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August 8, 2025

**Via Regulations.gov**

U.S. Environmental Protection Agency
1200 Pennsylvania Avenue NW
Washington, DC 20460

**Re: Docket ID No. EPA-HQ-OAR-2024-0505**

The undersigned organizations and individuals submit these comments in response to the United States Environmental Protection Agency's (EPA's or Agency's) proposed rule setting renewable fuel standards for 2026 and 2027, Docket ID No. EPA-HQ-OAR-2024-0505, Renewable Fuel Standard (RFS) Program: Standards for 2026 and 2027, Partial Waiver of 2025 Cellulosic Biofuel Volume Requirement, and Other Changes, 90 Fed. Reg. 25784 (June 17, 2025) (Proposed Rule).

## I. Introduction

In 2007, Congress passed the Energy Independence and Security Act (EISA)[1] to increase the production of renewable fuels and thereby reduce greenhouse gas (GHG) emissions and to move the United States toward greater energy independence.[2] To ameliorate the growing threat of climate change, Congress included in the EISA a Renewable Fuel Standard (RFS) which, among other things, mandated the mixing of certain biofuels into transportation fuel.[3]

At the time of the EISA's enactment, "cellulosic biofuel"—ethanol produced from agricultural waste or purpose-grown perennial energy crops such as switchgrass—was thought to be the most promising path for decarbonizing passenger vehicles. This is reflected in the volume requirements established by Congress, which were intended to ensure the use of 21 billion

[1] *See* Energy Independence and Security Act of 2007, Pub. L. No. 110-140, 121 Stat. 1492 (2007) (EISA).
[2] *See* 42 U.S.C. § 7545(o).
[3] *See* 42 U.S.C. § 7545(o)(1)(A), (o)(1)(I)(i).

gallons of "advanced biofuels" in 2022.[4] Of the 21 billion gallons of advanced biofuels, 16 billion gallons were expected to be cellulosic biofuel.[5] These volumes aimed to achieve at least a 60 percent reduction in greenhouse gas emissions compared with petroleum-based transportation fuel.[6]

Nearly two decades later, the world looks fundamentally different. Cellulosic ethanol production is currently less than 1 percent of the amount originally expected, causing the biofuels industry to rely primarily on biofuels made from food crops.[7] At the same time, electric vehicle technology has advanced more rapidly than expected and is now recognized as the primary pathway for decarbonizing the transportation sector. Meanwhile, the global population has reached eight billion people, dramatically increasing food demand, and global carbon dioxide emissions from land use and land-use change have increased to 6.6 billion tons per year.[8]

However, rather than adjust to this reality, EPA proposes volumes whose primary impact will be to turn even more food crops into fuel. While substantial quantities of corn ethanol and diesel made from waste oils might be used in the absence of the RFS, EPA's draft regulatory impact analysis (DRIA) finds that virtually no diesel fuel would be made from virgin vegetable oils.[9] The Proposed Rule is projected to result in 5.1 billion gallons more soybean-based diesel production in 2026 and 2027 than would have been produced without the RFS, while diesel made from waste fats, oils, and greases (FOG) would only be 1.7 billion gallons above the No RFS baseline.[10] The Proposed Rule would also significantly increase the conversion of corn oil and canola oil into diesel fuel.

These large, arbitrary increases in volume obligations are unjustified by EPA's own detailed analysis that clearly shows that the proposed volumes would in fact harm both the environment and American consumers. The proposed volumes would require many millions of additional acres of land dedicated to growing crops for fuel; increase air, climate, water, and soil pollution; and result in over $18 billion of additional food and fuel costs for American consumers. These harms are not justified based on EPA's assessment of the limited energy security and economic development benefits the Proposed Rule would provide. Therefore, EPA must lower the proposed volumes, particularly for biomass-based diesel (BBD).

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[4] *Id.* at § 7545(o)(2)(B)(i)(II).
[5] *Id.* at § 7545(o)(2)(B)(i)(III).
[6] *Id.* at § 7545(o)(1)(E).
[7] EPA, *Renewable Fuel Standard (RFS) Program – Standards for 2026 and 2027: Draft Regulatory Impact Analysis* 99 tbl. 3.2-8 (2025) (DRIA), https://www.epa.gov/system/files/documents/2025-06/420d25001.pdf.
[8] *See* Intergovernmental Panel on Climate Change, *Working Group III Contribution to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change*, *in Climate Change 2022: Mitigation of Climate Change* 7 (2022), https://www.ipcc.ch/report/ar6/wg3/downloads/report/IPCC_AR6_WGIII_SummaryForPolicymakers.pdf.
[9] DRIA at 7.
[10] *Id.* at 105 tbl. 3.3-6.

Further, in light of EPA's own climate emissions analyses, EPA must reassess whether crop-based biofuels meet the statutory definitions to qualify as renewable fuels, as it proposes to do for electricity from combusting renewable biomass. A principal purpose of the EISA is to help curb climate change, and thus a fundamental requirement of the program was that qualifying renewable fuels meet a threshold reduction in lifecycle greenhouse gas emissions as compared with petroleum fuels.[11] Recent science makes clear that EPA's earlier determination that food-crop-based biofuels meet these targets is flawed and must be, at a minimum, fully reassessed.

EPA should also properly account for how the proposed volumes will affect the production and import of foreign renewable fuels. EPA proposes to reduce renewable identification numbers (RINs) for imported renewable fuels to encourage domestic production and energy security. However, because the volumes exceed domestic production capacity, the proposed RIN reduction would in fact increase vegetable oil imports, exacerbating the program's international environmental impacts while undermining the nation's energy security and trade balance.

Finally, because the proposed volumes will continue to drive renewable fuel imports, they will drive international land use change in violation of EISA requirements that renewable fuel be produced on land that was already cleared or in cultivation at the time of its passage.

For the reasons set forth below, we urge EPA to lower the proposed advanced biofuel and conventional renewable fuel volumes, to reassess whether crop-based biofuels qualify as renewable fuels, and to reject the proposed RIN reduction for renewable fuel imports.

## II. The Proposed Volumes Are Not Justified Based on the Statutory Factors.

The EISA requires EPA to set volumes based on "a review of the implementation of the [RFS program]" in prior years and an analysis of six factors.[12] Those statutory factors are: (1) the impact of the production and use of renewable fuels on the environment; (2) the impact of renewable fuels on the United States' energy security; (3) the expected annual rate of future commercial production of renewable fuels; (4) the impact of renewable fuels on the infrastructure of the United States; (5) the impact of renewable fuels on the cost to consumers of fuel and on the cost to transport goods; and (6) the impact of renewable fuels on other factors, including job creation, the price and supply of agricultural commodities, rural economic development, and food prices.[13]

In the Proposed Rule, EPA claims that the proposed volumes are appropriate based on "balancing all relevant factors."[14] However, both prior implementation of the RFS program and EPA's own analysis of the relevant factors shows that the proposed volumes that will be supplied by crop-based biofuels would have overwhelmingly negative impacts and are thus arbitrary and irrational.

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[11] 42 U.S.C. § 7545(o)(1)(B)(i), (o)(1)(D), (o)(2)(A)(i).
[12] 42 U.S.C. § 7545(o)(2)(B)(ii).
[13] *Id.*
[14] Proposed Rule, 90 Fed. Reg. at 25788.

### a. Prior Implementation

The two decades of prior implementation of the RFS program confirms the production of cellulosic fuels and fuels made from fats, oils, and greases (FOG) has not developed significantly,[15] leaving a RFS program overwhelmingly based on the production of crop-based biofuels. As discussed further below, the past implementation of RFS volumes dominated by crop-based biofuels has caused extensive land conversion both domestically and abroad and has led to detrimental climate and environmental impacts to the contrary of the EISA's original intent and purpose.

### b. Impact of the Proposed Rule

#### i. Environmental Impacts

Through the EISA, Congress intended to address the growing threat of climate change and other environmental harms associated with fossil fuels. The law amended Section 977 of the Energy Policy Act of 2005 to establish program goals to develop feedstocks "that are less resource and land intensive and that promote sustainable use of resources, including soil, water, energy, forests, and land, and ensure protection of air, water, and soil quality."[16] It also amended Section 307(d) of the Biomass Research and Development Act of 2000[17] to establish "the systematic evaluation of the impact of expanded biofuel production on the environment, including forest lands, and on the food supply for humans and animals."[18]

To achieve these goals, Congress made clear that in setting renewable fuel volumes, EPA must include "an analysis of . . . the impact of the production and use of renewable fuels on the environment, including on air quality, climate change, conversion of wetlands, ecosystems, wildlife habitat, water quality, and water supply."[19]

Despite these clear statutory goals, EPA's own analyses establish that the RFS program has not advanced the climate and environmental benefits Congress intended. In its most recent Triennial Report to Congress (RtC3) and the DRIA, EPA finds that crop-based biofuels will result in numerous environmental harms, including thousands of tons of additional air pollution, increased climate emissions, as well as adverse effects on soil and water quality, water quantity, ecosystems, and wildlife habitat. While EPA notes that the extent and magnitude of these

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[15] EPA, *Biofuels and the Environment: Third Triennial Report to Congress* 2-21 (2025) (RtC3),https://assessments.epa.gov/biofuels/document/&deid%3D363940 ("The large-scale development of cellulosic ethanol or other biofuels from renewable feedstocks has not developed as anticipated either in the United States or the rest of the world."); *see also* DRIA at 105 (showing the proposed volumes for cellulosic fuel are only 12 percent and FOG is only 22 percent of the 2026 proposed volumes).
[16] EISA § 232(a)(2)(D).
[17] *See* 7 U.S.C. § 8606(d) (repealed by conforming amendment 2008) (current version at 7 U.S.C. § 8108).
[18] EISA § 232(b)(3); 7 U.S.C. § 8108.
[19] 42 U.S.C. § 7545(o)(2)(B)(ii)(I).

environmental impacts are sometimes difficult to calculate, they all weigh in favor of lower volumes for conventional renewable fuel and biomass-based diesel, which are largely produced from soybean and canola oil.

### A. Air Quality

While EPA tries to frame the results of its air quality impacts assessment as "ambiguous or mixed,"[20] the air quality impacts of corn ethanol, biodiesel, and renewable diesel are plainly harmful. In the RtC3, EPA "concluded that emissions of $NO_x$, sulfur oxides ($SO_x$), carbon monoxide (CO), volatile organic compounds (VOCs), ammonia ($NH_3$), $PM_{2.5}$, and $PM_{10}$, can be impacted at each stage of biofuel production, distribution, and usage."[21] In the DRIA, EPA's comparison of fuel emission rates shows that "emission rates from the production of ethanol are higher than gasoline, and, with the exception of $SO_2$ emissions from renewable diesel, biodiesel and renewable diesel emissions are higher than petroleum diesel."[22] Compared to the No RFS Baseline, EPA predicts that the ethanol, biodiesel, and renewable diesel fuels associated with the proposed volumes will result in hundreds of net tons of CO, $NH_3$, $NO_x$, $PM_{10}$, $PM_{2.5}$, $SO_2$, and VOC emissions.[23] While EPA does predict some air pollution reductions from the production of biogas CNG/LNG,[24] these reductions cannot be used to discount the harmful air pollution that will result from the volumes proposed for BBD and ethanol. These results clearly suggest that lower BBD and conventional renewable fuel volumes would be significantly better for air quality, and it is disingenuous to call these impacts "ambiguous."

### B. Climate Change

EPA's analysis of the GHG impacts of the Proposed Rule in the DRIA shows that the increased demand for crop-based fuels—particularly soybean-oil based diesel—driven by the proposal would cause massive land-use change and associated greenhouse gas emissions, contrary to the statutory goals of the RFS program.

The National Academies of Sciences, Engineering and Medicine's report on life cycle analysis methods recommends that "[r]egulatory impact analyses should evaluate market-mediated impacts to assess the extent to which a given policy design will result in reduced GHG emissions."[25] Such analyses are also referred to as "consequential lifecycle assessments." EPA takes note of this recommendation and recognizes that the literature review undertaken for Set

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[20] Proposed Rule, 90 Fed. Reg. at 25829.
[21] DRIA at 121; RtC3 at 8-2.
[22] DRIA at 135–36 tbl. 4.1.2.1.3-1 (showing crop-based biofuel emission rates to be up to 6 times higher for CO, up to 5 times higher for NOx, up to 13 times higher for PM10, up to 12 times higher for PM2.5, up to 28 times higher for SO2, and up to 18 times higher for VOC compared to petroleum diesel emission rates).
[23] *Id.* at 138tbl. 4.1.2.1.3-4.
[24] *Id.*
[25] *Id.* at 170 (citing National Academies of Sciences, Engineering, and Medicine, *Current Methods for Life-Cycle Analyses of Low-Carbon Transportation Fuels in the United States* (2022)).

Rule 1 was deficient in that it "did not capture interactions between fuels and volumes, relied on outdated estimates, [and] did not address differences in methods."[26]

Based on the recommendation of the National Academies and their review of available models, EPA selects two global economic models—the Global Change Analysis Model (GCAM) and the Global Biosphere Management Model (GLOBIOM)—to conduct new modeling which it says "incorporates several important advancements over past climate impacts assessments under the RFS program."[27]

EPA's analysis of the Proposed Rule using the GCAM model finds that the increased demand for crop-based fuels under the proposal would cause an emissions increase of 377.6 million metric tons of CO2-equivalent (MMTCO2e) from land use change over a 30-year period, as well as 172.6 MMTCO2e from crop production.[28] These emissions are partially offset by reduced emissions from livestock production and fossil fuel use, resulting in a net emissions *increase* of 219.9 MMTCO2e from crop-based fuels under the proposal.[29]

EPA obscures this critical result in the DRIA by combining the net emissions increase from crop-based fuels with the emissions decrease from waste- and byproduct-based fuels to find that the proposal would result in a net emissions reduction of 29 MMTCO2e under Estimate A, which is based on the GCAM model.[30] However, any emissions reductions from waste- and byproduct-based fuels can in no way justify a proposal that primarily increases use of crop-based fuels that cause a net increase in emissions, and EPA makes no attempt to explain this unreasonable proposal.

EPA's analysis of the Proposed Rule using the GLOBIOM model finds even larger emissions from the production of crop-based fuels. It calculates that the increased demand for crop-based fuels under the proposal would cause an emissions increase of 500.4 MMTCO2e from land use change over a 30-year period.[31] EPA claims that these emissions are offset by reduced emissions from fossil fuel consumption totaling 1,005.6 MMTCO2e,[32] but the GLOBIOM model does not include an energy sector and therefore cannot calculate emissions reductions from fossil fuel consumption. Instead, EPA arbitrarily inserts fossil fuel emissions reductions from the Greenhouse gases, Regulated Emissions, and Energy use in Technologies

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[26] *Id.* at 172.
[27] *Id.*
[28] EPA, *Set 2 NPRM Climate Change Analyses* at GHG Streams (formatted -1) (2025), https://www.regulations.gov/document/EPA-HQ-OAR-2024-0505-0310 (calculating sum of cells C84 through C113, and D84 through D113, respectively, in the GHG Streams (formatted – 1) tab).
[29] *Id.* (calculating sum of cells G84 through G113 in the GHG Streams (formatted – 1) tab).
[30] DRIA at 226 (Estimate A, Cumulative Total in 2055).
[31] *Set 2 NPRM Climate Change Analyses*, *supra* note 28 (calculating sum of cells J84 through J113 in the GHJG Streams (formatted – 1) tab).
[32] *Id.* (calculating sum of cells M84 through M113 in the tab GHG Streams (formatted – 1) tab).

(GREET) model[33] based on the assumption that increased consumption of fossil fuels under the proposal would reduce fossil fuel consumption on a 1-for-1 basis.[34] This assumption ignores the market-mediated impacts in the energy sector and systematically biases EPA's estimate toward a more favorable result for biofuels. That is because reduced demand for gasoline and diesel fuel due to substitution of biofuels will, on the margin, reduce the price of fossil fuels leading to a partial demand rebound. EPA recognizes the "oil rebound" effect,[35] which is endogenously included in the GCAM model, but unreasonably ignores it in its emissions estimates attributed to GLOBIOM.

As with the results for GCAM, EPA further obscures the land-use emissions calculated by GLOBIOM in the DRIA by combining the results from crop-based fuels with the emissions decrease from waste- and byproduct-based fuels to claim that the proposal would result in a net emissions reduction of 490.8 MMTCO2e under Estimate B, which is based on the GLOBIOM model inappropriately combined with 1-for-1 fossil fuel emissions reductions calculated using GREET.[36]

While EPA claims that it is following the recommendation of the National Academies report by considering market-mediated effects, it arbitrarily ignores this recommendation when it comes to presenting results attributed to the GLOBIOM model by assuming a 1-for-1 replacement of fossil fuels with biofuels. A more reasonable approach would be to either exclude the results of the GLOBIOM model because it cannot estimate the market-mediated effects in the energy sector or combine GLOBIOM's land-use results with the energy sector results from GCAM. Had EPA followed the latter course both models would show that crop-based biofuels result in a net increase in greenhouse gas emissions.

However, rather than recognize and properly account for these emissions increases, in its explanation of how it assessed the relevant statutory factors for advanced and conventional biofuels, EPA points to GHG reductions as a reason to increase these volumes.[37] Given that the only predicted emissions reductions come from the waste- and byproduct based fuels volumes, they cannot be used to justify the volumes for advanced and conventional biofuels which are overwhelmingly filled by crop-based fuels with harmful climate impacts.

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[33] The GREET life cycle analysis was developed by the Department of Energy "to assess the environmental impacts associated with technologies, fuels, products, and energy systems across the various stages of the supply chain." *GREET*, U.S. Dep't of Energy, https://www.energy.gov/eere/greet (last visited Aug. 8, 2025).
[34] DRIA at 198.
[35] *Id.* at 207.
[36] DRIA at 226 (Estimate B, Cumulative Total in 2055).
[37] Proposed Rule, 90 Fed. Reg. at 25824 (explaining that lower non-cellulosic advanced biofuel volumes could result in lower "GHG emission reductions than could be achieved with higher volume requirements"); *id.* at 25826 ("Greater volumes of ethanol consumed thus correspond to greater GHG reductions than would be the case if gasoline was consumed instead of ethanol.").

### C. Land Conversion

EPA acknowledges that the RFS program has led to the conversion of millions of acres of land that was not in cultivation at the time of the EISA's passage to produce corn for ethanol and soy for biodiesel, in direct contravention of Congress's intention. In its RtC3, EPA estimates that the RFS program's effect on corn ethanol production and consumption resulted in up to 1.9 million acres of domestic cropland expansion and up to 3.5 million acres of corn expansion between 2005 and 2016.[38] While explaining that there was insufficient information to quantify the attributional effect of the RFS program on biodiesel and renewable diesel,[39] EPA provides that "potential land use changes from the RFS program in past years would likely have been greater for soybean production for biodiesel and renewable diesel, relative to corn production for corn ethanol."[40] These estimates also do not account for the direct or indirect international land use impacts, which could also be "substantial."[41] In short, the "prior implementation" of the program makes clear that the RFS mandates have driven substantial land conversion.

Looking to future years, in its analysis on the impacts of the 2026-2027 Proposed Volumes, EPA finds that they "could [] lead to a potential increase in land conversion for agricultural lands to produce more feedstock (soy and canola, specifically) to meet extra BBD volume demands generated by this rule," which "could contribute to further loss of natural lands such as grasslands, wetlands, and forests."[42] EPA does not offer any estimates as to the amount of land conversion, but explains that it "plans to further explore the potential land use change effects from this rule in a Biological Evaluation document for this rule."[43]

EPA attempts to downplay the harms caused by this land conversion by pointing to studies that show that agricultural land conversion in the United States has historically taken place on grasslands, pasture, idle lands, shrubland, and Conservation Reserve Program (CRP) lands, and that "only a portion of these lands would qualify as loss of long-term grasslands that likely support greater wildlife biodiversity, soil carbon storage, and ecosystem services."[44] However, even if domestic cropland conversion is mainly occurring on less ecologically sensitive lands, it is still having harmful impacts, including increasing "soil erosion, pesticide and fertilizer applications, and losses of seminatural habitat."[45] EPA also notes that, while likely on a smaller scale, "[i]ncreased cropland may contribute to additional declines in wetlands and forests," which "could occur in ecologically sensitive areas or in places that are already experiencing cumulative environmental effects."[46] Finally, EPA ignores that conversion for RFS purposes of supposedly marginal land puts additional pressure on more ecologically sensitive land from other land conversion pressures.

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[38] RtC3 at ES-3.
[39] *Id.*at ES-2.
[40] DRIA at 144.
[41] RtC3 at IS-23.
[42] DRIA at 148.
[43] *Id.* at 150.
[44] *Id.*
[45] RtC3 at ES-3
[46] DRIA at 150.

In addition, the DRIA's land conversion discussion seems to be largely based on U.S. focused studies and data—with mention of only one study on the impacts of global agricultural expansion, which "details that agricultural expansion remains a primary driver of green cover depletion, . . . 'severely affecting biodiversity and carbon storage.'"[47] The RFS program contributes significantly to this global agricultural expansion. EPA's modeling of the proposal with GCAM and GLOBIOM reflects the conversion of millions of acres to crop-production, resulting in hundreds of millions of tons of carbon dioxide emissions, as discussed above. This is on top of the 50 million acres in the United States that are already used to grow corn and soy for biofuel production—an area the size of Virginia, West Virginia, and Maryland combined that could otherwise be used to grow food or feed.[48] Even if biofuel feedstocks are grown on previously cultivated land, global markets for vegetable oil for both food and fuel are highly connected and correlated, such that diverting food crops to biofuel production leads to expanding cropland elsewhere to meet the global food demand. EPA should account for the global emissions that come from expanding cropland in the U.S. or abroad to replace crops diverted to biofuels, or the carbon opportunity cost of this expanding land use.[49] Given how the Proposed Rule is expected to drive vegetable oil imports (*see* discussion *infra* Section IV), EPA should also consider the potential harms from international land conversion, which, when combined with domestic land conversion, counsels lower crop-based fuel volumes, especially for BBD.

### D. Ecosystems and Wildlife Habitat

Another factor negatively affected by increasing volumes of crop-based biofuels is the impact growing these fuels has on ecosystems and wildlife habitat. As EPA explains in the DRIA, "[l]and conversion to cropland is generally associated with negative impacts to ecosystem health and biodiversity," and "[d]emand for crop-based feedstocks used for biofuel production . . . can lead to further agricultural conversion which may affect species by contributing to habitat loss."[50] Specifically, the production of crop-based biofuels can cause pesticide drift, which "can affect nearby ecosystems and species after application to farm fields."[51] Additionally, "nutrients,

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[47] *Id.* at 147 (quoting Rakshan Guptaa, *Green Cover Depletion and Its Projection over the Upcoming Years*, 12 Darpan Int'l Rsch. Analysis 76, 81 (2024)).
[48] Chad Hellwinckel et al., U.S. Dep't of Energy, *Chapter 5: Biomass from Agriculture*, *in 2023 Billion-Ton Report*, 102–03 (2023), https://www.energy.gov/sites/default/files/2024-03/beto-2023-billion-ton-report_5-agriculture.pdf.
[49] Contrary to the court's characterization of carbon opportunity cost in *Center for Biological Diversity v. EPA*, 141 F.4th 153, 176 (D.C. Cir. 2025), the carbon opportunity cost of biofuel production does not rest on the assumption that, absent biofuel demand, farmers would let their land lie fallow and regenerate native vegetation, or that EPA is authorized to "control farmers' land use decisions." Rather, it is based on the reality that if more food crops are used to produce fuel, food production will expand elsewhere—often by clearing forests or grasslands—resulting in lost carbon storage globally. *See* Timothy D. Searchinger et al., *Assessing the Efficiency of Changes in Land Use for Mitigating Climate Change*, 564 Nature 249 (2018); Matthew N. Hayek et al., *The Carbon Opportunity Cost of Animal-Sourced Food Production on Land*, 4 Nature Sustainability 21 (2021).
[50] DRIA at 160.
[51] *Id.*

sediment, and pesticides carried by agricultural runoff affect the health of aquatic ecosystems and species that live or rely on such ecosystems."[52] While EPA stresses uncertainty about the exact locations of any past or projected land conversions, it admits that the overall impact of proposed BBD volumes, if supplied by "crop-based feedstocks such as soybean and canola, . . . could contribute to additional land use change, declines in soil and water quality, and impacts to wildlife and habitat."[53] Since EPA predicts that more than 70 percent of the proposed BBD volume increases compared to the No RFS Baseline will come from soy, corn, and canola,[54] these impacts are very likely.

### E. Soil and Water Quality

As EPA recognizes, "[t]he conversion of grasslands or other lands to production of agriculture for biofuel feedstocks adversely affects soil quality, with increases in erosion and the loss of soil nutrients, soil organic matter, and soil carbon."[55] Further, "extensification of cropland typically corresponds with an increase in nutrient (nitrogen and phosphorus) and sediment pollution from agricultural runoff," as well as "an increase in pesticide use which detrimentally affects nearby and downstream water quality."[56] Therefore, "[a]n increase in cropland acreage for renewable fuel production and consumption in the U.S.," which, as explained above, has happened in the past and is almost certain in the future, "would generally be expected to lead to more negative soil and water quality impacts."[57] Indeed, EPA finds that the projected BBD volume changes, if supplied by crop-based feedstocks, "could contribute to further declines in soil and water quality."[58]

### F. Water Supply

The proposed volumes will also likely negatively impact water supplies. EPA finds that "while values will vary across states and counties, ethanol, biodiesel and renewable diesel made from vegetable oils are substantially more water intensive than the petroleum fuels they would displace."[59] Therefore, "there will likely be some increased irrigation pressure on water resources due to the Proposed Volumes."[60]

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In summary, while the exact impacts may be difficult to quantify, the DRIA shows that crop-based biofuels have a negative impact on *every* environmental statutory factor and that these harms only increase with higher required volume obligations.

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[52] *Id.*
[53] *Id.* at 163.
[54] *Id.* at 105 tbl. 3.3-6.
[55] *Id.* at 151.
[56] *Id.*
[57] *Id.* at 153.
[58] *Id.* at 156.
[59] *Id.* at 159.
[60] *Id.*

### ii. Food and Fuel Costs

The proposed volumes will also impose significant costs to consumers, increasing domestic food expenditures by $4.8 billion[61] and fuel prices by $13.43 billion[62] over the two years of the rule. EPA attempts to minimize these food and fuel costs by presenting them on a per consumer and per gallon scale. However, the total economic impacts are enormous when aggregated and will only add to the distress of Americans already struggling to keep up with inflation.[63] Indeed, the Proposed Rule's projected increase in food prices will only compound the 3 percent inflation in food prices Americans are currently experiencing.[64]

### iii. Energy Security

In contrast to these massive negative impacts, EPA finds minimal support in favor of the proposed volumes. While EPA touts the Proposed Rule for increasing energy security, it calculates that the energy security benefits would only be $406 million for 2026 and 2027 combined[65]—about 3 percent of the estimated increased fuel costs. Further, biofuels do not contribute significantly to energy security—only supplying 6 percent of U.S. transport fuel,[66] despite using 50 million acres of cropland, constituting 35 percent of U.S. corn production and 39 percent of U.S. soybean oil production.[67] And not only is this an insignificant benefit, it is called into question by the Proposed Rule's likely impact of requiring *increased* imports of BBD or vegetable oil since the proposed volumes cannot be met by existing production (*see* discussion *infra* Section IV) which would offset any purported national security benefit.

### iv. Impact on Rural Economies

EPA also claims that the proposed volumes are supported by their positive impact on rural economies, finding that the proposed volumes for crop-based biofuels will lead to roughly 100,000 jobs and around $10 billion in economic development per year.[68] However, EPA admits that these estimates do not represent net increases in jobs and rural GDP, but rather likely some

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[61] *Id.* at 389 tbl. 9.4-3.
[62] *Id.* at 441 tbl. 10.4.2.1.2-3.
[63] According to the Bureau of Labor Statistics, from July 2024 to June 2025, the Consumer Price Index for all items rose 2.7 percent. *Consumer Price Index Summary*, U.S. Bureau of Lab. Stats., https://www.bls.gov/news.release/cpi.nr0.htm (last visited Aug. 8, 2025).
[64] *Id.*
[65] DRIA at 259 tbl. 6.4.3-2.
[66] *Use of Energy Explained – Energy Use for Transportation*, U.S. Energy Info. Admin., https://www.eia.gov/energyexplained/use-of-energy/transportation.php (last updated Aug. 16, 2023).
[67] Chad Hellwinckel et al., U.S. Dep't of Energy, *Chapter 5: Biomass from Agriculture*, *in 2023 Billion-Ton Report*, 102–03 (2023), https://www.energy.gov/sites/default/files/2024-03/beto-2023-billion-ton-report_5-agriculture.pdf.
[68] Proposed Rule, 90 Fed. Reg. at 25830tbl. V.H.1-1.

migration of jobs and capital from other sectors of the rural economy.[69] In other words, on a net level, EPA finds at best minimal benefit to rural economies.

#### v. Production and Infrastructure

For the proposed BBD volumes, EPA analyzes the sufficiency of the biofuels production and distribution infrastructure capacity to produce, deliver, and use renewable fuel. While these factors could certainly help delineate the upper bounds of what RFS volumes could realistically achieve, they offer little guidance as to what volumes would be ideal under that limit. However, EPA appears to have weighed production capacity heavily in its determination of the final volumes, admitting that "a central and critical factor influencing final volume requirements was our assessment of the availability of qualifying feedstocks."[70] Moreover, as discussed further below, EPA's own assessment shows that domestic production is insufficient to achieve the proposed volumes, so EPA's finding that production capacity is adequate to meet these volumes is only possible based on a large increase in vegetable oil imports for fuel and food uses. While EPA analyzed the sufficiency of these factors, EPA finds little or no benefit associated with U.S. production and infrastructure from the proposed volumes.

### c. EPA Must Reasonably and Properly Consider *All* the Statutory Factors and Not Give Dispositive Weight to a Subset.

In the end, EPA's own analysis of the various factors belies the justifications it provides for setting volumes that will massively increase the production and consumption of crop-based biofuels. While EPA is not required by statute to conduct a formal cost-benefit analysis, it must reach a "reasonable" decision that is "reasonably explained."[71] EPA must not only examine the relevant data, but also "articulate a satisfactory explanation for its action."[72]

In the Proposed Rule, EPA failed to reasonably explain why it chose the proposed volumes, given all the associated harms that EPA finds will result. EPA irrationally touts the climate benefits of crop-based biofuels while its own climate analysis finds that, to the contrary, crop-based biofuels increase GHG emissions. At the same time, EPA unjustifiably relies on uncertainty in the specific magnitude of the air quality, water quality and quantity, and

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[69] *Id.*("[O]ur estimates for jobs and rural development impacts are gross estimates and not net estimates."); *see also* DRIA at 374 ("[W]hile we estimate that production and consumption of these biofuels will lead to higher jobs and rural GDP in some sectors of the economy, this will likely involve some migration in jobs and rural GDP from other sectors. As such, we anticipate that there would be job and rural GDP losses as well in some sectors. Likewise, investments in rural development may involve some shifting of capital from one sector to another. We do not account for any such losses in our analysis. In other words, our estimates for jobs and rural development impacts are gross estimates and not net estimates.").

[70] DRIA at 290.

[71] *Ctr. for Biological Diversity*, 141 F.4th at 168 (quoting *Cmtys. for a Better Env't v. EPA*, 748 F.3d 333, 335 (D.C. Cir. 2014)).

[72] *Motor Vehicle Mfrs. Ass'n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 30 (1983).

ecosystem and habitat harms caused by the production of crop-based biofuels as a reason to seemingly ignore them, when it is clear that they all counsel lower volumes to avoid grave harm. Further, EPA acknowledges, but largely obscures, the significant consumer and social costs of the Rule, which dwarf the supposed energy security and rural economic development benefits, which themselves are likely close to zero on a net basis. Under the EISA, EPA cannot reasonably elect to give dispositive weight to tiny energy security benefits and production capacity while ignoring the devastating environmental and consumer harms that come from using food crops as fuel. EPA's analysis cannot stand, and EPA's proposed volumes must be significantly reduced.

## III. EPA Must Reassess Whether Crop-Based Biofuels Qualify as Renewable Fuels.

In this Set Rule, EPA must reassess whether crop-based biofuels qualify as renewable fuels. The EISA requires EPA to determine which biofuel pathways sufficiently reduce lifecycle GHG emissions to qualify as renewable fuels. For conventional biofuels like corn ethanol, this requires at least a 20 percent reduction compared to fossil fuel emissions[73] and for advanced biofuels and biomass-based diesel, it requires at least a 50 percent reduction.[74]

In 2010, based on then available lifecycle greenhouse gas assessment analyses, EPA found that ethanol from corn starch and biodiesel can be produced to comply with the required threshold reductions.[75] However, at the same time, it noted "significant uncertainties associated with these estimates, particularly with regard to indirect land use change and the use of economic models to project future market interactions."[76] Recognizing the evolving state of scientific knowledge in this area, EPA committed to "revisit our lifecycle analyses in the future as new information becomes available."[77] Over the last fifteen years, researchers have further studied the lifecycle GHG emissions associated with crop-based biofuels, new models to evaluate the

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[73] 42 U.S.C. § 7545(o)(2)(A)(i) ("Not later than 1 year after December 19, 2007, the Administrator shall revise the regulations under this paragraph to ensure that . . .any such renewable fuel produced from new facilities that commence construction after December 19, 2007 [] achieves at least a 20 percent reduction in lifecycle greenhouse gas emissions compared to baseline lifecycle greenhouse gas emissions.")

[74] 42 U.S.C. § 7545(o)(1)(B)(i) ("The term 'advanced biofuel' means renewable fuel, other than ethanol derived from corn starch, that has lifecycle greenhouse gas emissions, as determined by the Administrator, after notice and opportunity for comment, that are at least 50 percent less than baseline lifecycle greenhouse gas emissions."); *id.* § 7545(o)(1)(D) ("The term 'biomass-based diesel' means renewable fuel that is biodiesel as defined in section 13220(f) of this title and that has lifecycle greenhouse gas emissions, as determined by the Administrator, after notice and opportunity for comment, that are at least 50 percent less than the baseline lifecycle greenhouse gas emissions.").

[75] Regulation of Fuels and Fuel Additives: Changes to Renewable Fuel Standard Program, 75 Fed. Reg. 14670 (Mar. 26, 2010).

[76] *Id.* at 14765.

[77] *Id.* at 14670, 14765 ("EPA recognizes that as the state of scientific knowledge continues to evolve in this area, the lifecycle GHG assessments for a variety of fuel pathways will continue to change. Therefore, . . . the Agency is also committing to further reassess these determinations and lifecycle estimates.").

GHG emissions of biofuels have been developed, and over a decade of historical observations on the RFS program's effects are now available.[78] The U.S. Court of Appeals recently found that EPA's stubborn reliance on its admittedly outdated 2010 findings, when it was well aware of more recent and thorough studies that showed very different results, was arbitrary and capricious.[79] However, to date, EPA has not reconsidered whether crop-based biofuels qualify as renewable fuels based upon the statutory threshold emissions reductions through the rulemaking process.

As EPA's own climate analysis for the current and prior Set Rules shows, the most up-to-date science and modeling raise serious questions as to whether crop-based biofuels meet the statutory emissions reductions. In the prior Set Rule, EPA's literature review showed a wide range of GHG emissions from corn ethanol and soy diesel. In the Regulatory Impact Analysis for that rule (Set Rule 1 RIA), EPA estimated that the lifecycle emissions of petroleum gasoline and petroleum diesel range from 84–98 grams of carbon dioxide equivalent per megajoule of energy (gCO2e/MJ).[80] Thus, to meet the 80 percent (20 percent reduction) threshold, ethanol must have lifecycle emissions no higher than 67–78 gCO2e/MJ. In EPA's literature review, seven of the twenty estimates from the models for ethanol's lifecycle GHG emissions were above the upper bound of that threshold.[81] To meet the 50 percent threshold, advanced biofuels must have lifecycle emissions no higher than 42–49 gCO2e/MJ. In EPA's Set Rule 1 RIA literature review for soybean oil biodiesel lifecycle emissions, five of the nineteen estimates were higher than the upper bound of this range.[82] For soybean oil renewable diesel, six of the fourteen model estimates exceeded the upper range of the 50 percent reduction.[83] Indeed, some of these models showed crop-based biofuels have higher emissions than those from fossil fuel. Thus, this literature review casts significant doubt on EPA's finding that crop-based biofuels meet the statutory standards.

Moreover, for the prior Set Rule, EPA also conducted a Model Comparison Exercise which compared climate emissions from biofuels using three separate models. In two of the three models, there were significant increases in GHG emissions associated with increasing demand for biodiesel—in other words that biofuel GHG emissions were higher than petroleum fuel

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[78] EPA, *Model Comparison Exercise Technical Document* 1 (2023), https://nepis.epa.gov/Exe/ZyPDF.cgi/P1017P9B.PDF?Dockey=P1017P9B.PDF.
[79] *See Ctr. for Biological Diversity*, 141 F.4th at 162 (holding that EPA "failed to adequately explain why—for purposes of addressing lifecycle greenhouse gas (GHG) emissions associated with crop-based biofuels—it re-used the results of an admittedly outdated study instead of newer data collected from EPA's literature review of the most reliable post-2010 findings").
[80] EPA, *Renewable Fuel Standard (RFS) Program: Standards for 2023-2025 and Other Changes – Regulatory Impact Analysis* 132–33 (2023) (Set Rule 1 RIA), https://nepis.epa.gov/Exe/ZyPDF.cgi?Dockey=P1017OW2.pdf.
[81] *Id.* at135 fig. 4.2.2.3-1; EPA Sci. Advisory Bd., *Commentary on the Volume Requirements for 2023 and Beyond Under the Renewable Fuel Standard Program (RIN 2060-AV14)*, at 3 (2023), https://sab.epa.gov/ords/sab/r/sab_apex/sab/advisoryreports?session=9940548294829.
[82] *Id.* at fig. 4.2.2.4-1.
[83] *Id.* at fig. 4.2.2.5-1.

emissions and thus vary far from the required 20 and 50 percent reduction requirements.[84] These two analyses further undermine EPA's prior conclusion that crop-based biofuels satisfy the definition of conventional renewable fuel or advanced biofuels.

Indeed, these findings prompted the Science Advisory Board to issue a report urging EPA to revisit whether crop-based biofuels qualify as renewable fuel, noting that recent studies "conclude that there are minimal or no climate benefits from substituting corn ethanol for gasoline or diesel," and it recommended that EPA "further evaluate the role the RFS plays in reducing GHG emissions."[85] The SAB also admonished that future rulemakings should more directly address the scientific question of whether crop-based biofuels meet the reduction thresholds to qualify as renewable fuels.

In the Proposed Rule, EPA has failed to heed the results of its own earlier analyses or act on the SAB's recommendation. However, the Set Rule 2 DRIA in fact only provides additional evidence that crop-based biofuels may not reduce emissions at all, let alone reduce them by the requisite amount. As discussed, above, the DRIA's model analysis shows *increases* in net emissions, not significant decreases. The GCAM model analysis shows that the Proposed Rule would increase volumes, so obviously according to that model they do not meet the emission reduction threshold. Dividing the net emissions from the increase in crop-based fuels under the proposal relative to the No RFS baseline by their total energy content yields a net emissions increase of 17.8 gCO2e/MJ above the emissions that would have occurred without the proposal. Since the emissions intensity of petroleum diesel is 91 gCO2e/MJ, that means that GCAM calculates that the emissions intensity of the crop-based fuels produced as a result of the proposal is 120 percent of petroleum fuel. In the case of GLOBIOM, the result is a net emissions reduction of 19.6 gCO2e/MJ, meaning the emissions intensity of crop-based fuels produced as a result of the proposal is 79 percent of petroleum fuel (even accepting the questionable accounting of petroleum fuel reductions EPA used)—well above the 50 percent threshold for advanced biofuels.[86]

EPA's discussion obscures this reality because the crop-based BBD and conventional renewable fuels are lumped together in this analysis, making it impossible to assess the emissions impact of each fuel type independently. However, given that over 90 percent of the volume changes for crop-based fuels are BBD and the fact that the combined projected emissions reduction barely meets the 20 percent threshold in the best case, it is clear that the crop-based BBD fuels fail to meet the 50 percent threshold required to qualify as advanced biofuels.

In this Set Rule, EPA must follow through on the commitments it made in 2010 to reassess its determinations that corn-based ethanol and soy-based biodiesel meet the statutory emissions reduction thresholds. EPA cannot reasonably explain or justify its decision to continue

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[84] *Model Comparison Exercise Technical Document*, *supra* note 78 at 113tbl. 7.7-1.
[85] EPA Sci. Advisory Bd., *supra* note 81 at 1, 4.
[86] GCAM: 219.9 MMTCO2e/12.37MMJ = 17.8 g/MJ; GLOBIOM: -241.9 MMTCO2e/12.37 MMJ = -19.6 g/MJ

to rely on its 2010 determinations, which it has explicitly acknowledged were flawed,[87] in light of the findings from its own updated climate analyses. Therefore, it would be arbitrary[88] for EPA to not reevaluate whether crop-based biofuels qualify as renewable fuel, just as it is doing by reevaluating whether electricity from combusting renewable biomass qualifies as a renewable fuel.[89]

## IV. EPA Should Not Reduce the RINs for Imported Renewable Fuels.

In the Proposed Rule, EPA proposes an "import RIN Reduction" of 50 percent for imported renewable fuel and renewable fuel produced domestically from foreign feedstocks.[90] The stated goals of this proposal are to "reduce America's reliance on import-based renewable fuels, enhance energy security, promote domestic-based renewable fuel production, [] keep more of the economic benefits of the RFS program within the U.S."[91] and strengthen the program's environmental protections.[92]

However, because the proposed volumes exceed domestic renewable fuel production capacity, reducing RINs for imported biofuel feedstocks will result in increased imports and higher effective volumes, undermining any energy security benefits and worsening the program's environmental impacts without spurring significant additional domestic production. In 2024, the U.S. produced 3.14 billion gallons of BBD, comprising 54.5 percent of total BBD produced.[93] Moving forward, EPA predicts that domestic BBD feedstock production could increase by 275 million gallons per year,[94] which would result in 3.69 billion gallons of domestic BBD feedstock in 2026 and 3.965 billion gallons of domestic BBD feedstock in 2027. However, the proposed volumes for those years are over 3 billion gallons higher than the predicted domestic supply.[95] This gaping hole can only be met by increasing imports of biofuels or shuffling of vegetable oil out of food markets and into fuel markets, which will lead to greater imports of vegetable oil for domestic food markets. Since the proposed volumes cannot be met with domestic production, the discounting RINs for imported biofuel feedstocks will not reduce imports. Quite the opposite—

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[87] Renewable Fuel Standard (RFS) Program: Standards for 2023-2025 and Other Changes, 88 Fed. Reg. 44468, 44501 (July 12, 2023) ("[W]e acknowledge that the biofuel GHG modeling framework EPA has previously relied upon is old, and that a better understanding of these newer models and data is needed.").

[88] *See Ctr. for Biological Diversity*, 141 F.4th at 168(holding that "EPA failed to articulate a 'rational connection between the facts found and the choice made' to use the results of the 2010 study, which, absent further explanation, renders its climate change analysis arbitrary" (quoting *Motor Vehicle Mfrs. Ass'n*, 463 U.S. at 43)).

[89] Proposed Rule, 90 Fed. Reg. at 25842 ("We are proposing to remove renewable electricity from the RFS program on the ground that, under the best reading of the statute, renewable electricity is not a renewable fuel.").

[90] *Id.* at 25837.

[91] *Id.* at 25837–38.

[92] *Id.* at 25839.

[93] DRIA at 94tbl. 3.2-4.

[94] *Id.* at 304tbl. 7.2.4.4-1.

[95] *Id.* at 97tbl. 3.2-6.

since the overall size of the RFS volumes will not be adjusted, the US will need to import twice the volume of imports required to meet the portion of the RFS mandate that cannot be met with domestic feedstocks and fuels.

This increase in imports—driven by excessively high volumes—would drive global environmental harms, particularly associated with land use conversion, and increase energy security and energy independence risks. As discussed further below, the increasing U.S. demand for biofuels from the RFS program is likely driving millions of acres of international cropland conversion, with its associated climate, soil, and water harms. Further, "concerns have been raised about the possibility that the RFS program is contributing to palm oil expansion and its related environmental effects," including deforestation.[96] EPA also notes that increases in biofuel imports also increase "exposures to global energy supply disruptions and price spikes" creating "risks to energy security."[97] Increasing biofuel imports also runs counter to EPA's stated findings that "it is necessary to reduce . . . all energy imports to the U.S. to achieve independence."[98] Given that the proposed RIN reduction for imported renewable fuels would directly undermine its stated environmental and energy security goals, EPA should reject this proposal.

## V. The Proposed Volumes Will Drive International Cropland Conversion, Violating the Requirement that Renewable Fuels Only Come from Land Cleared or Cultivated Prior to the Passage of the EISA.

To avoid the climate and environmental harms associated with the conversion of uncultivated land—including the release of tremendous volumes of GHG and degradation of biodiversity and habitat—the EISA provides that land used to grow qualifying crops must have been in cultivation at the time of the statute's passage.[99]

Under the EISA, "renewable biomass" includes crop-based biomass, which is defined as "[p]lanted crops and crop residue harvested from agricultural land cleared or cultivated at any time prior to the enactment of this sentence that is either actively managed or fallow, and nonforested."[100] Thus, for crops to count towards the renewable fuels volume mandate, the land on which they are grown must meet three criteria: it must have been (1) cleared or cultivated at any time prior to 2007, (2) actively managed or fallow in 2007, and (3) nonforested in 2007. These requirements prevent land that was not cultivated before 2007 or in cultivation as of the date of the EISA's passage from being used to increase biofuel production, thereby reducing the release of significant amounts of greenhouse gas emissions from the initial turning of the soil for cultivation as cropland, while avoiding the negative environmental impacts associated with land conversion.

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[96] RtC3 at 16-35.
[97] DRIA at 232.
[98] *Id.*
[99] *See* 42 U.S.C. § 7545(o)(1)(I).
[100] EISA § 201(1)(I)(i).

EPA attempts to enforce these restrictions using various strategies that apply to both domestic and foreign producers and importers.[101] However, the past success of these efforts is questionable, given that EPA estimates that the RFS program's effects on corn ethanol could have driven up to 1.9 million acres of domestic cropland expansion and up to 1.6 million acres of international cropland expansion.[102] Further, while not quantified, EPA finds that the RFS program's effects on soy biodiesel global land conversion are uncertain but potentially significant.[103] Given that 50 million acres of U.S. cropland are already dedicated to biofuel production, these estimates of past land conversion are likely underestimates. And the feasibility of meeting these restrictions for the proposed volumes is highly doubtful given that EPA's own climate modeling predicts that the proposed volumes will result in the conversion of millions of acres to crop-production globally.

Since it is likely that the proposed volumes will drive further international land conversion in violation of EISA requirements, they are contrary to the purpose and intent of the law and must be lowered.

## VI. Conclusion

For the foregoing reasons, we urge EPA to consider the statutory factors holistically for each proposed fuel-type obligation, which weigh in favor of lower advanced biofuel and conventional fuel volumes, to reassess whether crop-based biofuels qualify as renewable fuels, to reject the proposal to reduce RINs for imported renewable fuels, and ultimately to lower the proposed volumes to levels that do not rely on imported feedstocks or increased allocation of domestic food crops to fuel production and that will not drive further land conversion prohibited under the EISA.

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[101] Regulations give producers and importers three options to show compliance with the requirement that crop-based biofuel feedstocks come from land that was cleared or cultivated prior to 2007: (1) individual tracking, requiring producers or importers to keep maps or electronic data showing where each feedstock was harvested, the quantity of feedstock purchased from each area, and records sufficient to verify that the feedstock came from land cleared or cultivated prior to the EISA's enactment (40 C.F.R. § 80.1454(c)(1)); (2) aggregate compliance, which excuses producers and importers from recordkeeping requirements for producers from countries where EPA has determined that its total amount of agricultural land is no higher than it was in 2007 (*id.* § 80.1454(g)); and (3) the alternative tracking requirement, where a "foreign or domestic renewable fuel producer or RIN-generating importer" can participate in an industry-funded program in which an "independent third party conduct[s] a comprehensive program of annual compliance surveys" and must "[c]onfirm that feedstocks used to produce RIN-generating renewable fuels" come from qualifying land (*id.* § 80.1454(h)).

[102] RtC3 at ES-3, 16-3.

[103] *Id.* at 16-3.

Respectfully submitted,

**Organizations**
Earthjustice
National Wildlife Federation
World Resources Institute
350 Seattle
Biofuelwatch
The Climate Center
Dogwood Alliance
Food & Water Watch
Food Animal Concerns Trust
Freshwater Future
Friends of Bell Smith Springs
Friends of the Earth
GreenLatinos
Kentucky Waterways Alliance
Native Sun Community Power Development
Ohio River Foundation
Pace Energy and Climate Center
Partnership for Policy Integrity
Pivot Point
Plug In America
Resource Renewal Institute
Rural Empowerment Association for Community Help
Sierra Club

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