



July 17, 2024
Administrator Michael Regan
U.S. Environmental Protection Agency
William Jefferson Clinton Building
1200 Pennsylvania Avenue, N.W.
Mail Code: 1101A
Washington, D.C. 20460

Re: Notice of Intent to Sue for Failure to Issue Timely 2026 Renewable Fuel Standard Volumes

Dear Administrator Regan:

Clean Fuels Alliance America¹ hereby provides notice of its intent to sue the Environmental Protection Agency (“EPA”) pursuant to 42 U.S.C. § 7604(a)(2) to enforce EPA’s non-discretionary duty to set the Renewable Fuel Standard (RFS) volume for 2026.

The deadline for EPA to set the 2026 RFS volumes is October 31, 2024 – just over three months from today. *See* 42 U.S.C. § 7545(o)(2)(B)(ii). Yet, the Unified Regulatory Agenda maintained by OMB shows that EPA plans to issue a proposed rule in March 2025 and a final rule in December 2025. Clearly, EPA has already determined that it will miss the upcoming statutory deadline.

EPA’s failure to timely issue the 2026 RFS volumes compounds another issue: EPA set the volumes for 2023 through 2025 too low. As explained in Clean Fuels’ petition for reconsideration of the 2024 and 2025 volumes, EPA set biomass-based diesel and advanced volumes for those years significantly below what the industry can achieve. The result has been a crash in RIN prices, shuttered production facilities, and cancellations of planned facility expansions.

While EPA can and should reconsider and revise its 2024 and 2025 volumes, it should at a minimum set a timely 2026 volume. Doing so is imperative to get the program back on track by

¹ Clean Fuels is the U.S. trade association representing the entire biodiesel, renewable diesel, and sustainable aviation fuel supply chain, including producers, feedstock suppliers and fuel distributors. Made from an increasingly diverse mix of resources such as recycled cooking oil, soybean oil, and animal fats, the clean fuels industry is a proven, integral part of America’s clean energy future. We serve as the clean fuel industry’s primary organization for technical, environmental, and quality assurance programs and are the strongest voice for its advocacy, communications, and market development.

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setting a robust volume that can achieve Congress’s desire to “overcome the constraints in the market by creating demand pressure to increase consumption of renewable fuels.”² Until EPA sets such a volume, it will continue to miss an opportunity to reduce greenhouse gas emissions, promote a domestic, renewable energy economy, and further enhance all of the other benefits the RFS program provides.

Therefore, Clean Fuels urges EPA to promptly issue a notice of proposed rulemaking for the 2026 RFS volume. It is imperative that EPA do so as soon as possible so that it can solicit and consider comments and issue a final volume by the statutory deadline, or as soon as possible thereafter. Should EPA fail to issue a proposed rule within 60 days of this notice, Clean Fuels reserves its right to sue for relief.

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If you have any questions regarding this notice, please do not hesitate to contact Kurt Kovarik at (202) 737-8801.

Respectfully Submitted,



Kurt Kovarik
Vice President, Federal Affairs
Clean Fuels Alliance America

² *Americans for Clean Energy v. Env't Prot. Agency*, 864 F.3d 691, 710 (D.C. Cir. 2017).