

The Global Change Analysis Model (GCAM) and Global Biosphere Management Model (GLOBIOM) are not the best tools to assess land use change. Instead, we recommend the methodology involving the Greenhouse gases, Regulated Emissions, and Energy use in Technologies (GREET) and Global Trade Analysis Project (GTAP-BIO) models. In fact, use of GREET, with the Carbon Calculator for Land Use and Land Management Change from Biofuels (CCLUB) model, along with GTAP-BIO, have and continue to be the most closely aligned to observed, real-world land use change from ethanol production.

Economic modeling is simply not a reliable tool for estimating ILUC when compared to historical observations of real-world land use. In October of 2022, the International Energy Agency (IEA) published a report indicating traditional land use modeling has failed to accurately predict RFS-spurred corn ethanol land use change. Moreover, It needs to be pointed out that Congress wisely decided to prohibit the U.S. Treasury from assessing any ILUC penalties from the GHG emission calculation for crop-based biofuels in the 45Z clean fuel production tax credit. We encourage EPA to modify its methodology to align with real-world observations and actions taken by Congress.

<u>eRINs</u>
The RFS statute permits EPA to establish RINs for the generation of electricity from renewable biomass used as a transportation fuel, but it does not require it. We applaud the Agency for proposing to remove so-called "eRINs" as a qualifying renewable fuel under the RFS. We have raised serious concerns in the past about whether there were sufficiently rigorous standards to monitor, validate, and verify the generation of eRINs, or to prevent fraud and double counting.

Thank you for your time and consideration of these comments.

Sincerely,

Brian Jennings, CEO
American Coalition for Ethanol