October 31, 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: Supplemental Proposed Rulemaking. Renewable Fuel Standard Program: "Set 2" Standards for 2026 and 2027, Small Refinery Exemption (SRE) Reallocation of Volumes

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) supplemental notice of proposed rulemaking for the "Set 2" 2026 and 2027 Renewable Fuel Standard (RFS) program, specifically the proposal to reallocate the impacts of Small Refinery Exemptions (SREs).

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.

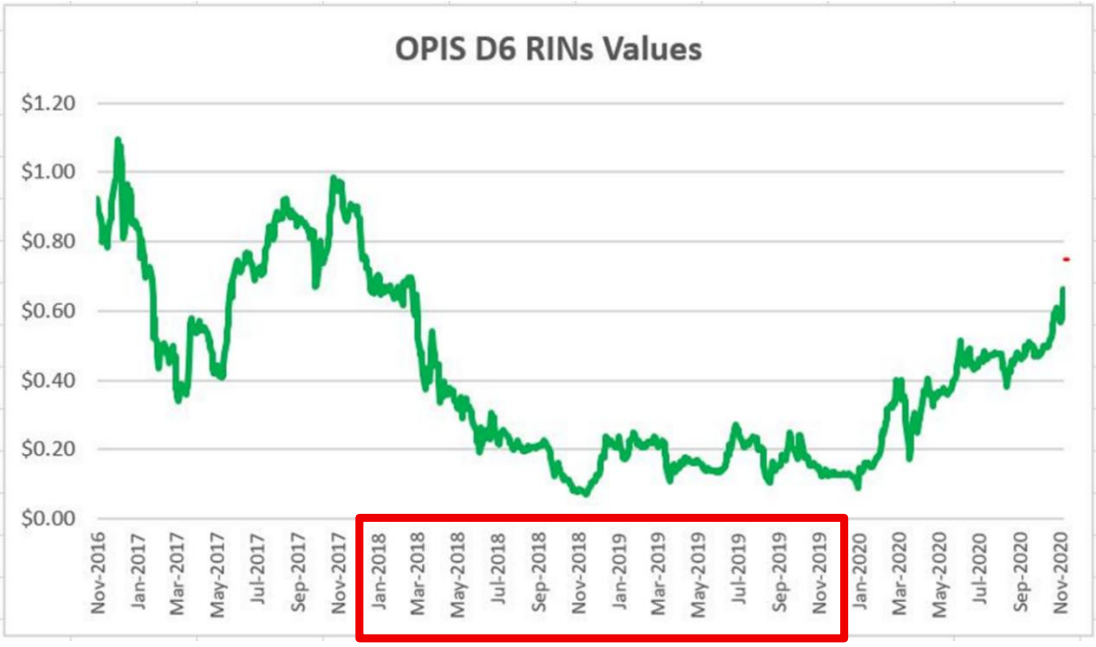
We appreciate the important step EPA is taking with this supplemental proposal to rectify and reallocate the impacts of SREs issued for the 2023 and 2024 RFS compliance years, as well as reallocation for SREs anticipated for 2025.

The SRE decisions EPA announced in August 2025 exempted significant volumes of gasoline and diesel for the 2023 and 2024 RFS compliance years and increased the supply of renewable identification numbers (RINs).

Furthermore, as the Agency cautioned at length in its proposed rule, if the volumes of renewable fuel represented by the SREs are not reallocated, obligated parties could use the oversupply of low-priced RINs to satisfy the 2026 and 2027 renewable volume obligations (RVOs) instead of buying and blending physical gallons of ethanol and other renewable fuel. This type of demand destruction would undermine the integrity of the RFS.

Unfortunately, as illustrated by the chart below, SRE-induced demand destruction occurred in 2018 and 2019 when D6 RIN values cratered from $1.00 per gallon to $0.20 or less following EPA's decision to grant 85 SREs covering the 2016 through 2018 compliance years.

More than 4 billion gallons of blending obligations were effectively erased for refiners through EPA's action at that time, and the resulting low-priced RINs discouraged refiners from blending ethanol above E10, artificially restraining sales of E15, E30, and E85.



RIN prices did not begin to recover until 2020 when the U.S. Court of Appeals for the Tenth Circuit unanimously ruled EPA had vastly exceeded its authority in granting SREs from the 2016 and 2017 RFS compliance years.

Thankfully, EPA has proposed a way to prevent this type of demand destruction by ensuring reallocation of gallons refineries should have legally blended under the RFS during the last three compliance years.

In response to your request for comment on the reallocation co-proposal, ACE believes EPA is bound by the statute to finalize full and complete reallocation for 2026 and 2027. In other words, the Agency must reallocate 100% of the 2023 through 2025 exempted RVOs – an estimated 2.18 billion gallons – to the final Set 2 rule.

The 100% full reallocation approach is the only way to ensure blending obligations will remain whole for 2026 and 2027.

Going forward, we applaud EPA for indicating it will prospectively account for and reallocate SREs as it undertakes RVO rulemakings beyond 2027.

During the virtual hearing EPA conducted on this proposal, certain refiner organizations complained about reallocation of SREs and RIN prices. This is nothing new. Over the history of the RFS, refiners routinely and mistakenly complain RINs represent the cost of RFS compliance. The fact is RINs represent the cost of not complying with the RFS. Refiners satisfy their RFS compliance obligations by blending the requisite volume of renewable fuel. When a refiner makes a business decision not to blend ethanol or other renewable fuel, only then must the refiner acquire RINs from another obligated party that blended more renewable fuel than required under the RFS.

In other words, refiners only need to purchase RINs for gallons they choose not to blend. It's a business decision, and if refineries lost money in that process, they are not the victims of the RFS, they're simply not making good business decisions.

The remainder of our comments reiterate some of our priorities for the original Set 2 proposal for 2026 and 2027.

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, EPA previously set inadequate advanced biofuel RVOs which forces surplus biomass-based diesel RINs to displace corn ethanol use in conventional biofuel.

We also 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% fewer RINs than American-made and derived renewable fuels. 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.

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. California recently adopted legislation to allow E15 in the largest fuel market in the U.S. and the state's E85 demand continues to set records.

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 for E15 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.

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.

Finally, we recognize the time-consuming nature of this work and remind EPA it is imperative to finalize this rulemaking before the end of the 2025 calendar year to get the RFS back on track and provide certainty to all parties.

Thank you for your time and consideration of these comments.

Sincerely,

Brian Jennings, CEO
American Coalition for Ethanol

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