

U. S. SECURITIES AND EXCHANGE COMMISSION  
Washington, D.C. 20549

AMENDMENT NO. 2 TO  
FORMS-3  
REGISTRATION STATEMENT  
UNDER  
THE SECURITIES ACT OF 1933

**PACIFIC ETHANOL, INC.**

(Exact name of registrant as specified in its charter)

**Delaware**  
(State or other jurisdiction of  
incorporation or organization)

**2860**  
(Primary Standard Industrial  
Classification Code No.)

**41-2170618**  
(I.R.S. Employer  
Identification No.)

**400 Capitol Mall, Suite 2060, Sacramento, California 95814**  
**(916) 403-2123**

(Address and telephone number of principal executive offices  
and principal place of business)

**Neil Koehler**  
**President and Chief Executive Officer**  
**Pacific Ethanol, Inc.**  
**400 Capitol Mall, Suite 2060**  
**Sacramento, California 95814**  
**(916) 403-2123**

(Name, address and telephone number of agent for service)

*Copies of all correspondence to:*

**Larry A. Cerutti, Esq.**  
**Rushika Kumararatne, Esq.**  
**Rutan & Tucker, LLP**  
**611 Anton Boulevard, 14<sup>th</sup> Floor**  
**Costa Mesa, California 92626**  
**(714) 641-5100 / (714) 546-9035 (fax)**

**Approximate date of proposed sale to the public:** From time to time after this Registration Statement becomes effective.

If the only securities being registered on this Form are being offered pursuant to dividend or interest reinvestment plans, please check the following box.

If any of the securities being registered on this Form are to be offered on a delayed or continuous basis pursuant to Rule 415 under the Securities Act of 1933, other than securities offered only in connection with dividend or interest reinvestment plans, check the following box.

If this Form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, please check the following box and list the Securities Act registration number of the earlier effective registration statement for the same offering.

If this Form is a post-effective amendment filed pursuant to Rule 462(c) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering.

If this Form is a registration statement pursuant to General Instruction I.D. or a post-effective amendment thereto that shall become effective upon filing with the Commission pursuant to Rule 462(e) under the Securities Act, check the following box.

If this Form is a post-effective amendment to a registration statement filed pursuant to General Instruction I.D. filed to register additional securities or additional classes of securities pursuant to Rule 413(b) under the Securities Act, check the following box.

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See the definitions of "large accelerated filer," "accelerated filer" and "smaller reporting company" in Rule 12b-2 of the Exchange Act. (Check one):

Large accelerated filer

Accelerated filer

Non-accelerated filer  (Do not check if a smaller reporting company)

Smaller reporting company

**CALCULATION OF REGISTRATION FEE**

Title of Each Class of Securities To Be Registered(1)	Amount To Be Registered	Proposed Maximum Offering Price Per Security(2)	Proposed Maximum Aggregate Offering Price	Amount of Registration Fee(3)
Debt Securities	—	—	—	—
Common Stock, par value \$0.001 per share	—	—	—	—

Preferred Stock, par value \$0.001 per share	—	—	—	—
Warrants	—	—	—	—
Units	—	—	—	—
Total	—	—	\$100,000,000	\$11,460(4)

- (1) There are being registered hereunder such indeterminate number of shares of common stock and preferred stock, such indeterminate principal amount of debt securities, such indeterminate number of units and such indeterminate number of warrants to purchase common stock, preferred stock and/or debt securities as may be sold by the registrant from time to time, which together shall have an aggregate initial offering price not to exceed \$100,000,000. If any debt securities are issued at an original issue discount, then the offering price of such debt securities shall be in such greater principal amount at maturity as shall result in an aggregate offering price not to exceed \$100,000,000. Any securities registered hereunder may be sold separately or as units with the other securities registered hereunder. The proposed maximum offering price per unit will be determined from time to time by the registrant in connection with the issuance by the registrant of the securities registered hereunder. The securities registered hereunder also include such indeterminate number of shares of common stock and preferred stock and amount of debt securities as may be issued upon conversion of or exchange for preferred stock or debt securities that provide for conversion or exchange, upon exercise of warrants or pursuant to the antidilution provisions of any such securities. In addition, this registration statement relates to an indeterminate amount of shares of common stock that may be issued as a result of stock splits, stock dividends or similar transactions in accordance with Rule 416 under the Securities Act.
- (2) The proposed maximum aggregate offering price per class of security will be determined from time to time by the registrant in connection with the issuance by the registrant of the securities registered hereunder and is not specified as to each class of security pursuant to General Instruction II.D. of Form S-3 under the Securities Act.
- (3) Calculated pursuant to Rule 457(o) under the Securities Act.
- (4) Previously paid.

**The Registrant hereby amends this registration statement on such date or dates as may be necessary to delay its effective date until the Registrant shall file a further amendment which specifically states that this registration statement shall thereafter become effective in accordance with Section 8(a) of the Securities Act of 1933 or until the registration statement becomes effective on such date as the Commission, acting under Section 8(a), may determine.**

## EXPLANATORY NOTE

This Amendment No. 2 to Form S-3 is being filed by the Registrant, Pacific Ethanol, Inc., solely to include the legal opinion of Rutan & Tucker, LLP filed as Exhibit 5.1 to this filing.

### ITEM 16. EXHIBITS

Exhibit Number	Description	Incorporation by Reference				Filed Herewith
		File Form	File Number	Exhibit Number	Filing Date	
1.1	Form of Underwriting Agreement for Common Stock*					
1.2	Form of Underwriting Agreement for Preferred Stock*					
1.3	Form of Underwriting Agreement for Units*					
1.4	Form for Underwriting Agreement for Senior and Subordinated Debt Securities*					
4.1	Certificate of Incorporation	8-K	000-21467	3.1	03/29/2005	
4.2	Certificate of Amendment to Certificate of Incorporation	10-Q	000-21467	3.4	08/16/2010	
4.3	Certificate of Amendment to Certificate of Incorporation	8-K	000-21467	3.1	06/07/2011	
4.4	Certificate of Designations, Powers, Preferences and Rights of the Series A Cumulative Redeemable Convertible Preferred Stock	10-KSB	000-21467	3.2	04/14/2006	
4.5	Certificate of Designations, Powers, Preferences and Rights of the Series B Cumulative Convertible Preferred Stock	8-K	000-21467	10.2	03/27/2008	
4.6	Bylaws	8-K	000-21467	3.2	03/29/2005	
4.7	Specimen Common Stock Certificate	S-3	333-180731	4.7	04/13/2012	
4.8	Form of Senior Debt Indenture	S-3	333-180731	4.8	04/13/2012	
4.9	Form of Subordinated Debt Indenture	S-3	333-180731	4.9	04/13/2012	
4.10	Form of Senior Debt Security*					
4.11	Form of Subordinated Debt Security*					
4.12	Form of Certificate of Designations Creating New Series of Preferred Stock*					
4.13	Form of Specimen Preferred Stock Certificate*					
4.14	Form of Common Stock Warrant Agreement and Warrant Certificate*					
4.15	Form of Preferred Stock Warrant Agreement and Warrant Certificate*					
4.16	Form of Debt Securities Warrant Agreement and Warrant Certificate*					
4.17	Form of Unit Agreement*					
5.1	Opinion of Rutan & Tucker, LLP					X
12.1	Statement of Computation of Ratio of Earnings to Fixed Charges	S-3	333-180731	12.1	04/13/2012	
23.1	Consent of Rutan & Tucker, LLP (contained in Exhibit 5.1)					
23.2	Consent of Independent Registered Public Accounting Firm	S-3	333-180731	23.2	05/11/2012	
24.1	Power of Attorney (included on signature page to the initial filing of this Registration Statement)	S-3	333-180731	24.1	04/13/2012	
25.1	Statement of Eligibility of Trustee under the Senior Debt Indenture#					
25.2	Statement of Eligibility of Trustee under the Subordinated Debt Indenture#					

\* If applicable, to be filed by amendment or by a report filed under the Securities Exchange Act of 1934, as amended, and incorporated herein by reference.

# To be incorporated herein by reference from a subsequent filing in accordance with Section 305(b)(2) of the Trust Indenture Act of 1939.

## SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, the Registrant has duly caused this Registration Statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Sacramento, State of California, on this 15<sup>th</sup> day of May, 2012.

**Pacific Ethanol, Inc.,  
a Delaware corporation**

By: /s/ NEIL M. KOEHLER

Neil M. Koehler  
Chief Executive Officer

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed by the following persons in the capacities and on the dates indicated.

<u>Signature</u>	<u>Title</u>	<u>Date</u>
<u>*</u> William L. Jones	Chairman of the Board and Director	May 15, 2012
<u>/s/ NEIL M. KOEHLER</u> Neil M. Koehler	President, Chief Executive Officer (principal executive officer) and Director	May 15, 2012
<u>*</u> Bryon T. McGregor	Chief Financial Officer (principal financial and accounting officer)	May 15, 2012
<u>*</u> Terry L. Stone	Director	May 15, 2012
<u>*</u> John L. Prince	Director	May 15, 2012
<u>*</u> Douglas L. Kieta	Director	May 15, 2012
<u>*</u> Larry D. Layne	Director	May 15, 2012
<u>*</u> Michael D. Kandris	Director	May 15, 2012
<u>*/s/ NEIL M. KOEHLER</u> Neil M. Koehler, Attorney-In-Fact		May 15, 2012

**EXHIBITS FILED HERewith**

**Exhibit  
Number**

**Description**

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5.1	Opinion of Rutan & Tucker, LLP
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**EXHIBIT 5.1**

[LETTERHEAD OF RUTAN & TUCKER, LLP]

May 15, 2012

Pacific Ethanol, Inc.  
400 Capital Mall, Suite 2060  
Sacramento, CA 95814

Re: Registration Statement on Form S-3

Ladies and Gentlemen:

We have acted as counsel to Pacific Ethanol, Inc., a Delaware corporation (the "Company"), in connection with the filing on the date hereof with the Securities and Exchange Commission (the "Commission") of a registration statement on Form S-3 (the "Registration Statement") under the Securities Act of 1933, as amended (the "Securities Act"). You have provided us with a draft of the Registration Statement in the form in which it will be filed, which includes a base prospectus (the "Prospectus"). The Prospectus provides that it will be supplemented in the future by one or more supplements to the Prospectus, free writing prospectuses or term sheets (each, a "Prospectus Supplement").

The Registration Statement registers the offering and sale of an indeterminate amount and number of the following securities of the Company, which may be offered and sold from time to time on a delayed or continuous basis pursuant to Rule 415 of the General Rules and Regulations promulgated under the Securities Act, up to an aggregate offering price of \$100,000,000: (i) shares of the Company's common stock, par value \$.001 per share (the "Common Stock"); (ii) shares of the Company's preferred stock, par value \$.001 per share (the "Preferred Stock"), to be issued in one or more series; (iii) debt securities, which may be issued in one or more series (the "Debt Securities") under a form of senior indenture filed as Exhibit 4.8 to the Registration Statement or under a form of subordinated indenture filed as Exhibit 4.9 to the Registration Statement, as such indentures may be amended or supplemented from time to time (each an "Indenture" and collectively the "Indentures") to be entered into by and between the Company, as issuer, and a trustee (the "Trustee"); (iv) warrants to purchase Common Stock, Preferred Stock and/or Debt Securities in one or more series (the "Warrants"); and (v) units consisting of Common Stock, Preferred Stock, Debt Securities and/or Warrants in any combination (the "Units"). The Common Stock, Preferred Stock, Debt Securities, Warrants, and Units are referred to herein collectively as the "Securities."

This opinion letter is being furnished in connection with the requirements of Item 601(b)(5) of Regulation S-K under the Securities Act, and no opinion is expressed herein as to any matter pertaining to the contents of the Registration Statement, the Prospectus or any Prospectus Supplement, other than as expressly stated herein with respect to the issuance of the Securities.

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As such counsel and for purposes of our opinions set forth herein, we have examined and relied upon the original or copies, certified or otherwise identified to our satisfaction, of such documents, resolutions, certificates and instruments of the Company, and have reviewed certificates of public officials, statutes, records and such other instruments and documents and have made such investigations of law as we have considered necessary or appropriate as a basis for the opinions set forth in this opinion letter. In such examination, we have assumed (i) the genuineness of all signatures on all agreements, instruments and other documents submitted to us; (ii) the legal capacity and authority of all persons or entities executing all agreements, instruments and other documents submitted to us; (iii) the authenticity and completeness of all agreements, instruments, corporate records, certificates and other documents submitted to us as originals; (iv) that all agreements, instruments, corporate records, certificates and other documents submitted to us as certified, electronic, facsimile, conformed, photostatic or other copies conform to authentic originals thereof, and that such originals are authentic and complete; (v) the due authorization, execution and delivery of all agreements, instruments and other documents by all parties thereto; (vi) that no documents submitted to us have been amended or terminated orally or in writing except as has been disclosed to us; (vii) that the statements contained in the certificates and comparable documents of public officials, officers and representatives of the Company and other persons on which we have relied for the purposes of this opinion letter are true and correct; and (viii) that each of the officers and directors of the Company has properly exercised his or her fiduciary duties. As to all questions of fact material to this opinion letter and as to the materiality of any fact or other matter referred to herein, we have relied (without independent investigation) upon certificates or comparable documents of officers and representatives of the Company.

With your consent, we have assumed that (i) each of the Debt Securities, the Indentures and any related supplemental indenture, term sheet or certificate establishing the terms thereof, the Warrants and any related warrant agreement, the Units and any related unit agreement, and any purchase, underwriting or similar agreement (collectively, the "Documents") will be governed by the laws of the State of New York and that the choice of law is legally enforceable; (ii) the Warrants, warrant agreements, Units and unit agreements will contain all provisions required under the laws of the State of Delaware in respect of contracts for the sale of securities issued by a Delaware corporation; (iii) each of the Documents will be duly authorized, executed and delivered by the parties thereto; and (iv) each of the Documents will constitute valid and binding obligations of the parties thereto other than the Company, enforceable against such parties in accordance with their respective terms.

We also have assumed that none of (i) the execution, delivery and performance of any of the Documents, (ii) the terms of any of the Securities to be established after the date hereof, (iii) the issuance and delivery of such Securities, or (iv) the compliance by the Company with the terms of such Securities will (a) violate any applicable law, rule or regulation to which the Company is then subject or the Company's Certificate of Incorporation filed with the Secretary of State of the State of Delaware, as amended from time to time (the "Certificate of Incorporation") or its bylaws then in effect, (b) result in a breach of or default under any instrument or agreement then binding upon the Company or any of its properties, or (c) violate, or cause the Company not to comply with, any consent, approval, license, authorization, restriction or requirement imposed by, or any filing, recording or registration with, any court or governmental body having jurisdiction over the Company.

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We have further assumed that (i) the Registration Statement and any amendments thereto will have become effective under the Securities Act (and such effectiveness shall not have been terminated or rescinded) and comply with all applicable laws at the time the Securities are offered and issued as contemplated by the Registration Statement, Prospectus and applicable Prospectus Supplement; (ii) an appropriate Prospectus Supplement relating to the Securities offered thereby will have been prepared and filed with the Commission in compliance with the Securities Act and will comply with all applicable laws at the time the Securities are offered and issued as contemplated by the Registration Statement, Prospectus and such Prospectus Supplement; (iii) prior to any offering and sale of the Securities, the Company's board of directors, including any appropriate committee thereof, will take all corporate action necessary to duly authorize the price at which the Securities are to be issued and sold; (iv) the terms of the Securities will conform to the descriptions thereof in the Registration Statement, Prospectus, or applicable Prospectus Supplement and the corporate action of the Company authorizing the issuance and sale of such Securities; (v) all Securities will be issued and sold in compliance with the applicable provisions of the Securities Act, the Trust Indenture Act of 1939, if applicable, and the securities or blue sky laws of various states and in the manner stated in the Registration Statement, Prospectus and applicable Prospectus Supplement; (vi) the Indentures and the Trustee will have been qualified pursuant to the Trust Indenture Act of 1939 at the time the Securities are offered or issued (or such later time as may be permitted pursuant to the rules, regulations, interpretations or positions of the Commission) as contemplated by the Registration Statement; and (vii) the number of shares of Common Stock or Preferred Stock, as the case may be, offered pursuant to the Registration Statement, Prospectus and applicable Prospectus Supplement or, in the case of Debt Securities, Warrants and Units, as applicable, represented by, comprising or issuable upon exchange, exercise or conversion of such Securities, does not exceed, at the time of issuance of such Securities, the authorized but unissued shares of Common Stock or Preferred Stock, as the case may be.

Based upon and subject to the foregoing and the other matters set forth herein, it is our opinion that, as of the date hereof:

1. With respect to any shares of Common Stock to be offered by the Company pursuant to the Registration Statement (including any shares of Common Stock duly issued upon the exchange, exercise or conversion of Securities that are exchangeable or exercisable for, or convertible into, Common Stock), when (a) the issuance of such shares of Common Stock have been duly authorized by all necessary corporate action of the Company and (b) such shares of Common Stock have been duly issued and delivered against payment of the consideration therefor (not less than the par value of the Common Stock) as contemplated by the Registration Statement, Prospectus, any applicable Prospectus Supplement, any applicable Documents and such corporate action, such shares of Common Stock will be validly issued, fully paid and nonassessable.

2. With respect to any shares of Preferred Stock to be offered by the Company pursuant to the Registration Statement (including any shares of Preferred Stock duly issued upon the exchange, exercise or conversion of Securities that are exchangeable or exercisable for, or convertible into, Preferred Stock), when (a) a series of Preferred Stock has been duly established in accordance with the terms of the Certificate of Incorporation and applicable law and authorized by all necessary corporate action of the Company, (b) the relative rights, preferences, qualifications, and limitations of such series of Preferred Stock have been designated by all necessary corporate action of the Company and set forth in a Certificate of Designation properly filed with the Secretary of State of the State of Delaware, and (c) such shares of Preferred Stock have been duly issued and delivered against payment of the consideration therefor (not less than the par value of the Preferred Stock) as contemplated by the Registration Statement, Prospectus, any applicable Prospectus Supplement, any applicable Documents and such corporate action, such shares of Preferred Stock will be validly issued, fully paid and nonassessable.

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3. With respect to any series of Debt Securities to be offered by the Company pursuant to the Registration Statement, when (a) the applicable Indenture has been duly authorized, executed and delivered by the Company and the Trustee, (b) the specific terms of a particular series of Debt Securities have been duly established in accordance with such Indenture and applicable law, (c) such Debt Securities have been duly authorized by all necessary corporate action of the Company, duly authenticated by the Trustee and duly executed, issued and delivered against payment of the consideration therefor in accordance with such Indenture and as contemplated by the Registration Statement, Prospectus, any applicable Prospectus Supplement, any applicable Documents and such corporate action, and (d) if such Debt Securities are convertible into shares of Common Stock or Preferred Stock, such shares of Common Stock or Preferred Stock have been duly authorized and reserved for issuance by all necessary corporate action and in accordance with the applicable Indenture, such Debt Securities will constitute valid and binding obligations of the Company, enforceable against the Company in accordance with their terms.

4. With respect to any Warrants to be offered pursuant to the Registration Statement, when (a) a warrant agreement, if any, has been duly authorized, executed and delivered by the Company and the warrant agent named therein, (b) the specific terms of the particular issuance of Warrants have been duly established in accordance with such warrant agreement and applicable law and authorized by all necessary corporate action of the Company, (c) the Warrants have been duly executed, issued and delivered against payment therefor in accordance with such warrant agreement and as contemplated by the Registration Statement, the Prospectus, any applicable Prospectus Supplement, any applicable Documents and such corporate action, and (d) as applicable, (i) the shares of Common Stock or Preferred Stock issuable upon exercise of the Warrants have been duly authorized and reserved for issuance upon exercise of the Warrants and/or (ii) the Debt Securities issuable upon exercise of such Warrants have been duly authorized, executed and authenticated in accordance with the provisions of the applicable Indenture and reserved for delivery upon exercise of the Warrants, in each case by all necessary corporate action and in accordance with the terms of the Warrants and the warrant agreement, such Warrants will constitute valid and binding obligations of the Company, enforceable against the Company in accordance with their terms.

5. With respect to any Units to be offered by the Company pursuant to the Registration Statement, when (a) a unit agreement has been duly authorized, executed and delivered by the Company and the counterparty named therein, (b) the specific terms of the particular issuance of Units have been duly established in accordance with such unit agreement and applicable law and authorized by all necessary corporate action of the Company, (c) the Units have been duly executed, authenticated, issued and delivered against payment therefor in accordance with such unit agreement and as contemplated by the Registration Statement, the Prospectus, any applicable Prospectus Supplement, any applicable Documents and such corporate action, and (d) as applicable, (i) the shares of Common Stock or Preferred Stock comprising the Units have been duly authorized and reserved for issuance and/or (ii) the Debt Securities comprising such Units have been duly authorized, executed and authenticated in accordance with the provisions of the applicable Indenture and reserved for delivery, in each case by all necessary corporate action and in accordance with the terms of the Units and the unit agreement, such Units will constitute valid and binding obligations of the Company, enforceable against the Company in accordance with their terms.

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Pacific Ethanol, Inc.

May 15, 2012

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Our opinions are subject to (i) the effect of any bankruptcy, insolvency, reorganization, moratorium or similar laws and principles affecting creditors' rights generally (including, without limitation, fraudulent transfer or fraudulent conveyance laws); and (ii) the effect of general principles of equity (including, without limitation, concepts of materiality, reasonableness, good faith and fair dealing) and the availability of equitable remedies (including, without limitation, specific performance and equitable relief), regardless of whether considered in a proceeding in equity or at law.

We express no opinion with regard to the applicability or effect of the law of any jurisdiction other than the General Corporation Law of the State of Delaware and, with respect to our opinions relating to the enforceability of the Documents, the laws of the State of New York, in each case as in effect on the date hereof.

This opinion letter is prepared for your use in connection with the Registration Statement and may be relied upon by you and by persons entitled to rely upon it pursuant to the applicable provisions of the Securities Act solely for such purpose. We hereby consent to the filing of this opinion letter as Exhibit 5.1 to the Registration Statement and to the reference to our firm in the Prospectus under the heading "Legal Matters." In giving such consent, we do not admit that we are in the category of persons whose consent is required under Section 7 of the Securities Act or the rules and regulations of the Commission thereunder.

Very truly yours,

/s/ RUTAN & TUCKER, LLP

