6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 80 and 1090

[EPA-HQ-OAR-2024-0505; FRL-11947-03-OAR]

[RIN 2060-AW23]

Renewable Fuel Standard (RFS) Program: Standards for 2026 and 2027, Partial Waiver of 2025 Cellulosic Biofuel Volume Requirement, and Other Changes; Supplemental Notice of Proposed Rulemaking

AGENCY: Environmental Protection Agency (EPA).

ACTION: Supplemental proposed rule.

SUMMARY: On June 17, 2025, the U.S. Environmental Protection Agency (EPA) proposed volumes and percentage standards for four categories of renewable fuel that would apply to obligated parties in 2026 and 2027 under the Renewable Fuel Standard (RFS) program. On August 22, 2025, the EPA issued decisions on 175 small refinery exemption (SRE) petitions under the RFS program. This supplemental proposal takes into consideration the expected impacts of the SRE decisions issued. Based on this information, the EPA is co-proposing additional volumes in 2026 and 2027 representing complete (100 percent) reallocation and 50 percent reallocation for SREs granted in full or in part for 2023 and 2024, as well as those projected to be granted for 2025, as part of the ongoing RFS rulemaking. The EPA is also providing more information on its projection of SREs to inform the calculation of the 2026 and 2027 percentage standards.

DATES: *Comments.* Comments must be received on or before October 31, 2025.

Public hearing: The EPA will hold a virtual public hearing on October 1, 2025. Please refer to the **SUPPLEMENTARY INFORMATION** section for additional information on the public hearing.

ADDRESSES: *Comments*. Submit your comments, identified by Docket ID No. EPA-HQ-OAR-2024-0505, at *http://www.regulations.gov*. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from the docket. The EPA may publish any comment received to its public docket. Do not submit to the EPA's docket at *https://www.regulations.gov* any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the web, cloud, or other file sharing system). Please visit *https://www.epa.gov/dockets/commenting-epa-dockets* for additional submission methods; the full EPA public comment policy; information about CBI or multimedia submissions; and general guidance on making effective comments.

Public hearing. The virtual public hearing will be held on October 1, 2025. The hearing will begin at 9:00 a.m. Eastern Standard Time (EST) and end when all parties who wish to speak have had an opportunity to do so. All hearing attendees (including even those who do not intend to provide testimony) should register for the virtual public hearing by September 24, 2025. Information on how to register can be found at *https://www.epa.gov/renewable-fuel-standard-program/proposed-renewable-fuel-standards-2026-and-2027-supplemental-notice*. Additional information regarding the hearing appears below under **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: For information about this supplemental proposed rule, contact Dallas Burkholder, Assessment and Standards Division, Office of Transportation and Air Quality, Environmental Protection Agency, 2000 Traverwood Drive, Ann Arbor, MI 48105; telephone number: (734) 214-4766; email address: *RFS-*

Rulemakings@epa.gov. For questions regarding the public hearing, contact Nick Parsons at *RFS-Hearing@epa.gov*.

SUPPLEMENTARY INFORMATION:

Does this action apply to me? Entities potentially affected by this action are those involved with the production, distribution, and sale of transportation fuels (*e.g.*, gasoline and diesel fuel) and renewable fuels (*e.g.*, ethanol, biodiesel, renewable diesel, and biogas). Potentially affected categories include:

Category	NAICS[a] Codes	Examples of Potentially Affected Entities
Industry	111110	Soybean farming
Industry	111150	Corn farming
Industry	112111	Cattle farming or ranching
Industry	112210	Swine, hog, and pig farming
Industry	211130	Natural gas liquids extraction and fractionation
Industry	221210	Natural gas production and distribution
Industry	324110	Petroleum refineries (including importers)
Industry	325120	Biogases, industrial (*i.e.*, compressed, liquified, solid), manufacturing
Industry	325193	Ethyl alcohol manufacturing
Industry	325199	Other basic organic chemical manufacturing
Industry	424690	Chemical and allied products merchant wholesalers
Industry	424710	Petroleum bulk stations and terminals
Industry	424720	Petroleum and petroleum products wholesalers
Industry	457210	Fuel dealers
Industry	562212	Landfills

[a] North American Industry Classification System (NAICS).

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities potentially affected by this action. This table lists the types of entities that the EPA is currently aware could potentially be affected by this action. Other types of entities not listed in the table could also be affected. To determine whether your entity would be affected by this action, you should carefully examine the applicability criteria in 40 CFR part 80. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

Participation in virtual public hearing. Information on how to register for the virtual public hearing can be found at *https://www.epa.gov/renewable-fuel-standard-program/proposed-*

renewable-fuel-standards-2026-and-2027-supplemental-notice. The last day to pre-register to speak at the hearing is **[INSERT DATE 10 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]**. Please note that any updates made to any aspect of the hearing will be posted online at *https://www.epa.gov/renewable-fuel-standard-program/proposed-renewable-fuel-standards-2026-and-2027-supplemental-notice*. While the EPA expects the hearing to go forward as set forth above, please monitor the website or contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to determine if there are any updates. The EPA does not intend to publish a document in the *Federal Register* announcing updates.

Subject to the number of signups and time constraints, the EPA intends that each participant will have three minutes to provide oral testimony. The EPA may ask clarifying questions during the oral presentations but will not respond to the presentations at that time. Written statements and supporting information submitted during the comment period will be considered with the same weight as oral comments and supporting information presented at the public hearing.

If you require the services of a translator or special accommodations such as audio description, please pre-register for the hearing and describe your needs by **[INSERT DATE 10 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]**. The EPA may not be able to arrange accommodations without advance notice.

Preamble acronyms and abbreviations. Throughout this document the use of "we," "us," or "our" is intended to refer to the EPA. We use multiple acronyms and terms in this preamble. While this list may not be exhaustive, to ease the reading of this preamble and for reference purposes, the EPA defines the following terms and acronyms here:

AEO	Annual Energy Outlook
BBD	biomass-based diesel
CAA	Clean Air Act
EIA	Energy Information Administration

EMTS	EPA Moderated Transaction System
RFS	Renewable Fuel Standard
RIN	Renewable Identification Number
RVO	Renewable Volume Obligation
SRE	small refinery exemption

Organization of this document. The information in this preamble is organized as follows:

I. Executive Summary

On June 17, 2025, the EPA proposed the renewable fuel volumes under the RFS program for the 2026 and 2027 compliance years (the "Set 2 proposal").[1] In that action, we proposed to account for SREs we projected granting for the 2026 and 2027 compliance years consistent with our regulations at 40 CFR 80.1405(c), using a projection of exempt gasoline and diesel. In the Set 2 proposal, we projected a range of exempted gasoline and diesel volumes from zero to 18 billion gallons, noting that the projection would be informed by the EPA's SRE policy.[2]

[1] 90 FR 25784 (June 17, 2025).
[2] 90 FR 25833 (June 17, 2025).

Many commenters on the Set 2 proposal indicated that the EPA's SRE policy will have a significant impact on the volumes the EPA proposed to establish and the Renewable Identification Number (RIN) market as a whole. Some parties stated that the impact of the 2026 and 2027 RFS standards would be affected not only by SREs granted for those years but also by SREs granted for previous years. These parties generally suggested that the EPA should adjust its projections of exempted gasoline and diesel to better account for SREs. On August 22, 2025, the EPA issued decisions on 175 SRE petitions, including 56 petitions for the 2023 and 2024 compliance years.[3] The August 2025 SRE Decisions Action exempted 11.4 billion gallons of gasoline and diesel produced by certain small refineries from incurring a Renewable Volume Obligation (RVO) for the 2023 and 2024 compliance years, resulting in 1.4 billion RINs no longer needing to be retired for compliance for these years. We anticipate that in the coming months we will also issue decisions on SRE petitions for the 2025 compliance year. While we have not yet taken action on SRE petitions for the 2025 compliance year, we project based on the information currently available to the Agency that obligations equal to 780 million RINs will be exempted for this year. Therefore, we project that a total of 2.18 billion RINs will not need to be retired as a result of SREs for 2023–2025.

Considering this additional information, and to give all stakeholders an opportunity to comment on potential changes to the proposed standards to account for SREs, we are issuing this supplemental proposal. Specifically, the EPA is proposing to add a new "SRE reallocation volume" term in the percentage standard equations for 2026 and 2027 that, taken together, would account for the 2023–2025 exempted RVOs. In addition, we are revising our proposed percentage standards for 2026 and 2027 to include both the proposed SRE reallocation volumes and a better-informed projection of exempted gasoline and diesel for 2026 and 2027.

[3] EPA, "August 2025 Decisions on Petitions for RFS Small Refinery Exemptions," EPA-420-R-25-010, August 2025 ("August 2025 SRE Decisions Action").

This proposal describes the EPA's authority to consider the impact of 2023–2025 SRE decisions when establishing the RFS standards for 2026 and 2027, the SRE reallocation volumes we are proposing to add to the previously proposed applicable volumes for 2026 and 2027, how the statutory factors were considered, and the methodology used to calculate the revised proposed percentage standards for 2026 and 2027.

The EPA is co-proposing two approaches: (1) additional volume accounting for 100 percent of the 2023–2025 exempted RVOs (*i.e.*, 2.18 billion RINs); and (2) additional volume accounting for 50 percent of the of the 2023–2025 exempted RVOs (*i.e.*, 1.09 billion RINs). Additionally, the EPA is taking comment on SRE reallocation volumes equal to other amounts (*e.g.*, 25 or 75 percent of the 2023–2025 exempted RVOs), as well as not accounting for any exempted 2023–2025 RVOs (*i.e.*, no SRE reallocation volumes).

Finally, to better inform stakeholders in providing comments on this supplemental proposal, we are providing updated estimates of the volumes of gasoline and diesel that we project will be exempted from RFS obligations in 2026 and 2027. Based on the percentage standards equations in the existing RFS regulations, these volumes are taken into account when establishing the annual percentage standards. We project that exempted volumes of gasoline and diesel in 2026 and 2027 will be 5.95 billion gallons each year.[4]

Commenters should limit their comments to the data and information presented in this supplemental proposal and the associated proposed SRE reallocation volumes. Comments on the Set 2 proposal were due on or before August 8, 2025, and the EPA intends to respond to comments received after that date only if they are within the scope of this supplemental proposal.

II. Background and Policy Rationale

In the Set 2 proposal, the EPA proposed applicable volumes for 2026 and 2027 based on an analysis of the statutory factors and a review of implementation of the program to date. While

[4] For the final rule, we intend to update our projection using the most recent available data, which may include actual decisions on 2025 SRE petitions.

acknowledging the existence of compliance flexibilities in the RFS program, such as the ability to use carryover RINs and to carry forward a compliance deficit into the subsequent year, we projected that the proposed volumes could be met with renewable fuel produced and used in 2026 and 2027. Our analysis of the statutory factors assessed the proposed 2026 and 2027 volumes and the impacts of the production and use of those volumes.

At the time of the Set 2 proposal, the EPA had not yet determined its SRE policy. On August 22, 2025, the EPA issued decisions on 175 SRE petitions in the August 2025 SRE Decisions Action, in which the EPA granted full (100 percent) exemptions to 63 petitions, granted partial (50 percent) exemptions to 77 petitions, denied 28 petitions, and determined seven petitions to be ineligible. The EPA made these decisions based on a consistent policy approach across all SRE petitions under consideration, and we intend to use this same approach going forward.

In this action, we are proposing to revise the percentage standards equations for 2026 and 2027 to add a new volume we refer to as the "SRE reallocation volume," which would account for the 2023–2025 exempted RVOs. Specifically, we are co-proposing SRE reallocation volumes that would account for 100 percent or 50 percent of the exemptions granted for: (1) the 2023 and 2024 compliance years in the August 2025 SRE Decisions Action; and (2) a projection of exemptions expected to be granted for the 2025 compliance year.[5] The SRE reallocation volumes would correspond to statutory categories of renewable fuel (cellulosic biofuel, advanced biofuel, biomass-based diesel, and renewable fuel), such that there would be four SRE reallocated volumes for each year. Each SRE reallocated volume would then be added to the proposed volume requirement in the Set 2 proposal and the sum of the volumes for each year would be used to calculate the percentage standards for 2026 and 2027, as discussed further in Section V of this preamble. We propose to divide the exempt volume across two years to lessen the disruption to the market and the burden on obligated parties.

[5] The exact proposed SRE reallocation volumes for 2026 and 2027 are described in Section IV of this preamble.

The August 2025 SRE Decisions Action exempted significant volumes of gasoline and diesel for the 2023 and 2024 compliance years, resulting in an increased number of RINs available for obligated parties to use for compliance with their RFS obligations. We expect additional exemptions will be granted for the 2025 compliance year as well. These RINs represent renewable fuel produced and used in 2023–2025 that obligated parties will no longer need to retire for compliance because of the relieved obligations from SRE exemptions. The availability of these RINs—and the ability for obligated parties to use them to comply with their RFS obligations in lieu of RINs generated for renewable fuel produced and used in 2026 and 2027—could reduce RIN demand and RIN prices in future years and may ultimately result in the market failing to produce the volume of renewable fuel anticipated by the volume requirements in the Set 2 proposal.

The impacts of the exemptions granted in the August 2025 SRE Decisions Action on the RIN market are as follows.[6] For the 2023 and 2024 compliance years, 1.4 billion RINs no longer need to be retired for compliance. While the exemptions granted for these years have no impact on the volume of renewable fuel actually produced and used in 2023 and 2024 since those years are in the past, they directly increase the supply of RINs available for other obligated parties to use for compliance. As a result, obligated parties will be able to use the RFS program's carryover RIN provisions to roll these RINs forward to the 2025 compliance year and beyond.

CAA section 211(o)(5) requires that the EPA establish a credit program as part of its RFS regulations and that the credits be valid for obligated parties to show compliance for 12 months after the date of generation. The EPA implemented this requirement through the use of RINs, which can be used to demonstrate compliance for the year in which they are generated and the subsequent compliance year. Obligated parties can obtain more RINs than needed in a given

[6] The RIN volumes and exemptions discussed in this section are limited to the SRE decisions the EPA issued as of the time of this proposal (*i.e.*, those in the August 2025 SRE Decisions Action), which did not include the 2025 compliance year. However, as discussed in Section IV of this preamble, we are also projecting exempted volumes for 2025 as part of determining the proposed SRE reallocation volumes for 2026 and 2027. Thus, the actual effect of SREs for 2023–2025 will be greater than described in this section.

compliance year, allowing them to carry over these RINs for use in the subsequent compliance year, although the RFS regulations limit the use of these carryover RINs to 20 percent of the obligated party's RVO. For the total number of available carryover RINs to be preserved from one year to the next, individual carryover RINs are used for compliance before they expire and are replaced with newer vintage RINs that are then held for use in the next year. For example, 2023 carryover RINs must be used for compliance in 2024, or they will expire. However, the use of 2023 RINs to meet up to 20 percent of an obligated party's 2024 RVO increases the number of 2024 RINs that can then be carried over for use in 2025.

While there may be some impact from the increased number of carryover RINs as a result of the 2023–2025 SREs on renewable fuel production and use in 2025, only a few months remain in this year. Instead, the effect of these RINs is likely to be most acute in 2026 and 2027 when obligated parties could choose to use carryover RINs to comply with their 2026 and 2027 RVOs in lieu of acquiring renewable fuel produced in those years, thereby reducing the demand for renewable fuel production and use in those years. Thus, failure to mitigate the market impacts of the increased number of carryover RINs due to the 2023–2025 SREs could result in a decrease in demand for renewable fuel produced in 2026 and 2027. This magnitude of carryover RINs has the potential to depress RIN prices due to a significant oversupply of RINs.

While significant quantities of carryover RINs can negatively impact the production and use of renewable fuels, carryover RINs also play an important role in providing a liquid and well-functioning RIN market, as the EPA has stated on multiple occasions.[7] The continued success of the RFS program depends on the RIN market. Carryover RINs provide obligated parties compliance flexibility for substantial uncertainties in the transportation fuel marketplace. In the August 2025 SRE Decisions Action, the EPA granted SREs for multiple years at a single

[7] See, *e.g.*, 90 FR 25784, 25827 (June 17, 2025). See also, *e.g.*, 88 FR 44468, 44494 (July 12, 2023), 87 FR 39600, 39613 (July 1, 2022), 85 FR 7016, 7021 (February 6, 2020), 83 FR 63704, 63708–10 (December 11, 2018), 82 FR 58486, 58493–95 (December 12, 2017), 81 FR 89746, 89754–55 (December 12, 2016), 80 FR 77420, 77482–87 (December 14, 2015).

time representing significant volumes after the volume requirements for those years had been established and actual production for those years had concluded. The resulting influx of additional RINs in the market could have a deleterious effect on current and proposed volume requirements without corrective action to address the increased number of carryover RINs due to the 2023–2025 SREs.

We also note that, as described in the Set 2 proposal (and before considering the effects of the 2023–2025 exemptions), while there are approximately 1.2 billion carryover RINs available for use in 2024, this number is effectively reduced to zero after accounting for deficits carried forward from 2023 into 2024.[8] Because of the limited number of carryover RINs available, it may not be necessary or appropriate to propose SRE reallocation volumes for 2026 and 2027 equal to the full magnitude of the 2023–2025 exemptions to maintain the intended renewable fuel use in 2026 and 2027. Obligated parties with carryover RINs can choose to hold these RINs for use in future years or use them towards their compliance obligations. Obligated parties holding few or no carryover RINs may have an incentive to hold any carryover RINs attributable to 2023–2025 SREs as a compliance flexibility for future years rather than using them towards their 2026 or 2027 compliance obligations. If obligated parties hold, rather than use, these carryover RINs, we expect a much smaller impact, and potentially even no impact, on the RIN and renewable fuel markets. We are therefore co-proposing SRE reallocation volumes for 2026 and 2027 equal to 50 percent of the 2023–2025 exempted RVOs. We also request comment on SRE reallocation volumes for 2026 and 2027 equal to other amounts (*e.g.*, 25 or 75 percent of the 2023–2025 exempted RVOs), as well as not accounting for any exempted 2023–2025 RVOs (*i.e.*, no SRE reallocation volumes).

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[8] EPA, "RFS Program Standards for 2026 and 2027: Draft Regulatory Impact Analysis," EPA-420-D-25-001, June 2025 ("Set 2 DRIA"), Chapter 1.8. We also note that the number of available 2024 RINs (approximately 23.6 billion) is about 1.3 billion RINs greater than the volume target for 2025 (22.33 billion RINs). This suggests that the number of carryover RINs available for use in 2025 will be higher than the number of carryover RINs available for use in 2024, even before accounting for the impacts of the August 2025 SRE Decisions Action. Information on available RINs can be found at: *https://www.epa.gov/fuels-registration-reporting-and-compliance-help/available-rins*.

Notably, we are not proposing to account for any exemptions granted for compliance years prior to 2023. Pre-2023 vintage RINs that were returned to small refineries that received an exemption for these years in the August 2025 SRE Decisions Action are expired and can only be used to satisfy outstanding, non-exempted pre-2023 obligations by the small refinery. As of the date of this proposal, and at the time the exemptions were granted in the August 2025 SRE Decisions Action, RFS compliance has not yet occurred for 2024 or 2025. Thus, 2023 and newer vintage RINs remain valid for RFS compliance and have value within the RIN market. In contrast, 2022 and older RINs are expired and thus cannot be used for compliance with 2024 or later RFS obligations.[9] Therefore, we are proposing SRE reallocation volumes for 2026 and 2027 that only account for the 2023–2025 exemptions (*i.e.*, the vintage RIN that can still be used for RFS compliance in ways that may impact the production and use of renewable fuels in 2026 and 2027). Obligated parties can use 2023 RINs to satisfy up to 20 percent of their 2024 obligations, 2024 RINs to satisfy their 2024 or up to 20 percent of their 2025 obligations, and 2025 RINs to satisfy their 2025 or up to 20 percent of their 2026 obligations.

III. Legal Justification

CAA section 211(o)(2)(B)(ii) directs the EPA to establish applicable volumes of renewable fuel for use as transportation fuel in the U.S. for years after those specified in the statutory tables. Under that provision, the Administrator shall, in coordination with the Secretary of Agriculture and Secretary of Energy, determine the applicable volume of each renewable fuel category, based on a review of implementation of the program and an analysis of statutory factors. Congress provided the EPA flexibility by enumerating factors that the Administrator must consider without mandating particular forms of analysis or specifying how the Administrator must weigh the various factors against one another. Thus, as the CAA "does not state what weight should be accorded to the relevant factors," it "give[s] EPA considerable

[9] 40 CFR 80.1428(c).

discretion to weigh and balance the various factors required by statute."[10] We are proposing to use this authority to consider the 2023–2025 exempted RVOs and establish RFS volumes for 2026 and 2027 that incorporate the SRE reallocation volumes discussed in this supplemental proposal.

As discussed in the Set 2 proposal, there are also several conditions the EPA uses to determine volumes under CAA section 211(o)(2)(B).[11] First, CAA section 211(o)(2)(B)(iii) requires that the EPA set the volume such that the applicable volume of advanced biofuel is at least the same percentage of the applicable volume of renewable fuel as in calendar year 2022. As described further in the Set 2 proposal, the 2022 advanced biofuel volume is 27.3 percent of the total renewable fuel volume.[12] The SRE reallocation volumes proposed in this action, combined with the previously proposed volume requirements, exceed this 27.3 percent minimum, and thus satisfy this requirement for 2026 and 2027.

Second, CAA section 211(o)(2)(B)(iv) requires that the EPA set the cellulosic biofuel standard based on the assumption that the Administrator will not need to waive the volume using the cellulosic waiver authority. The cellulosic waiver authority at CAA section 211(o)(7)(D) requires that the EPA reduce the cellulosic biofuel volume in circumstances where the projected volume of cellulosic biofuel production is less than the applicable volume. In these circumstances, the EPA must reduce the volume to the "projected volume available." In the Set 2 proposal, we proposed cellulosic biofuel volumes at the "projected volume available" to satisfy the CAA section 211(o)(2)(B)(iv) condition.[13] While we are proposing additional cellulosic biofuel volumes in this action associated with the 2023–2025 exempted RVOs, we also note that comments on the Set 2 proposal suggested that the EPA's projection of cellulosic biofuel

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[10] *Ctr. for Biological Diversity v. EPA*, 141 F.4th 153, 171 (D.C. Cir. 2024); *Sinclair Wyo. Ref. Co. LLC v. EPA*, 101 F.4th 871, 887 (D.C. Cir. 2023); see also *Brown v. Watt*, 668 F.2d 1290, 1317 (D.C. Cir. 1981) ("A balancing of factors is not the same as treating all factors equally. The obligation instead is to look at all factors and then balance the results. The Act does not mandate any particular balance, but vests the [agency] with discretion to weigh the elements . . . .").

[11] 90 FR 25784, 25790 (June 17, 2025).

[12] Id.

[13] Id.

production for 2026 and 2027 was too low.[14] We recognize the D.C. Circuit's indication that the "projected volume available" excludes carryover RINs, and that any "projection of cellulosic biofuel production" would likely also exclude any carryover RINs.[15] Nevertheless, the newly available cellulosic carryover RINs from SREs, when combined with the proposed volumes for 2026 and 2027, result in volume requirements that we do not anticipate needing to waive given the availability of RINs in the market.

Alternatively, given the statutory language in CAA section 211(o)(2)(B)(iv) prescribing how the EPA is to set cellulosic volumes, we request comment on whether the EPA has appropriately considered the 2023–2025 exempted cellulosic biofuel RVOs as part of our review of the implementation of the program, and whether, as part of that review, we should include all, some, or none of those volumes in the SRE reallocation volumes. The EPA further seeks comment on whether, if the EPA does not include the exempted cellulosic biofuel RVOs, we should consider reducing the advanced biofuel and total renewable fuel SRE reallocation volumes as part of our review of the implementation of the program given the nested nature of the standards.

Finally, CAA section 211(o)(2)(B)(v) requires that the biomass-based diesel (BBD) volume be greater than 1.0 billion gallons. The combined SRE reallocation volumes for BBD and the proposed applicable BBD volumes from the Set 2 proposal together exceed the 1.0-billion-gallon requirement in 2026 and 2027, thus satisfying this requirement.

IV. Proposed SRE Reallocation Volumes

In this action, we are co-proposing to create new SRE reallocation volumes for 2026 and 2027 equivalent to the 2023–2025 exempted RVOs. We are also co-proposing SRE reallocation volumes for 2026 and 2027 equivalent to 50 percent of the exempted RVOs for these years and

[14] See, *e.g.*, comments from RNG Coalition and National Waste & Recycling Association (Docket Item No. EPA-HQ-OAR-2024-0505-0645) at 18; Waste Management (Docket Item No. EPA-HQ-OAR-2024-0505-0613) at 1; and American Biogas Council (Docket Item No. EPA-HQ-OAR-2024-0505-0604) at 2.
[15] *Sinclair*, 101 F.4th at 883-84.

requesting comment on other SRE reallocation volumes for 2026 and 2027 equal to other amounts (*e.g.*, 25 or 75 percent of the 2023–2025 exempted RVOs), as well as not accounting for any exempted 2023–2025 RVOs (*i.e.*, no SRE reallocation volumes). Since the EPA has issued decisions for all the 2023 and 2024 SRE petitions that were before the Agency, we are able to determine the actual exempted RVOs for the 2023 and 2024 compliance years as of this time. Specifically, we used information from the SRE petitions and the EPA Moderated Transaction System (EMTS) compliance data to calculate the total exempted gasoline and diesel volumes for 2023 and 2024. In turn, we used these exempted volumes, together with the previously established percentage standards for 2023 and 2024, to calculate the exempted RVOs for these years.

However, the EPA has not yet issued any SRE decisions for 2025. In order to develop a projection of the RVOs that will be exempted for 2025, we used data on the volumes of exempted gasoline and diesel for previous years. Consistent with the approach that the EPA first advanced in the 2020 RFS Rule (in which the EPA projected future exempted fuel volumes),[16] we believe it is appropriate to use average volumes of exempted gasoline and diesel over a three-year period as our projection of future exempted volumes of gasoline and diesel in 2025, rather than the volumes of gasoline and diesel that were exempted in any single year. This helps to average out the effects of unique events or market circumstances that occurred in individual years that may or may not occur in 2025, and thus serves as a better predictor of the volume of gasoline and diesel that will ultimately be exempted in 2025.[17] Thus, we used information from 2022–2024 SRE petitions to calculate the annual average volumes of exempted gasoline and diesel and used those volumes to represent our projection of the exempted volumes of gasoline and diesel in 2025, as shown in Table IV-1.[18]

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[16] 85 FR 7016, 7051–53 (February 6, 2020). We note that while we projected exempted volumes of gasoline and diesel in the 2020 final rule, we later revised the 2020 percentage standards via rulemaking, including adjusting our projection of exempted volume from SREs. 87 FR 39600 (July 1, 2022) ("Reset Rule").

[17] 84 FR 57677 (October 28, 2019); 85 FR 7016 (February 6, 2020).

[18] We intend to update our projections of exempted gasoline and diesel volumes in the final rule based on any additional SREs issued after this proposal.

Table IV-1: Exempted Fuel Volumes for 2022–2025 Compliance Years (billion gallons)

Compliance Year	Exempted Fuel		
	Gasoline	Diesel	Total
2022	3.55	2.90	6.45
2023	3.20	2.40	5.60
2024	3.25	2.57	5.82
2025 (projected)	3.33	2.62	5.95

Using these exempted fuel volumes and multiplying them by the RFS percentage standards in 40 CFR 80.1405(a), we calculated the 2023–2025 exempted RVOs, as shown in Table IV-2.[19]

Table IV-2: Exempted RVOs for 2023–2025 Compliance Years (million RINs)

Category	Percentage Standards			Exempted RVOs		
	2023	2024	2025	2023	2024	2025 (Projected)
Cellulosic Biofuel	0.48%	0.59%	0.70%	30	30	40
Biomass-Based Diesel	2.58%	2.82%	3.15%	140	160	190
Advanced Biofuel	3.39%	3.79%	4.31%	190	220	260
Total Renewable Fuel	11.96%	12.50%	13.13%	670	730	780

Note: The 2025 cellulosic biofuel percentage standard represents the EPA's proposed partial waiver of the 2025 cellulosic biofuel volume requirement in the Set 2 proposal. We are not reopening or soliciting additional comment on the proposed partial waiver.

We then used the 2023–2025 exempted RVOs to determine the co-proposed SRE reallocation volumes for 2026 and 2027. For the 100 percent reallocation approach, we are co-proposing SRE reallocation volumes for 2026 equivalent to all the 2023 exempted RVOs and half of the 2024 exempted RVOs, and for 2027 equivalent to the remaining half of the 2024 exempted RVOs and all the projected 2025 exempted RVOs. For the 50 percent reallocation approach, we applied a 50 percent reduction to the exempted RVOs in Table IV-2 and used the same methodology to calculate the co-proposed SRE reallocation volumes. The resulting co-proposed SRE reallocation volumes are shown in Table IV-3.

[19] For the final rule, we intend to update our analyses using the most recent available data, which may include decisions on 2025 SRE petitions.

Table IV-3: Proposed SRE Reallocation Volumes for 2026 and 2027 (million RINs)

	100% Reallocation		50% Reallocation	
Category	**2026**	**2027**	**2026**	**2027**
Cellulosic Biofuel	40	60	20	30
Biomass-Based Diesel	220	270	110	140
Advanced Biofuel	300	370	150	190
Total Renewable Fuel	1,030	1,150	510	580

Note: All volumes are rounded to the nearest 10 million RINs. To avoid overestimating, volumes ending in five were rounded down for 2026 and rounded up for 2027.

V. Revised Proposed Percentage Standards for 2026 and 2027

The obligated parties to which the percentage standards apply are producers and importers of gasoline and diesel, as defined by 40 CFR 80.2. The formulas used to calculate the percentage standards applicable to obligated parties are provided in 40 CFR 80.1405.[20] Each obligated party multiplies the percentage standards by the sum of all non-renewable gasoline and diesel they produce or import to determine their RVOs. The RVOs are the number of RINs that the obligated party is responsible for procuring to demonstrate compliance with the applicable standards for that year. Since there are four categories of renewable fuel under the RFS program, there are likewise four RVOs applicable to each obligated party for each year.

In this action, we are proposing to revise the percentage standard equations in 40 CFR 80.1405 such that the numerator in the percentage standard equations for 2026 and 2027 would be the sum of the annual volume requirement (RFV) and SRE reallocation volume (SRERV).[21] Consistent with the Set 2 proposal, we also account for a projection of the gasoline and diesel volumes exempted through SREs in 2026 and 2027 in the denominator of the percentage standard equations for 2026 and 2027. These equations incorporating the SRE reallocation volume would only be used for the 2026 and 2027 percentage standards. In the future, we intend

[20] In the Set 2 proposal, we proposed additional modifications to the percentage standard equations, including removing the 1.6 multiplier for biomass-based diesel, eliminating unnecessary terms, and clarifying the definition of some terms. In this action, we are including those proposed changes in the revised proposed percentage standard equations, but we are not reopening or soliciting additional comment on those proposed changes from the Set 2 proposal.

[21] The amendatory instructions for the proposed regulations associated with this action, including both the 100 percent and 50 percent reallocation approaches, are provided in "Proposed Regulations for Set 2 Supplemental Proposal," available in the docket for this action.

to continue our policy of prospectively accounting for exempted volumes of gasoline and diesel such that there will be no need to include SRE reallocation volumes in this manner again.

In addition to the required volumes of renewable fuel, the percentage standard equations also require estimates of the volumes of non-renewable gasoline and diesel, for both highway and nonroad uses, that are projected to be used in the year in which the standards will apply. Consistent with the Set 2 proposal, we are using projections provided by the U.S. Energy Information Administration (EIA) in the Annuel Energy Outlook (AEO) 2023.[22] As in the Set 2 proposal, these projections include volumes of renewable fuel (*e.g.*, ethanol, biodiesel, renewable diesel) used in gasoline and diesel. Since the percentage standards apply only to the non-renewable portions of gasoline and diesel, the volumes of renewable fuel are subtracted out of the EIA projections of gasoline and diesel as part of the percentage standard equations.

Finally, the percentage standard equations also require projections of the exempted volumes of gasoline and diesel.[23] As discussed in Section IV of this preamble, we have already developed a projection of exempted gasoline and diesel volumes for 2025 using a three-year average of the actual exempted gasoline and diesel volumes from 2022–2024 (3.33 billion gallons of gasoline and 2.62 billion gallons of diesel). We believe this projection is an appropriate estimate of exempted gasoline and diesel for 2026 and 2027 as well.

Using the SRE reallocation volumes in Table IV-3 (both the 100 percent and 50 percent reallocation approaches) and assuming 5.95 billion gallons of exempted gasoline and diesel, we calculated the revised proposed percentage standards for 2026 and 2027. The resultant

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[22] While we acknowledge that EIA released AEO2025 earlier this year, this release occurred after we had already completed our analyses for the Set 2 proposal. Because we have not developed new analyses for this action (*e.g.*, determining a new No RFS Baseline, updating E10 ethanol consumption volumes, etc.), we used the AEO2023 projections to calculate the revised proposed percentage standards. In the Set 2 proposal, however, we indicated our intent to use updated projections from AEO2025 in the Set 2 final rule, including updating our methodology for adjusting gasoline and diesel projections from the EIA. This action provides public notice of our proposed approach for using AEO2025 to project gasoline and diesel volumes in 2026 and 2027, including using new gasoline and diesel projection adjustment factors. Discussion of these new adjustment factors and the AEO2025 projections we would use to calculate the 2026 and 2027 percentage standards in the Set 2 final rule is available in "AEO2025 Projections and Adjustment Factors for Set 2 Supplemental Proposal," available in the docket for this action.

[23] The D.C. Circuit upheld the EPA's change to the regulatory formula for percentage standards to account for future exempted volumes in *Sinclair*, 101 F.4th at 892–93 (challenge to the Reset Rule). See also 40 CFR 80.1405(c).

percentage standards under both co-proposals, as well as the original proposed percentage standards in the Set 2 proposal, are shown in Table V-1.[24] These percentage standards are included in the proposed regulations at 40 CFR 80.1405(a) and would apply to producers and importers of gasoline and diesel.[25]

Table V-1: Revised Proposed Percentage Standards for 2026 and 2027

	Set 2 Proposal		100% Reallocation		50% Reallocation	
	2026	2027	2026	2027	2026	2027
Cellulosic biofuel	0.87%	0.92%	0.83%	0.89%	0.81%	0.87%
Biomass-based diesel	4.75%	5.07%	4.53%	4.86%	4.46%	4.78%
Advanced biofuel	6.02%	6.40%	5.75%	6.15%	5.66%	6.03%
Total renewable fuel	16.02%	16.54%	15.47%	16.01%	15.14%	15.65%

VI. Statutory Factor Analysis

The EPA considered the statutory factors specified in CAA section 211(o)(2)(B)(ii) in proposing the applicable volumes for 2026 and 2027 in the Set 2 proposal. In light of the August 2025 SRE Decisions Action, the purpose of this supplemental proposal is to account for the 2023–2025 exempted RVOs in the 2026 and 2027 volumes. Absent this proposed action, SREs granted for 2023–2025 could increase the number of carryover RINs available for use in 2026 and 2027, which could in turn reduce demand for renewable fuels in those years. We acknowledge that neither this proposed action nor SREs granted for 2023–2025 will affect the volume of renewable fuel produced or consumed in the U.S. in 2023 and 2024, and that any effect these decisions may have on renewable fuel production and use in 2025 would be limited. Instead, SREs granted for 2023–2025 will result in lower-than-anticipated RVOs for those years and, all else being equal, will result in a higher number of carryover RINs available for use in 2026 and future years. Increased numbers of carryover RINs can negatively impact the demand for renewable fuel and the associated RINs. This is because obligated parties can use carryover RINs years to meet their compliance obligations in 2026 and 2027 in lieu of acquiring RINs

[24] For more detail on these calculations, including adjustments made to the EIA's projections, see "Calculation of Revised Proposed 2026 and 2027 RFS Percentage Standards," available in the docket for this action.
[25] Note that while in the amendatory instructions for 40 CFR 80.1405 we have also included the percentage standards from previous compliance years, we are not reopening or soliciting additional comment on any previously established percentage standard.

generated in these years. An increase in the availability of carryover RINs to meet obligated parties' compliance obligations in 2026 and 2027 could decrease the demand for current-year RINs. The co-proposed SRE reallocation volumes for 2026 and 2027 are intended to prevent increased numbers of carryover RINs from decreasing demand for renewable fuel below the proposed applicable volumes for 2026 and 2027 in the Set 2 proposal.

We are co-proposing SRE reallocation volumes as part of setting overall RFS standards pursuant to our authority in CAA section 211(o)(2)(B)(ii). As discussed in Section III.A of this preamble, the CAA requires that renewable fuel volumes established using this authority are based on a review of implementation of the program and an analysis of statutory factors.

We are considering the SREs granted for 2023–2025 under our directive to review the implementation of the program. These exemptions have a direct impact on the RFS obligations both for the exempted small refineries (which now have reduced or zero RFS obligations) and for all obligated parties in aggregate (which can now retire a greater number of carryover RINs and fewer current year RINs to satisfy their combined RFS obligations for 2024 and 2025). Further, because obligated parties can now use the carryover RINs that otherwise would have been retired for compliance but for the 2023–2025 exemptions, SREs granted in one year can have an impact on the market for RINs and renewable fuel in future years.

We have also considered the statutory factors specified in CAA section 211(o)(2)(B)(ii) in proposing these SRE reallocation volumes. We project that the portion of the RFS obligations represented by the SRE reallocation volumes would be met with carryover RINs attributable to the 2023–2025 exempted RVOs. We therefore do not expect that this action will increase the production and use of renewable fuel beyond the volumes previously proposed for 2026 and 2027 (24.02 billion RINs and 24.46 billion RINs, respectively). Conversely, if the EPA does not account for the 2023–2025 SREs, the increase in available carryover RINs resulting from these decisions could result in lower commercial production of renewable fuels in 2026 and 2027 than projected in the Set 2 proposal.

In general, the statutory factors that the EPA must consider when establishing the applicable volumes for years after 2022 are impacted by the production and use of renewable fuel and are not impacted by the use of carryover RINs. Increased production of ethanol or biodiesel is expected to have an impact on air quality, climate change, conversion of wetlands, ecosystems, wildlife habitat, water quality and supply, energy security, infrastructure, job creation, the prices and supply of agricultural commodities, rural economic development, or food prices. The use of carryover RINs to satisfy RFS obligations is not expected to impact these factors. Given this supplemental proposal's purpose in maintaining the volumes originally proposed in the Set 2 proposal, we have also considered the impact on the expected rate of commercial production of renewable fuels.[26] We intend that this supplemental proposal, if finalized, would not result in an impact on the expected rate of commercial production of renewable fuels in 2026 and 2027.

This supplemental proposal is intended to account for the anticipated market impacts of the 2023–2025 exempted RVOs, rather than to propose changes that would result in higher (or lower) volumes of renewable fuel than previously proposed for 2026 and 2027. In the Set 2 proposal, we analyzed the proposed volumes for 2026 and 2027, as well as alternative volumes in relation to the No RFS Baseline. We believe this analysis remains proper, as this supplemental proposal seeks to maintain the production and use of renewable fuel volumes in the Set 2 proposal. We determined that the proposed volumes are proper, and we seek to maintain those volumes. We have therefore largely not revised our analysis of the impact of the proposed volumes for 2026 and 2027 on the statutory factors presented in the Set 2 proposal and associated Draft Regulatory Impact Analysis[27] as we do not project that this action would result in renewable fuel production and use in 2026 and 2027 that differ materially from the volumes

[26] In developing this proposal, we have also considered the statutory factors that are impacted by the production of renewable fuels. See "RFS Program Standards for 2026 and 2027: Draft Regulatory Impact Analysis," EPA-420-D-25-001, June 2025.

[27] EPA, "RFS Program – Standards for 2026 and 2027: Draft Regulatory Impact Analysis," EPA-420-D-25-001, June 2025 ("Set 2 DRIA").

previously analyzed. However, uncertainty remains regarding the amount of reallocation necessary to maintain the production of proposed volumes, and we therefore have co-proposed SRE reallocation volumes representing 100 percent and 50 percent of the exempt volumes.

The one statutory factor that we do project would be impacted by this proposed action is the impact on the cost to consumers of transportation fuel and the cost to transport goods. The proposed SRE reallocation volumes would result in higher percentage standards for obligated parties than would otherwise be the case, and which in turn require obligated parties to acquire greater quantities of RINs to retire for compliance. We project that, in aggregate, obligated parties would acquire these additional RINs by purchasing carryover RINs from other parties rather than blending additional quantities of renewable fuel. Because we do not expect this action to result in an increase of the production and use of renewable fuel, we do not anticipate impacts on most statutory factors. We do, however, expect that, on average at the national level, obligated parties would pass on the costs of purchasing additional RINs to consumers, and that this action could increase the cost of transportation fuel to consumers.

In the Set 2 proposal, we estimated that the proposed volume requirements would increase the price of gasoline by 4.4¢ and 4.7¢ per gallon in 2026 and 2027, respectively, and the price of diesel by 9.1¢ and 10.6¢ per gallon in 2026 and 2027, respectively.[28] These estimates were relative to the No RFS Baseline and based on the upper-bound estimate of the percentage standards, which represented a scenario where the EPA projected granting all SRE petitions for these years and prospectively accounted for these exemptions in the percentage standards. Note that this analysis uses the same projected prices for renewable fuels, petroleum-based fuels, RINs, etc. as the Set 2 proposal. If the impacts of this action were to ultimately result in higher (or lower) RIN prices, we would expect to see larger (or smaller) impacts on fuel prices due to these changes in RIN prices.

[28] 90 FR 25832 (June 17, 2025).

Notably, as shown in Table VI-1, the revised proposed percentage standards for 2026 and 2027 in this action, after accounting for both the SRE reallocated volumes and an updated projection of exempted gasoline and diesel for 2026 and 2027, are lower than those we considered in the Set 2 proposal. This is true whether the SRE reallocated volumes represent 100 percent or 50 percent of the 2023–2025 exempted RVOs. While this action proposes SRE reallocation volumes for the 2026 and 2027 RFS standards that would directionally increase the RFS percentage standards (and thus direction increase the impact on fuel prices) for 2026 and 2027 above what was proposed in the Set 2 proposal, it also includes an updated projection of the exempted gasoline and diesel volumes for 2026 and 2027 that are much lower than the 18 billion gallons assumed in the upper-bound estimate in the Set 2 proposal. The overall effect is that the revised proposed percentage standards are less than the original proposed percentage standards in the Set 2 proposal, as shown in Table V-1.[29] Because the total RIN acquisition costs in our projected impacts of this action on fuel prices are based on the percentage standards, the lower revised proposed percentage standards result in lower projected impacts on fuel prices relative to the impacts in the Set 2 proposal.

[29] When considered separately, the updated projection of exempted gasoline and diesel would reduce the total renewable fuel percentage standards for 2026 and 2027 by 1.19 percent and 1.25 percent, respectively, compared to the upper-bound estimate. The 100 percent reallocation approach would increase the total renewable fuel percentage standards for 2026 and 2027 by 0.64 percent and 0.72 percent, respectively, while the 50 percent reallocation approach would increase the total renewable fuel percentages for 2026 and 2027 by 0.31 percent and 0.36 percent, respectively.

Table VI-1: Estimated Effect of Revised Proposed Percentage Standards on Retail Fuel Prices Relative to No RFS Baseline

		Set 2 Proposal		100% Reallocation		50% Reallocation	
		2026	2027	2026	2027	2026	2027
Percentage Standard	Cellulosic Biofuel	0.87%	0.92%	0.83%	0.89%	0.81%	0.87%
	BBD	4.75%	5.07%	4.53%	4.86%	4.46%	4.78%
	Other Advanced Biofuel[a]	0.40%	0.41%	0.39%	0.40%	0.39%	0.38%
	Conventional Renewable Fuel[b]	10.00%	10.14%	9.72%	9.86%	9.48%	9.62%
Total Rin Cost ($/gallon)		11.9¢	12.3¢	11.5¢	11.9¢	11.2¢	11.7¢
Price Impact (¢/gallon)	Gasoline	4.4¢	4.7¢	4.0¢	4.4¢	3.8¢	4.2¢
	Diesel	9.1¢	10.6¢	8.7¢	10.3¢	8.5¢	10.1¢

[a] Other advanced biofuel is not a fuel category for which a percentage standard is established but is calculated by subtracting the cellulosic biofuel and BBD standards from the advanced biofuel standard.
[b] Conventional renewable fuel is not a fuel category for which a percentage standard is established but is calculated by subtracting the advanced biofuel standard from the total renewable fuel standard.
Note: To best illustrate the impact of this action on fuel price impacts, we have used the same data and methodology as in the Set 2 proposal and only updated the percentage standards. We have not updated the projected prices of renewable fuels, gasoline, diesel, RINs, etc. We will provide an updated estimate of fuel price impacts in the final rule that accounts for updates to all these factors for which more recent data is available. For more detail on the methodology used to estimate fuel prices, see Set 2 DRIA Chapter 10.5.

VII. Severability

If finalized, we intend for the 2026 and 2027 SRE reallocation volumes to be severable from the remainder of the 2026 and 2027 applicable volumes. This is because the EPA's reasoning for implementing the 2026 and 2027 SRE reallocation volumes is distinct from the EPA's action to establish applicable volumes for 2026 and 2027. The applicable volumes proposed in the Set 2 proposal represent new renewable fuel production in 2026 and 2027 (*i.e.*, new RIN generation). In contrast, the SRE reallocation volumes represent renewable fuel that was produced in 2023–2025, but for which RINs were not retired to meet compliance obligations in those years due to SREs. In this action, we are co-proposing SRE reallocation volumes to account for these RINs given their potential impact on the RIN and renewable fuels markets. Given this independent reasoning to justify the 2026 and 2027 applicable volumes proposed in the Set 2 proposal, we intend that were the 2026 and 2027 SRE reallocation volumes not in effect, the remainder of the 2026 and 2027 applicable volumes would stand in place.

VIII. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at *https://www.epa.gov/laws-regulations/laws-and-executive-orders*.

A. Executive Order 12866: Regulatory Planning and Review

This action is an economically significant regulatory action that was submitted to the Office of Management and Budget (OMB) for review. Any changes made in response to OMB recommendations have been documented in the docket.

B. Executive Order 14192: Unleashing Prosperity Through Deregulation

This action is expected to be an Executive Order 14192 regulatory action. There are no quantified cost estimates for this supplemental proposal because it does not change the applicable volumes proposed in the Set 2 proposal.

C. Paperwork Reduction Act (PRA)

This action does not impose an information collection burden under the PRA. OMB has previously approved the information collection activities contained in the existing regulations and has assigned the following OMB control numbers: 2060–0725, 2060–0740, and 2060–0749. This action co-proposes SRE reallocation volumes and revised percentage standards for 2026 and 2027 and does not impose new or different reporting requirements on regulated parties than already exist for the RFS program.

D. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. The small entities directly regulated by the annual percentage standards associated with the RFS volumes are small refiners that produce gasoline or diesel fuel, which are defined at 13 CFR 121.201. The EPA believes that there are currently six refiners (owning seven refineries) producing gasoline and/or diesel that meet the definition of small entity by having 1,500 employees or fewer. In the Set 2 proposal, we evaluated the impacts of the proposed 2026 and 2027 volume requirements on small entities by conducting a screening analysis to assess whether we should find that this action will not have a significant economic impact on a substantial number of small entities.[30] In that analysis, we evaluated the worst-case

[30] See Set 2 DRIA Chapter 11.

scenario in which small entities, all of which only operate small refineries, would comply with the upper-bound estimate of the proposed 2026 and 2027 percentage standards that assumes that all small refineries are granted an exemption. The resultant cost-to-sales ratio test showed that the costs to small entities of the proposed 2026 and 2027 percentage standards were far less than one percent of the value of their sales.[31] While this action co-proposes SRE reallocation volumes for the 2026 and 2027 RFS standards that would directionally increase the RFS percentage standards for 2026 and 2027 above what was proposed in the Set 2 proposal, it also includes an updated projection of the exempted gasoline and diesel volumes for 2026 and 2027 that are much lower than the 18 billion gallons assumed in the upper-bound estimate in the Set 2 proposal. As shown in Table V-1, both the co-proposed percentage standards are lower than the proposed percentage standards in the Set 2 proposal under the worst-case scenario. Thus, we are able to conclude that the cost-to-sales ratios for small entities under this supplemental proposal are also far less than one percent of the value of their sales. Furthermore, this action does not change the compliance flexibilities currently offered to small entities under the RFS program (including the SRE provisions we continue to implement). We have therefore concluded that the impact on directly regulated small entities from implementation of this rule will not be significant.

E. Unfunded Mandates Reform Act (UMRA)

This action does not contain an unfunded mandate of $100 million (adjusted annually for inflation) or more (in 1995 dollars) as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments.

F. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

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[31] A cost-to-sales ratio of one percent represents a typical agency threshold for determining the significance of the economic impact on small entities. See "Final Guidance for EPA Rulewriters: Regulatory Flexibility Act as amended by the Small Business Regulatory Enforcement Fairness Act," November 2006.

G. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action does not have Tribal implications as specified in Executive Order 13175. This action will be implemented at the Federal level and affects transportation fuel refiners, blenders, marketers, distributors, importers, exporters, and renewable fuel producers and importers. Tribal governments will be affected only to the extent they produce, purchase, or use regulated fuels. Thus, Executive Order 13175 does not apply to this action.

H. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that the EPA has reason to believe may disproportionately affect children, per the definition of "covered regulatory action" in section 2–202 of the Executive Order. Therefore, this action is not subject to Executive Order 13045 because it co-proposes SRE reallocation volumes and revised percentage standards for 2026 and 2027 and does not concern an environmental health risk or safety risk. Since this action does not concern human health, the EPA's Policy on Children's Health also does not apply.

I. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This action is not a "significant energy action" because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. This action co-proposes SRE reallocation volumes and revised percentage standards for 2026 and 2027. The RFS program is designed to achieve positive effects on the Nation's transportation fuel supply by increasing energy independence and security.

J. National Technology Transfer and Advancement Act (NTTAA) and 1 CFR Part 51

This action does not involve technical standards.

IX. Statutory Authority

Statutory authority for this proposed action comes from sections 114, 203-05, 208, 211, 301, and 307 of the Clean Air Act, 42 U.S.C. 7414, 7522–24, 7542, 7545, 7601, and 7607.

List of Subjects

40 CFR Part 80

Environmental protection, Administrative practice and procedure, Air pollution control, Diesel fuel, Fuel additives, Gasoline, Imports, Incorporation by reference, Oil imports, Petroleum, Renewable fuel.

40 CFR Part 1090

Environmental protection, Administrative practice and procedure, Air pollution control, Diesel fuel, Fuel additives, Gasoline, Imports, Incorporation by reference, Oil imports, Petroleum, Renewable fuel.

Lee Zeldin,

Administrator.

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