August 8, 2025

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The Honorable Lee Zeldin
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington D.C. 20460

RE: Renewable Fuel Standard (RFS) Program: Standards for 2026 and 2027, Partial Waiver of 2025 Cellulosic Biofuel Volume Requirement, and Other Changes [EPA–HQ–OAR–2024–0505]

Dear Administrator Zeldin:

The National Association of Convenience Stores ("NACS"), NATSO, Representing America's Travel Centers and Truck Stops ("NATSO"), and SIGMA: America's Leading Fuel Marketers ("SIGMA") (collectively, the "Associations"), respectfully submit these comments in response to the Environmental Protection Agency's ("EPA's" or the "Agency's") proposed volumes for 2026 and 2027 for cellulosic biofuel, biomass-based diesel ("BBD"), advanced biofuel, and total renewable fuel under the Renewable Fuel Standard ("Proposed Rule" or the "Proposal"). As a part of its Proposed Rule on renewable volume obligations ("RVOs") under the Renewable Fuel Standard ("RFS" or the "Program"), the Agency also proposed to partially waive the 2025 cellulosic biofuel volume requirement and revise the associated percentage standard due to a purported shortfall in cellulosic biofuel production.[1]

The Associations are grateful for EPA's considerable effort to publish the Proposal so soon after the Trump Administration took office – and we, along with the broader regulated community, welcome the Agency getting the Program "back on track" with timely rulemakings.

These comments are intended to shed light on the impact the Proposed Rule will have on *consumers* of fuel. While other stakeholders (fuel producers or feedstock growers, for example) will inevitably offer the Agency their own commercial perspectives on these nuanced topics, fuel retailers function as surrogates for the consumer. The Associations' members are uniquely situated to observe and assess the RFS's real-world impact on consumers because fuel retailers represent the final conduit through which renewable fuels are delivered to consumers. Our members' storage, transportation, distribution, and dispensing assets—not to mention the intellectual capital necessary to harness that infrastructure—are what enable the market to absorb the RFS's blending mandates.

[1] Renewable Fuel Standard (RFS) Program: Standards for 2026 and 2027, Partial Waiver of 2025 Cellulosic Biofuel Volume Requirement, and Other Changes", 90 FR 25784 (June 17, 2025) *available at* https://www.govinfo.gov/content/pkg/FR-2025-06-17/pdf/2025-11128.pdf [hereinafter the "Proposed Rule"]

As a general matter, the Proposal will reward market participants who invest in biofuels. It will result in greater renewable fuel consumption in the United States. The proposed volumes, particularly for BBD, directionally reflect the market's increased capacity to absorb and blend larger quantities of renewable fuels into the nation's transportation fuel supply. The Proposal, therefore, represents an important step towards ensuring the RFS maximizes the potential growth of domestic biofuels in the years to come.[2]

The RFS is designed not only to bolster the domestic biofuels industry, improve transportation fuel's emissions attributes, and reduce our reliance on petroleum; it is designed to accomplish these things *without imposing excessive inflationary pressure on retail fuel prices*. To date, the Program has done this by appropriately balancing competing statutory objectives. Throughout this rulemaking process, we encourage the Agency to always *start with the consumer.* What works for the American consumer ultimately works for the entire fuel supply chain. Such an approach also fosters more politically durable, sustainable outcomes. It would do a disservice to President Trump's ideals of "energy dominance" if American energy consumers—passenger motorists and professional drivers—unnecessarily have to pay more at the pump.

Consumers should be the *beneficiaries.* Shifting focus away from *consumers* of fuel to *producers* of fuel (or *growers of feedstock*) threatens to create winners and losers in different geographic markets and commercial sectors. These disparities harm consumers and, over time, will invite unnecessary political pushback and programmatic instability and volatility. These outcomes should be avoided, if possible.

Certain aspects of the Proposed Rule—namely the Renewable Identification Number ("RIN") reduction scheme for imported fuels and feedstocks—threaten to disrupt the RFS's delicate equilibrium by transforming the Program into an agriculture subsidy policy. This reorientation may be politically advantageous today, but it invites lawsuits claiming that it contravenes the authorizing statute.[3] Additionally, it could lead to less biofuel consumption and higher fuel prices in those markets and geographic regions that the domestic biofuel industry is not prepared to serve. We encourage EPA to be mindful of consumers and economies in these regions, and to finalize a rule that does not so directly invite legitimate, destabilizing legal challenges.

The Associations' members want to continue supporting the RFS and be "good stewards of the Program." Fuel retailers have a proven history of responding to policy signals (especially the RFS) with strategic investments that enhance America's energy security and minimize consumer costs. We look forward to continuing to play that role once the Proposal is finalized.

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[2] This is something President Trump prioritized in his *Unleashing American Energy* executive order. *Unleashing American Energy*, Executive Order 14154, January 20, 2025, The White House, https://www.whitehouse.gov/presidential-actions/2025/01/unleashing-american-energy/

[3] Congress established the RFS not simply to subsidize the American agriculture sector, but rather "to move the United States toward greater energy independence and security, to increase the production of clean renewable fuels, to protect consumers … and for other purposes." *See* Energy Independence and Security Act (Pub. Law 110-140 (2007)).

I. EXECUTIVE SUMMARY.

The Role of Fuel Retailers Under the RFS

- Fuel retailers blend biofuels into their fuel supply to lower the price of the fuels that they sell. The RFS incentivizes exactly that; its structure perpetuates a virtuous cycle of adoption where price-motivated consumers gravitate towards more cost-effective alternative fuels (which in turn enhances those fuels' production economics).

The Proposal's Potential Impact on Retail Fuel Prices

- The proposed volumes for 2026 and 2027 adhere far more closely to the market's capacity to consume biofuel than the final volumes for 2024 and 2025.
- The Agency's legal authority to reduce RIN generation for imported fuels and feedstock is murky and will likely be litigated. This will lead to further uncertainty and volatility. If EPA decides to disadvantage imports in the final rule, it should treat fuels and feedstocks originating in the U.S., Canada, and Mexico equally. This would align the RFS's geographic parameters with the parameters of the new biofuel production tax credit (known as "45Z"), avoiding unnecessary misalignment and complexity between the two incentive schemes.
- If EPA abandons or scales back the provisions that disadvantage imports, it should increase the RVO by an equivalent amount to maintain overall RVO levels and send strong investment signals to the biofuels supply chain.

Small Refinery Exemptions

- All SRE petitions should be denied because all refiners regardless of their size embed the RVO costs into their crack spread and therefore do not suffer any "disproportionate" economic harm on account of the RFS. Small refiners are able to purchase RINs "ratably" without having to pay a premium; the frequency and timing of small refiners' RIN purchase decisions entail the same market risks and uncertainty confronting large refiners. To the extent that the Agency nevertheless issues SREs, it should reallocate waived obligations to avoid undermining the overall RVO.

Renewable Jet Fuel

- Renewable jet fuel producers generate RINs for each gallon they produce, even though petroleum-derived jet fuel producers assume no corresponding RVO for any of the gallons they produce. This structural asymmetry threatens to crowd out biofuels for over-the-road applications. It is unnecessary, unjustified, and inflationary. Until petroleum jet fuel is obligated, the Associations oppose any unique pathways for renewable jet fuel. Should renewable jet fuel continue to be eligible to generate RINs under the RFS, it should be assigned a reduced equivalence value relative to biodiesel and renewable diesel.

Renewable Natural Gas ("RNG") and the Cellulosic Waiver Authority

- The Proposal creates a bearish regulatory backdrop for RNG investments. This could be mitigated if, going forward, EPA refrained from exercising its cellulosic waiver authority within ongoing compliance years, and if the Agency exercised its authority on a discretionary rather than mandatory basis.

II. THE ROLE OF FUEL RETAILERS UNDER THE RFS.

Collectively, the Associations represent approximately 90 percent of retail sales of motor fuel in the United States.[4] Fuel retailers' sole objective is to sell legal products, in a lawful way, to customers who want to buy them. In this respect, retailers are effective surrogates for consumers. As new fuels enter the market, the Associations' members want to be able to sell those fuels lawfully, with minimal risk, and a clear opportunity to generate a return on investments.

While agnostic as to what types of fuel they sell to satisfy customer demand, fuel retailers do have a bias: they believe it is best for the American consumer and America's industrial and geopolitical position in the world marketplace to have low and stable energy prices. Biofuels have been a key component in achieving stability and security in the fuel supply.

a. Price Flow at Retail

The retail fuels market is the most transparent, competitive commodities market in the United States. As every American knows, customers can see gasoline retailers' price signs from a distance or compare prices on apps on their cell phones. These signs represent more than just pricing information; they are value propositions to potential customers, not only with respect to fuel, but also food and other convenience items that are sold in stores.

The gasoline market is extraordinarily competitive – consumers will often change where they buy gas to save just a few cents per gallon.[5] Likewise, the retail diesel market is remarkably competitive and transparent. Professional drivers are uniquely savvy and price conscious. Truck drivers are often aware of retail fuel prices when they are 100 miles away from potential refueling sites; fleet managers use this information to direct professional drivers to specific retail locations in order to purchase the lowest-priced fuel available because fuel generally amounts to 30-40 percent of a motor carrier's overall costs. This imposes strong downward pressure on retail diesel prices.

The competitive nature of the retail fuels market compels retailers to pass through cost savings to consumers in order to maintain and increase their market share. Fuel marketers are "price takers" at retail. They must take the price of fuel that the market sets and compete to gain market share as the transparency of the market exerts constant downward pressure on retail fuel prices. Fuel moves through many hands before it is sold to consumers at retail; any costs that are incurred along the fuel production and supply chain will be passed down to retailers and ultimately absorbed by consumers.

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[4] NACS is an international trade association representing the convenience store industry with more than 1,300 retail and 1,600 supplier companies as members, the majority of whom are based in the United States. NATSO currently represents approximately 5,000 travel centers and truck stops nationwide, comprising both national chains and small, independent locations. SIGMA represents a diverse membership of approximately 260 independent chain retailers and marketers of motor fuel.

[5] According to a 2022 survey from NACS, 64 percent of consumers say they would drive five minutes out of their way to save 5 cents per gallon, and 69 percent say that price is the most important factor in determining where they buy gas. See "How the pandemic reshaped fueling," *See* NACS Magazine, April 2022 *available at* https://www.nacsmagazine.com/issues/april-2022/how-pandemic-reshaped-fueling.

At the same time, cost *savings* are *also* passed through to consumers. In their efforts to provide the most competitively priced fuel to their customers, many of the Associations' members buy and blend biofuels into their fuel supply when blending economics allow them to do so. Even those that do not blend themselves frequently purchase pre-blended biofuels at a discount to purely petroleum fuels and pass along the associated savings to their customers.

b. Fuel Marketers and Retailers Use RINs to Fulfill the RFS's Purpose

Congress established the RFS to enhance America's energy independence and security while improving the emissions characteristics of the motor fuels consumed in the United States and stimulating domestic production of renewable fuel. Overall, the RFS has been successful in achieving these objectives. If implemented properly, these positive outcomes will continue for many years to come.

Fuel marketers that blend renewable fuel into their petroleum-based fuel supply can use the value of the RINs associated with the resulting renewable blend to lower their costs of goods sold. This allows them to price products more competitively and increase their market share. Stated more simply, the RFS – when combined with other federal and state incentives – allows gasoline/ethanol and diesel/BBD blends to be sold at retail for less money than neat gasoline or diesel fuel. RINs therefore play a critical role in encouraging fuel marketers to invest in the physical infrastructure and intellectual capital necessary to efficiently incorporate renewable fuels into their suite of fueling options.

With respect to physical infrastructure, the retail fuels industry has invested hundreds of millions of dollars into the infrastructure necessary to store, blend, and dispense renewable fuels. This includes new underground storage tanks, underground lines, and new fuel pumps that are necessary to lawfully store, transport, and dispense biofuel blends.

In addition to acquiring this physical infrastructure, however, successful fuel marketers have also adjusted their *business models* substantially since the RFS was enacted. Many of the Associations' members have become active participants in new commodities markets, such as ethanol (which is tied to corn prices) and biodiesel (which is largely tied to soybean and other feedstock prices). Our members have invested in alternative modes of transportation (such as rail) that can be more amenable to moving these products from origin to destination. And, they have increased their footprint at fuel terminals in order to control the manner in which the products are blended and brought to market.

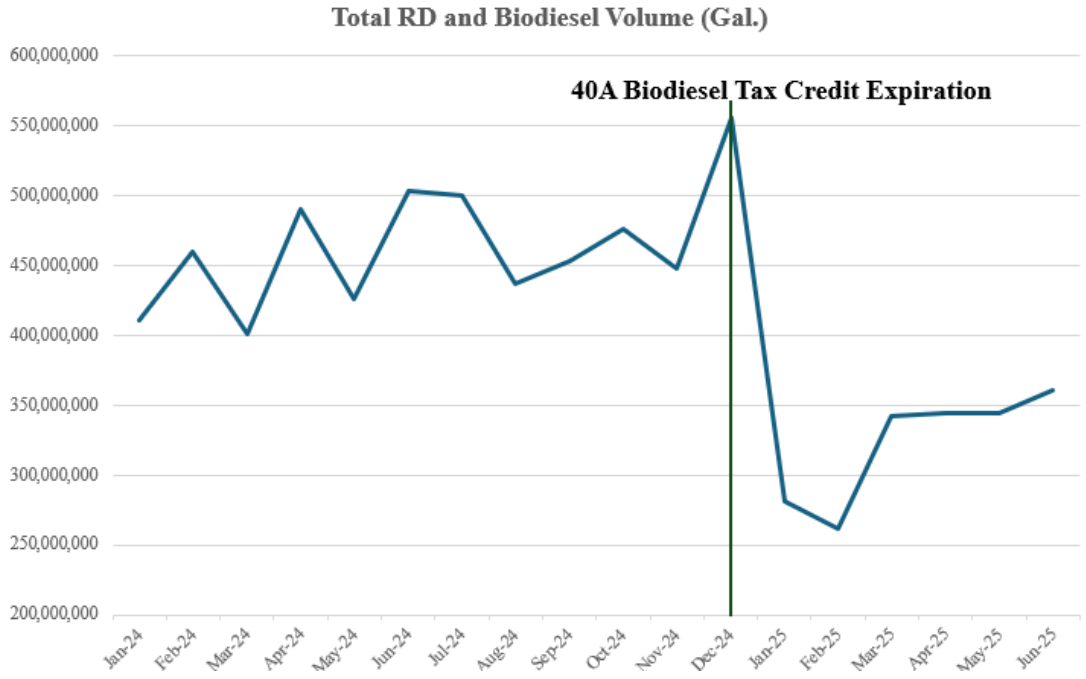
Fuel marketers have also spent hundreds of millions of dollars on compliance. They have developed internal systems to ensure the proper separation, sale and transfer of RINs. This allows fuel marketers to integrate renewable fuels into their fuel supply while complying with the litany of regulatory obligations associated with lawfully buying, blending, and selling such products. This is precisely the type of behavior that the RFS was designed to incentivize.

III. THE PROPOSAL'S POTENTIAL IMPACT ON RETAIL FUEL PRICES.

The Proposal would reduce the number of RINs generated for imported renewable fuel and domestically produced renewable fuel made from foreign feedstocks. At the same time, biofuel tax incentives have transitioned in recent years from subsidizing the *consumption* of biofuel to subsidizing the *production* of biofuel. This is a significant departure from the tax incentive backdrop against which the RFS has existed for two decades. Collectively, these policy changes will materially alter trade flows, commodity prices, and market incentives, with different consequences in different regions of the country.

a. Federal Tax Incentives

The recent expiration of the Section 40A Biodiesel Tax Credit ("BTC") means that the tax code no longer incentivizes the consumption of advanced biofuels. This has already led to a drop in biofuel production and will exacerbate any inflationary pressure that the RFS imposes on retail fuel prices. For nearly two decades, the BTC has functioned as a symbiotic companion to the RFS: It softened RIN prices (and thus the RVO's impact on retail fuel prices) while encouraging new market entrants to leverage advanced biofuel as a part of their business model. This, in turn, enabled the market to absorb increasing quantities of biofuel year after year.



Source: EPA RIN Generation Data (July 2025)

This harmonious relationship ceased when the BTC expired at the end of 2024. The 45Z credit that has for now replaced the BTC incentivizes fuel production at monetary levels that will be well below the $1.00 per gallon BTC. More significantly, that lower incentive will not make its way to consumers through lower prices at the pump: Fuel producers will have less of a financial or market incentive to share the 45Z credit with their customers compared with fuel retailers, who

operate in the most competitive, transparent commodities market in the United States. This compels them to share savings with their customers in order to maintain or increase market share.[6]

i. Co-Processing

One aspect of 45Z that is more consumer-friendly than the RFS is that 45Z excludes fuels made by co-processing biomass feedstocks. Congress determined more than a decade ago that making co-processed diesel at a conventional oil refinery does not generate the same economic, environmental, and societal benefits as producing renewable diesel or biodiesel at a stand-alone, greenfield facility. The RFS, however, allows producers to generate a RIN for co-processed gallons. This diverts available feedstock from standalone biofuel producers. Subsidizing co-processed fuels crowds out new investments by innovative biomass-based fuel producers.

The Associations encourage EPA to revise the RFS regulations to clarify that RIN-generating fuels do not include fuels derived by co-processing biomass with a feedstock that is not biomass.

b. Imported Fuels and Feedstocks

The Proposal would reduce by 50 percent the number of RINs generated for imported renewable fuel and domestically produced renewable fuel made from foreign feedstocks. It effectively decouples the BBD RIN mandate from any corresponding gallon-based requirement. In past years, volumetric mandates expressed in physical gallons enabled the market to anticipate RIN generation as a traceable and predictable consequence of production and blending activity. This process will be murkier and yield less reliable forecasts if the import restrictions remain in the final rule.[7] It could lead to less biofuel consumption and higher fuel prices in those markets and geographic regions that the domestic biofuel industry is not prepared to serve.

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[6] Beyond its structure as a producer credit rather than a blender credit, 45Z is anti-consumer because it does not require producers to disclose to their customers the precise value of the 45Z credit that the producers receive. When biofuel consumers have access to this information, they have more leverage to embed the credit value into a discounted price for the biofuel (which invariably makes its way to the consumer). To illustrate, when the BTC was in place, commercial arrangements were predicated on the fact that every blended gallon of BBD yielded precisely $1.00 of tax benefit, irrespective of feedstock origin or facility characteristics. This predictability facilitated competitive and predictable pricing at retail. By contrast, 45Z derives credit values from the bespoke "carbon intensity" score for each gallon of biofuel produced in the United States. Relatedly, the BTC's design as an *excise tax credit* allowed blenders to claim the credit quarterly, facilitating price reductions to flow to consumers throughout the year. The 45Z credit, on the other hand, is structured as an *income tax credit,* requiring beneficiaries to (1) have taxable income, and (2) capture the credit's value only annually. This precludes the downstream value chain from capturing the incentive and highlights the risk that the credit will be diluted or retained entirely upstream. In practice it means that for the foreseeable future, the tax incentives for BBD will be materially lower, less transparent, and less likely to benefit the consumer than the previous BBD tax incentive scheme.

[7] The Proposal projects total BBD gallons for "illustrative purposes" at 1.27 and 1.28 RINs per gallon in 2026 and 2027, respectively. There is no explanation of those figures or any of the underlying assumptions regarding feedstock origins, fuel pathways, and credit eligibility. This makes it difficult to understand how these conversion factors are derived and thus the extent to which the market can rely upon their accuracy. *See* Proposed Rule at 25813 (defining "energy security" as "the continued availability of energy sources at an *acceptable price*.") (Emphasis added.)

This aspect of the Proposal makes the RFS a more complicated program primarily designed to benefit certain regions and sectors over others.[8] It is not without legal or political risk.

Legally, the Agency's statutory authority to pursue this outcome is questionable. A court *could* find Congress's directive that EPA establish regulations providing for the "appropriate" amount of credits justifies this type of policy change.[9] Congress was non-specific in this respect, and although EPA's historical approach of tethering RIN generation solely to energy density is the most obvious approach, it does not necessarily follow that it is the only lawful approach.

Just as plausibly, however, a court may *not* defer to EPA's interpretation and find the Agency in fact does not have authority to reconfigure the RFS to advantage certain biofuel supply chains and business models over others. Congress was silent as to distinctions between foreign and domestic products. Since the Supreme Court overturned *Chevron* deference in *Loper Bright*,[10] courts will be less inclined to defer to EPA's interpretations of ambiguous statutory provisions. Similarly, the Supreme Court's opinion in *West Virginia v. EPA*[11] held that on "major questions" of policy, agencies need clear congressional authorization for actions of vast economic and political significance. Both of these watershed cases create meaningful litigation exposure for the Proposal's approach to disadvantaging imported fuels and feedstocks.[12]

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[8] The U.S. agriculture sector realizes extraordinary benefits from the RFS even when the Program does not disadvantage imports. Since the enactment of the RFS, the consumption of soybean oil and corn-derived feedstocks for fuel production has increased virtually every year. In every year from 2011 through 2024, soybean oil represented a majority of biodiesel feedstock usage, with an average share of 55.2 percent from 2011 to 2022.Almost no soybean oil was used to produce renewable diesel before 2018, yet by 2022 its market share rose to 26.9 percent – increasing at a faster rate of growth than used cooking oil. For the 2025-26 marketing year, the Department of Agriculture estimates that ethanol producers will consume around 43 percent of the total U.S. corn crop. Soybean oil usage for biofuel production is projected to account for approximately 45 percent of soybean oil usage in the U.S. This steady upward trajectory underscores that the RFS, in its existing form, already functions as an effective demand driver for American farmers. *See* Maria Gerveni, "Revisiting Biomass-Based Diesel Feedstock Trends over 2011-2022," *Farmdoc Daily* 14, no. 12 (January 17, 2024), https://farmdocdaily.illinois.edu/2024/01/revisiting-biomass-based-diesel-feedstock-trends-over-2011-2022.html; *see also* Erin Krueger, "USDA: July WASDE Maintains Forecast for 2025-'26 Corn Use in Ethanol," 2025, https://ethanolproducer.com/articles/usda-july-wasde-maintains-forecast-for-2025-26-corn-use-in-ethanol.

[9] *See* Proposed Rule at 25838 (citing Clean Air Act section 211(o)(5)(A)).

[10] *Loper Bright Enterprises, et al. v. Gina Raimondo*, 603 US __ (2024), 144 S. Ct. 224, *overruling Chevron U.S.A. v. NRDC*, 467 U.S. 837 (1984).

[11] 597 U.S. ___ (2022), 142 S. Ct. 2587 (2022).

[12] It is notable that the Supreme Court cases the Agency cites in support of its authority to disadvantage imports arguably contradict EPA's assertion of this authority. Specifically, the Agency cites *Michigan v. EPA*, 575 U.S. 743, 752 (2015) to support the conclusion that the Agency's statutory directive to ensure an "appropriate" number of RINs are generated "necessarily leaves [it] with flexibility to [disadvantage imports], so long as that discretion is exercised consistent with the context and structure in which the term ['appropriate'] appears." In *Michigan,* however, the Supreme Court overturned EPA's regulation of coal-fired power plants because, among other things, the Agency did not sufficiently consider the *cost* of its regulation. This can hardly be viewed as giving the Agency a green-light to implement the Proposal's import-RIN-reduction scheme. The Agency also cites *Loper Bright* as accommodating EPA's purported authority, *see* Proposed Rule at 25840. That case, however, invites courts to view suspiciously an agency's assertions of newfound authority hidden in long-standing statutes and regulatory schemes. *See also Id.*

The ultimate concern for the Program is that the issue will inevitably be litigated over a period of years. It could also invite future administrations to arbitrarily manipulate equivalence values in pursuit of their own policy objectives. For example, if a future administration disfavors corn ethanol, it could argue that it would be "appropriate" for ethanol to generate less than a RIN per gallon. These prospects will inject additional uncertainty and volatility into biofuel and retail fuel markets throughout the United States.

i. Administrative Complexity

It is exceedingly complicated for producers to trace the supply chains of feedstock and fuel inputs to the degree necessitated by the Proposal. Today, imported biofuel feedstocks move through complex, global supply chains where point-of-origin is rarely tracked beyond what is necessary for basic commercial transactions and state-level compliance. Biofuels are bought and sold as fungible commodities. Attempting to segregate and assign different RIN values based on geographic origin would force a fundamental overhaul of how biofuel markets operate, particularly in coastal regions.

The infrastructure to support the Proposed Rule's tracing requirements does not exist in the market today. Building it would require new personnel, new audit protocols, and new regulatory oversight at every stage of the supply chain. This is not something the industry can stand up quickly or inexpensively.

ii. The Associations encourage EPA to align the RFS's Geographic Parameters with those Congress recently enacted in Section 45Z

Among the various changes Congress recently made to the 45Z biofuel production tax credit was limiting credit access to gallons produced using feedstock from the United States, Mexico, or Canada ("USMCA"). If EPA chooses to disadvantage imports in the final rule, it should align its geographic restrictions with 45Z. In other words, the RFS should treat fuels and feedstocks originating in USMCA, and USMCA producers, equally.

EPA drawing different lines than Congress when it comes to delineating desirable sources of biofuel supply (United States vs. USMCA) would inject an additional layer of needless market complexity into an already complex, balkanizing marketplace. There is significant biofuels and feedstock trade between the United States and Canada that helps the market function efficiently. The tax code and RFS should, wherever possible, work in harmony with one another.

We encourage the Agency to make this change in the final rule.

c. Regional Impacts

The new scheme will have disparate impacts on different regions of the country. States along the East and Gulf Coasts are more reliant upon imported fuels and feedstocks. The proposal would require biofuel blenders and retailers in these markets to choose between lower-value imports or transporting more domestically produced biofuel gallons from production points that are mainly concentrated in the Midwest.

On the West Coast, Low Carbon Fuel Standard ("LCFS") programs further complicate the Agency's proposed import limitations. California, in particular, imposes stringent carbon intensity requirements that, in many cases, cannot be satisfied solely via domestic fuels and feedstocks.[13] Obligated parties on the West Coast will therefore continue to rely on imported fuels and feedstocks as the only economically viable way to satisfy their RFS and LCFS obligations. These parties will be compelled to produce and/or import twice as much fuel to satisfy their obligations.

In Midwestern markets, geographic proximity to domestic biofuel feedstocks and production will result in greater subsidies and lower transportation costs from points of production to consumption. Over time, however, we expect domestic suppliers to command a premium for their feedstocks and fuels due to their competitive advantage over foreign competition.[14]

d. EPA Should Upwardly Adjust RVOs if it Abandons or Scales Back the Provisions that Disadvantage Imports

Should the Agency elect to abandon or otherwise scale back the proposed barriers for imported fuels and feedstocks, it should ensure that the overarching RVO is upwardly adjusted by an equivalent amount to reflect the expanded pool of qualifying gallons. In practical terms, allowing imported gallons to generate full RINs without a corresponding increase in the overall RIN target would be far less supportive for biofuel markets than the proposal. It would lead to fewer total gallons being blended to satisfy the same numeric RIN requirement, and would create government-induced market changes and uncertainty. This should be avoided.

IV. SMALL REFINERY EXEMPTIONS ("SREs").

The Associations encourage the Agency to learn lessons from the past and avoid issuing SREs in a manner that undermines the RVO or otherwise disrupts investment-backed expectations. The Proposal suggests that in 2026 and 2027, EPA will adopt this approach by effectively reallocating to other obligated parties' gallons that are waived due to SREs.[15] This will be difficult to accomplish if EPA grants any of the currently outstanding (*i.e.*, pre-2026) SRE petitions. Granting even a minority of these SREs threatens to materially undermine RIN markets the moment they are announced. Such SREs could function as a wet blanket over the RFS for the duration of the Trump Administration, inevitably inviting political difficulties and retail fuel market volatility as well.

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[13] *See, e.g.*, "Proposed Low Carbon Fuel Standard Amendments", California Air Resources Board, (August 12, 2024), *available at* https://ww2.arb.ca.gov/sites/default/files/barcu/regact/2024/lcfs2024/15day_notice.pdf (imposing a 20 percent cap on credits for renewable diesel and biodiesel produced from soybean oil and other vegetable oils; this means that beyond the 20 percent threshold, companies will not receive state LCFS credits for using these feedstocks in biofuel production, effectively treating any excess as a fossil fuel).

[14] *See generally* Proposed Rule at P. 25822 ("Biodiesel and renewable diesel produced from vegetable oils are expected to directionally result in higher prices for these oils and the crops from which they are derived.")

[15] *See generally* Proposed Rule at 25833 ("We note that a higher projection of exempt volumes of gasoline and diesel would increase the percentage standards and thus the individual RVOs for non-exempt obligated parties.")

Beyond these challenges, SREs are predicated on the notion that certain obligated parties are subjected to "disproportionate" economic harm caused by their RVO compliance costs. This is demonstrably false. To the extent a small refiner is competitively disadvantaged, it is not because of the RFS.

For these reasons, the Associations encourage EPA to deny all outstanding SRE petitions.

a. RIN Costs are Embedded in the Crack Spread

Costs associated with RIN compliance are included in the price of fuel when sold by a refiner. Said differently, small refiners and large refiners both embed RVO costs in their "crack spreads," *i.e.*, the gross margin that refineries make by refining crude oil into petroleum products (such as motor fuel).

RIN prices, as with all commodity prices, fluctuate depending on a variety of factors including supply and demand. When assessing how much of a fuel to produce and at what price, all refiners use linear programs to examine a multitude of variables to determine what product output will generate the best result for the refiner. RIN costs are one of the variables that refiners consider and incorporate into their economic decision-making models. Obligated parties "consistently consider the cost of RINs in their trading decisions around obligated products" and obligated parties "consistently incorporate expected RINs costs into their obligated product pricing."[16]

EPA has repeatedly demonstrated and reaffirmed these market realities.[17] All refiners and importers seek to recover those RIN costs through the pricing of their products, whether that product is blended with renewable fuel and sold at a terminal or is unblended petroleum blendstocks sold at the refinery gate.[18] Merchant refiners and small refiners can expend significant funds to purchase the RINs needed to demonstrate compliance with the RFS; that cost is offset, however, by a corresponding increase in the market price of the fuel they sell that is attributable to the RFS obligations. The market price they receive for the gasoline and diesel fuel they sell reflects the cost of RINs.[19]

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16 Argus Media Group Consulting Services, "Do Obligated Parties Include RINs Costs in Product Prices?," February 2017, P. 33, https://www.regulations.gov/document?D=EPA-HQ-OAR-2016-0544-0269; *see also* Christopher Knittel, "The Passthrough of RIN Prices to Wholesale and Retail Fuels under the Renewable Fuel Standard," ed. James Stock, July 2015, https://www.nber.org/papers/w21343.pdf.

17 *See, e.g.*, EPA Denial of Petitions for Rulemaking to Change the RFS Point of Obligation (Report No. EPA-420-R-17-008), (November 2017), P. 22, https://nepis.epa.gov/Exe/ZyPDF.cgi?Dockey=P100TBGV.pdf; *see also,* Renewable Fuel Standard (RFS) Program, RFS Annual Rules, Environmental Protection Agency (July 2022), "no small refinery suffers hardship due to the RFS program because all small refineries are able to pass through the RIN costs of RFS compliance onto their customers in the form of higher sales prices on gasoline and diesel fuel.", https://www.epa.gov/system/files/documents/2022-08/22-1225_DocketEntry_08-29-2022_.pdf?.

18 *Id.*

19 *Id.*

As a part of the petition process and other litigation, some small refiners have submitted confidential pricing data that purportedly demonstrates an inability to pass on RFS compliance costs. Though the Associations are unable to review or comment on this data, we are confident that EPA was correct when it evaluated that data and concluded that it could either (1) not be used to draw conclusions regarding RIN market dynamics, or (2) actually *supported* the conclusion that RIN costs are passed through.

Wholesale prices in small, rural markets where many small refiners are located are *higher* than in large, central markets (where even small refiners acknowledge prices incorporate RIN costs). Prices in small markets are, in fact, generally indexed to those in larger markets. Any price differences between markets do not reflect RIN costs (which are the same everywhere). Generally, the price of refined petroleum in a small market equals the price in a nearby large, central market *plus* transportation costs from the latter to the former. Sales contracts often make this connection explicit through indexing.[20]

In reality, while small refiners do not have higher RIN costs, many do have higher non-RIN costs. These may include higher transportation costs, fewer economies of scale, or more restricted access to crude oil. Those higher costs may compress small refineries' margins. That is not due to the RFS, however. Indeed, margins would be the same even if the RFS were repealed. Without the RFS, small refineries would not have any RIN costs, *but neither would their competitors.* Those competitors accordingly would bid down the market price by the amount of the RIN costs they would no longer have to pay, and small refineries' margins would remain unchanged.

b. Small Refiners Can Purchase RINs Ratably

Small refiners have in various forums argued that they cannot purchase RINs "ratably," and that this inherently imposes upon them an undue economic burden and competitive disadvantage relative to their larger competitors. This contradicts the Associations' members' experience. Our members are participants in the RIN market and regularly work with RIN brokers. Small refineries can enter into ratable RIN purchase contracts for no premium over the average daily price. (In fact, ratable RIN contracts generally trade at a discount to the index.) Small RIN purchases, while less common, are not unheard of. In fact, the two futures contracts that are used for RINs accommodate even the smallest refiners' throughput: Nodal RIN futures trade in 10,000 RIN increments and ICE RIN futures trade in 50,000 RIN increments.

Even if small refiners could not purchase RINs ratably, deviating from strict ratable purchasing would not cause them <u>any</u> disproportionate economic hardship. At least some small refiners seeking exemptions produce and/or blend renewable fuels themselves, generating and/or

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[20] *See* OPIS Staff Report, *Pricing 101: Wholesale Rack Pricing Essentials,* OPIS Blog, Mar. 16, 2023, http://blog.opisnet.com/wholesale-rack-fuel-pricing-essentials. There may be occasional, short-term circumstances where prices are lower in a small, remote market than a larger market. If a rural small refinery, for example, is shipping its fuel to a larger market to sell, it will need to price its fuel below the larger remote market price to cover the cost of shipping the fuel to the larger market. But that circumstance cannot persist for long, as buyers with access to both markets would start buying less from the more expensive market and more from the less expensive market. The Associations' members employ teams of professionals tasked with finding precisely this kind of arbitrage opportunity.

separating RINs they can use for compliance without purchasing RINs from others. To the extent they must purchase additional RINs, they need not do so at *exactly* the same time they produce fuel. They just need to buy RINs on a systematic, regular basis. Of course, decoupling RIN purchases from fuel production introduces a risk that RIN prices might change in the interim, but over time, that risk evens out—sometimes small refiners would pay more, sometimes less. Small refiners could also reduce transaction costs by buying RINs less frequently. These are precisely the same business decisions that *large* refiners are forced to make; the timing and frequency of RIN purchases inevitably entails market risk and price uncertainty, but that uncertainty is no more acute for small refiners than it is for large refiners. The Associations are aware of no evidence that, on balance, purchasing RINs on (say) a weekly or monthly basis—which is not uncommon—would harm small refiners at all, let alone cause disproportionate economic hardship.

V. RENEWABLE JET FUEL.

Renewable jet fuel utilizes the same feedstocks as the other biofuels that are incentivized under the RFS. Finite amounts of feedstock create a zero-sum game between these various biofuels. Every gallon of renewable jet fuel that is produced, for example, necessarily means that a gallon of over-the-road biofuel was *not* produced. This reality should inform the Agency's approach to renewable jet fuel under the RFS.

a. Renewable Jet Fuel Generates RINs, but Petroleum Jet Fuel is Not an Obligated Fuel

Under the RFS today, renewable jet fuel producers are permitted to generate RINs for each gallon of renewable jet fuel they produce. However, *petroleum*-derived jet fuel producers are under no corresponding obligation to acquire or retire RINs for any of the gallons they place into commerce. This structural asymmetry is neither compelled by statute nor justified by any coherent economic or environmental rationale. It is a policy choice that confers an unearned compliance advantage on renewable jet fuel producers by awarding them RINs untethered to any proportional obligation in the conventional jet fuel market.[21] **Until petroleum jet fuel is obligated, the Associations oppose any unique pathways for renewable jet fuel, whether lipid-based or alcohol-to-jet**.[22]

Preferential treatment for renewable jet fuel under the RFS threatens to crowd out biofuels for over-the-road applications. In the Proposed Rule, the Agency reaffirms that "the technology and feedstocks that can be used to produce renewable jet fuel today are generally the same as those currently used to produce renewable diesel,"[23] and that feedstock availability is likely to cause any

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[21] *See* Burkhardt, Jesse. "The Impact of the Renewable Fuel Standard on US Oil Refineries." Energy Policy 130 (July 2019): 429-37. https://doi.org/10.1016/j.enpol.2019.03.058 (demonstrating that RIN prices have an inverse relationship with jet fuel prices, and that refineries frequently increase jet fuel production in response to higher RIN **prices).**

[22] *See* Proposed Rule at 25798 n. 60 and accompanying text.

[23] *See* Proposed Rule P. 25797.

growth in renewable jet fuel to come at the expense of biodiesel and renewable diesel, "with little or no net change in [the] overall production of RIN generating fuels."[24]

Allowing renewable jet fuel producers to monetize RINs depresses incentives to produce over-the-road biofuels and reduces overall biofuel consumption. EPA should not be choosing winners and losers between jet fuel and over-the-road fuel under the RFS. Instead, the Agency should let the market make those decisions. EPA should consider rectifying this asymmetry by either initiating a rulemaking to consider making jet fuel an obligated fuel under the RFS, or removing renewable jet fuel from RFS eligibility entirely.[25]

b. Equivalence Value

Should jet fuel continue to remain a part of the RFS, the Associations support the Agency finalizing a reduced equivalence value for renewable jet fuel relative to renewable diesel and biodiesel.[26] This revised figure should reflect the inefficiencies of the renewable jet fuel production process relative to other advanced renewable fuels and is strongly supported by available evidence and data.[27]

To the extent renewable jet fuel proponents encourage EPA to provide additional benefits to that fuel relative to other fuels (*e.g.*, a higher equivalence value), **those requests should be denied**. That industry is simply seeking an artificial competitive advantage via the RFS to overcome their own production inefficiencies.[28] Preferential treatment for renewable jet fuel provides no net benefit to consumers or domestic energy security.

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[24] *Id.*

[25] The One Big Beautiful Bill Act removed the preferential treatment for renewable jet fuel under the 45Z Credit. The Agency should align the RFS with this sound, technology-neutral construct which has now received affirmative support from both chambers of Congress and the President. Because renewable jet fuel remains eligible for the 45Z credit, the outcome generated no meaningful public pushback from renewable jet fuel advocates. *See* The SAF Coalition, X (formerly Twitter), 2025, https://x.com/TheSAFCoalition/status/1942590646964879564 ("This legislation provides the long-term certainty SAF producers need to drive private sector investment, and benefits to American farmers and rural economies.")

[26] The Proposed Rule includes multiple, contradicting figures for an updated EV for renewable jet fuel. *See* Proposed Rule P. 25797 ("[W]e are proposing to revise the renewable diesel equivalence value to be 1.6 RINs per gallon, while also proposing to establish the renewable jet fuel equivalence value to be 1.5 RINs per gallon.") Should renewable jet fuel continue to be eligible under the Program, the Associations urge the Agency to finalize the EV at 1.4 RINs per gallon.

[27] The Sustainable Advanced Biofuels Refiners ("SABR") coalition has made considerable effort to align equivalence values with science-based energy density calculations. The Associations support their findings with respect to this issue, in particular, the assertion that renewable jet fuel should receive 1.4 RINs per gallon.

[28] SAF requires more processing than renewable diesel due to the lower freezing point; this requires greater hydrogen input for SAF compared to renewable diesel, which in turn requires more natural gas usage. Every gallon of alternative jet fuel delivers lower CO2 savings than every gallon of renewable diesel; the displacement of one megajoule ("MJ") of fossil jet fuel avoids less CO2 than the displacement of one MJ of fossil diesel. Alternative jet fuel also does not have the byproduct benefit of reducing nitrogen oxides ("NOx") emissions to improve air quality that renewable diesel does. *See* LMC International, *Comparative Economic Analysis of Renewable Jet Fuel and Renewable Diesel* (Sept. 2021) *available at* https://shorturl.at/yHa06.

VI. RENEWABLE NATURAL GAS AND THE CELLULOSIC WAIVER AUTHORITY.

The Proposal would partially waive the 2025 cellulosic biofuel volume requirement using the Agency's cellulosic waiver authority ("CWA") while proposing volumes for 2026 and 2027 that are *lower* than the volumes originally finalized for 2025. Collectively, these measures will create unnecessary headwinds to further renewable natural gas ("RNG") investment and market penetration.

A number of the Associations' members have made substantial investments throughout the RNG supply chain (production, distribution, and dispensing). These investments – as with those in ethanol and BBD – have been predicated upon both market and policy signals. With regard to RNG, growth in RNG-compatible vehicles is expected to continue to rise, and the RFS was, until this Proposal, expected to continue to serve as a market-forcing growth policy for RNG. The Proposal threatens to undermine these investments and limit consumer access to a commercially viable, scalable renewable fuel. The market is likely capable of achieving higher volumes than those proposed by the Agency.

The RFS is designed to create market-based, consumer-oriented incentives that enable alternative fuels such as RNG to penetrate the market. EPA should be ambitious in establishing cellulosic mandates going forward. This will allow the Program to drive new investment into technologies, increasing supply and consumption. This is precisely what has occurred in recent years with RNG. This progress should be permitted to continue.

The Proposal would disrupt this progress. For the first time in the Program's history, the Agency seeks to exercise its CWA to lower already-finalized RVOs in the midst of a compliance period.[29] The market will necessarily observe this policy shift in conjunction with EPA's recently-announced view that it believes it is *required* to exercise its CWA *retroactively* in the event actual production is less than the cellulosic RVO.[30] This creates a price-cap at the lower of (i) the calculated Cellulosic Waiver Credit + D4 RIN, or (ii) the market clearing price for D3 RINs to fulfill the RVO for a given year. If this clearing price is higher than the anticipated cap, the market will not supply the mandated amount even if the volume is available. Instead, RNG would migrate to other markets in response to artificially low price signals for sending RNG gallons to the transportation sector.

This regulatory backdrop is unambiguously bearish for RNG investments. It threatens to undermine an RNG market that is demonstrably growing and capable of responding to the RFS's policy signals as Congress intended.

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[29] Previously, the CWA was utilized either (a) retroactively after a compliance period concluded and actual production levels could be ascertained, or (b) prospectively to decrease clearly aspirational statutory volumes Congress established nearly two-decades ago.

[30] Renewable Fuel Standard (RFS) Program: Partial Waiver of the 2024 Cellulosic Biofuel Volume Requirement. 90 Federal Register 29751, 29755 (July 7, 2025).

These negative policy signals could be mitigated if going forward EPA refrained from exercising its CWA within ongoing compliance years, *i.e.*, before the market has had a full year to satisfy the mandate. Additionally, EPA should read the statutory CWA language as allowing, but not obligating, the Agency to issue waivers for prior years where production does not satisfy the mandate. Although such scenarios will often necessitate waivers be issued, there may be occasions where modest shortfalls, a robust RIN bank or other market developments justify refraining from issuing a waiver. This approach would enable EPA to facilitate compliance while also encouraging RNG to flow to the transportation sector.

The RFS is designed to be market-forcing, incentivizing investment in new fuels by tethering obligations to consumer adoption through price. The Agency should allow the RFS to continue playing this role with respect to RNG.

VII. ELECTRIC RENEWABLE IDENTIFICATION NUMBERS (eRINs).

The Associations commend the Agency for not resurrecting the Biden Administration's proposal to allow eRINs under the RFS. The Biden Administration's approach would have assigned compliance credits to entities with no direct role in supplying transportation energy. It would have created a disconnect between credit generation and transportation energy consumption. The Associations are comfortable with an alternative approach to eRINs where credits accrue to public charging station owners rather than auto manufacturers. (The most sound approach would make electricity generators and/or transmitters, rather than liquid petroleum fuel producers, "obligated parties" for purposes of retiring the requisite number of eRINs every year.) The prior Administration's approach, however, was misguided, and we are pleased to see that this Administration is not repeating that mistake.

VIII. CONCLUSION.

Thank you for the opportunity to provide these comments. The Associations appreciate EPA's efforts to implement such an important, complex regulatory regime. We stand ready to assist the Agency as it moves forward.

Sincerely,

National Association of Convenience Stores (NACS)
NATSO, Representing America's Travel Centers and Truck Stops
SIGMA: America's Leading Fuel Marketers