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ENERGY MARKETERS OF AMERICA
REGULATORY ALERT

EPA Finalizes Record-High 2026–2027 Renewable Fuel Standards Obligations

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On April 1, 2026, the Environmental Protection Agency (EPA) finalized its Renewable Fuel Standard (RFS) "Set 2" Rule, establishing renewable fuel volume requirements for 2026 and 2027 at the highest levels in the program's 20-year history. The rule increases volume mandates across all fuel categories, reallocates a significant portion of previously granted small-refinery exemptions (SREs), eliminates renewable electricity as a qualifying fuel pathway, reduces equivalence values for renewable diesel, and introduces new structural changes affecting heating oil and biogas. With an effective date of June 15, 2026, EMA marketers should begin reviewing compliance and commercial strategies now.

The Trump administration's embrace of the Set 2 Rule signals ongoing federal commitment to expanding domestic biofuels markets, even as EPA acknowledged needing more time before it can implement the planned crackdown on renewable fuels and feedstocks derived from foreign sources. Reaction from the biofuels sector has been enthusiastic, with industry associations praising the Rule's multi-year framework and ambitious volume targets. The response has not been uniformly positive, however, as refining interests have pushed back on the 70 percent Small Refinery Exemption reallocation, arguing that returning such a large volume of previously exempted RINs to the market simply enables obligated parties to satisfy their obligations through banked credits rather than stimulating new biofuel demand. Additionally, refiners estimate that the Rule could impose a compliance cost of nearly $70 billion annually—affecting fuel prices for consumers.

Alongside the Set 2 Rule, EPA issued an emergency waiver on March 25, 2026 permitting nationwide summer sales of E15—a fuel blend that would otherwise be restricted during warmer months under the federal fuels program. In combination, the E15 authorization and elevated RVOs are designed to increase domestic fuel availability and ease pump prices, though their net effect on RIN market dynamics remains uncertain.

Record-High Volume Standards

The 2026 and 2027 Renewable Volume Obligation (RVO) levels are the most ambitious in the history of the RFS program. EPA Administrator Lee Zeldin announced the rule at a White House celebration of American agriculture, touting projected creation of more than 100,000 jobs and over $10 billion in value for rural economies. The final RVO levels, expressed in billion Renewable Identification Numbers (RINs), are as follows:

Fuel Category	Set 1 (2025)	Proposed 2026	Final 2026	Final 2027
Cellulosic Biofuel	1.38 (1.21*)	1.30	1.36	1.45
Biomass-Based Diesel (BBD)	5.36	7.12	9.07	9.20
Advanced Biofuel	7.33	9.02	11.10	11.32
Total Renewable Fuel	22.33	24.02	**26.81**	**27.02**

** 2025 cellulosic partially waived from 1.38 to 1.21 billion RINs. All values in billion RINs.*

Final volumes for both 2026 and 2027 exceed the original proposal, driven in part by the SRE reallocation policy discussed below. Notably, the Rule also changes the Biomass-Based Diesel (BBD) volume requirement from physical gallons to RINs, bringing it into alignment with all other fuel categories and eliminating a long-standing source of confusion. While the 9.07 and 9.20 billion RIN levels guarantee use of at least 5.33 and 5.75 billion gallons of BBD in 2026 and 2027 respectively, the shift to RINs should have no practical effect on obligated parties' compliance obligations.

SRE Reallocation

EPA finalized a 70 percent reallocation of the RVO volumes that were previously exempted for the 2023–2025 compliance years through SREs, adding more than 2.0 billion RINs back into the Set 2 standards. This exceeds the 50 percent level proposed by the agency in mid-2025, and reflects EPA's stated intent to prevent past SRE exemptions from materially undermining biofuel demand going forward, while preserving the availability of carryover RINs needed for a stable credit market. Some older, exempted volumes were not accounted for in the reallocation:

> *"This partial reallocation is intended to prevent the 2023–2025 exemptions from significantly and negatively impacting biofuel demand in 2026 and 2027, while also recognizing the importance of the availability of carryover RINs to a liquid and smoothly functioning RIN market."*

EMA marketers should note that while the reallocation supports biofuel demand, higher reallocation rates can depress RIN prices by reducing the need for new RIN generation. Obligated parties relying on surplus carryover RINs may find their compliance strategies affected by the increased volume obligations regardless.

Revised Equivalence Values (Effective January 1, 2027)

Beginning January 1, 2027, EPA will adjust the default equivalence values used to calculate RIN generation for renewable diesel, renewable jet fuel, and renewable naphtha to better reflect actual renewable energy content. The changes are:

Fuel Type	Prior Value	Proposed	Final
Renewable Diesel	1.7	1.6	1.5
Renewable Jet Fuel	1.7	1.6	1.5
Renewable Naphtha	—	1.4	1.4

The reductions reflect the fact that renewable diesel and jet fuel are produced using a hydrotreating process in which the hydrogen input is derived from fossil natural gas, meaning the resulting fuel is not 100 percent renewable. EPA acknowledged that changing equivalence values mid-year would create compliance planning headaches for obligated parties and accordingly delayed effectiveness of these provisions to January 1, 2027, even though the rest of the rule takes effect June 15, 2026.

Renewable diesel producers may use EPA's estimated average renewable content of 93.9 percent for their applications or may provide alternative justification. Producers using the average content figure need only submit energy content testing results.

Imported Fuel Policy — IRR Deferred to 2028

EPA did not finalize the proposed Import RIN Reduction (IRR) provisions, which would have cut by 50 percent the number of RINs generated for finished imported biofuels and domestic biofuels made from imported feedstocks. EPA cited the need for additional time to develop an effective implementation framework and acknowledged concerns — which EMA had raised in comments — that supply chain disruptions could drive up prices at the pump:

> *"Given the importance of the policy objectives underlying the proposed IRR provisions … we intend to establish IRR provisions that will take effect at the beginning of the 2028 compliance year or sometime shortly thereafter."*

Although the IRR is deferred, EPA's intent is clear: restrictions on import-based RINs are coming. EMA marketers with supply chains relying on foreign-sourced feedstocks or finished fuels should begin planning for the 2028 implementation. Separately, EMA marketers should be aware that the *One Big Beautiful Bill Act*, enacted in July 2025, already limits availability of the §45Z Clean Fuel Production Credit to renewable fuels produced in the United States from domestic feedstocks beginning in 2026 — a parallel restriction operating independently of the RFS program.

eRINs Eliminated as Compliance Pathway

The final rule removes renewable electricity from RFS compliance eligibility, effectively ending the decade-long effort by biogas producers, landfill gas operators, wastewater treatment facilities, and electric vehicle (EV) manufacturers to establish a workable eRIN pathway. EPA concluded that renewable electricity does not meet the statutory definition of "renewable fuel" under Clean Air Act Section 211(o)(1)(J), which the agency read as limited to liquid or gaseous fuels. EPA found that electricity neither physically displaces nor reduces the quantity of fossil fuel present in a transportation fuel and cannot be "fungible" with it.

EPA further observed that the Clean Air Act's RFS provisions make no mention of electricity, while explicitly referencing liquid and gaseous fuels more than fifty times. This determination was reinforced by the Supreme Court's 2024 decision in *Loper Bright Enterprises v. Raimondo*, which eliminated judicial deference to agency statutory interpretations under the Chevron doctrine. Under *Loper Bright*, EPA could no longer rely on a broad construction of its own authority to maintain the eRIN pathway and was required to anchor its position in the plain statutory text:

> *"While we previously, in 2010, assumed that renewable electricity could meet this definition, we have revisited the statutory analysis based on the text of the statute and consistent with intervening Supreme Court decisions on standards for statutory interpretation."*

Stakeholders who had invested in anticipation of an eRIN pathway — particularly biogas-to-power and EV charging operators — should assess what this determination means for their business models. Challenges to the eRIN elimination are expected.

Heating Oil and Process Heat — Significant New Documentation Requirements for EMA Marketers

This section of the final rule has particularly significant implications for heating oil distributors and marketers. EPA finalized a broad prohibition on RIN generation for renewable fuel used for process heat or electricity generation, with important new documentation and chain-of-custody obligations that flow down through the distribution chain.

Background

Prior to the final rule, the prohibition on RIN generation for process heat and electricity generation was narrower and focused primarily on biodiesel (B100/B99). EPA's proposal sought to disallow RIN generation from biodiesel used in process heat or electricity generation on the basis that such fuel does not meet the regulatory definition of "heating oil." In response to comments, EPA agreed that blends of biodiesel above B80 fall under the definition of "heating oil" and should be treated consistently. The final rule expands the prohibition to **all renewable fuels** — not just biodiesel — firmly establishing that process heat and electricity generation are not qualifying uses under the RFS program, regardless of fuel type.

EPA simultaneously narrowed the definition of eligible "heating oil" use to fuel consumed for **"human comfort"** — i.e., space heating of residential, commercial, or institutional buildings — as opposed to industrial process heat or power generation. This distinction is now the operative boundary between RIN-eligible and RIN-ineligible uses of renewable heating oil.

New Documentation Requirements

To enforce the human-comfort limitation, EPA has tightened documentation requirements throughout the distribution chain. Effective June 15, 2026, the following requirements apply:

- **Signed Affidavits Required.** Producers may not generate RINs for renewable fuel oil unless they obtain signed affidavits from both (a) the producer and (b) the final end-user, verifying that the fuel will be — or was — used for human comfort heating and not for process heat, electricity generation, or any other non-qualifying purpose.
- **Product Transfer Document (PTD) Warning Language.** All Product Transfer Documents associated with renewable fuel oil must carry the following mandatory warning:

  "Do NOT use for process heat or cooling or any other purpose, as these uses are prohibited pursuant to 40 CFR 80.1460(g)."
- **Prohibition on Downstream RIN Generation.** In practice, these requirements mean that heating oil downstream marketers and distributors — including EMA marketers who resell renewable heating oil purchased from upstream producers — cannot themselves generate RINs, because they cannot obtain the end-user affidavit at the point of their own sale into the distribution chain. RIN generation is effectively locked at the producer level for fuel oil that passes through intermediary distributors.
- **Existing RINs Must Be Retired.** Any RINs previously generated from fuel used for process heat or electricity generation must be retired once the Set 2 Rule takes effect on June 15, 2026.

Practical Implications for EMA Marketers

These requirements raise several practical concerns for marketers and heating oil distributors:

- **Know Your Customer.** Distributors who sell renewable heating oil — including biodiesel blends — to commercial or industrial customers who may use the fuel for process heat (e.g., boilers for manufacturing, food processing, or industrial operations) rather than building comfort heating should carefully assess their customer base. Sales to such customers will not support RIN generation, and any effort to generate RINs for fuel known to be destined for process heat uses could expose the distributor to RFS liability.
- **PTD Compliance.** EMA marketers must ensure that their Product Transfer Documents for renewable fuel oil include the mandatory warning language above on or before June 15, 2026. Failure to include required PTD language is itself a violation of RFS regulations. Marketers should update immediately their standard PTD templates, contracts, and order documentation.
- **Affidavit Logistics.** For distributors who are purchasing renewable fuel oil and reselling it to end-users, the affidavit requirement may affect how the distribution chain is structured. If RIN generation is a source

of value in the transaction, the obligation to obtain end-user affidavits may require new documentation flows between the producer upstream and the end-user downstream. Marketers should work with their counsel and fuel suppliers to understand where in the chain RIN generation is occurring and ensure that appropriate affidavit documentation is in place.

- **Audit and Recordkeeping Exposure.** EPA's attest engagement and recordkeeping requirements for RIN generation are rigorous. The new affidavit requirement adds another document type that must be retained and made available to EPA upon request. Marketers who generate RINs — or who receive product where RINs have been generated upstream — should ensure that their recordkeeping systems can capture and preserve the required affidavit documentation.
- **Biodiesel Blends Above B80.** Consistent with EPA's response to comments, blends of biodiesel above B80 continue to qualify as "heating oil" and are not subject to the same restrictions that apply to B100 or B99. Marketers who distribute high-blend biodiesel heating products should confirm that the blend level of their products is clearly documented and that PTDs accurately reflect the blend to preserve RIN eligibility where it exists.

Biogas and Renewable Natural Gas (RNG)

The rule finished several clarifications to the RFS biogas regulations of interest to marketers who distribute compressed natural gas (CNG) or liquefied natural gas (LNG) derived from renewable sources:

- The rule clarifies how biogas, RNG, and renewable CNG/LNG are measured, sampled, and tested to demonstrate compliance.
- Technical amendments clarify what constitutes a batch of RNG, the requirements for RIN generation and separation for RNG, and registration and attest engagement requirements for biogas producers and RNG RIN separators.
- The rule states that any transfer of an assigned RIN with a K code of 3 is deemed to include transfer of a corresponding physical volume of RNG — signaling EPA's support for book-and-claim accounting. However, EPA simultaneously added a prohibited act provision stating that K3 RIN recipients must receive a corresponding physical volume of RNG, even if it need not be the *same* volume used for RIN generation. These provisions appear somewhat inconsistent, and EMA members involved in RNG transactions should work with counsel to ensure their compliance approach is defensible.

2025 Cellulosic Biofuel Partial Waiver

The rule finalizes a partial waiver of the 2025 cellulosic biofuel mandate, reducing the applicable volume from 1.38 billion RINs to 1.21 billion RINs to address a 170 million RIN production shortfall. Cellulosic waiver credits (CWCs) are available for the 2025 compliance year. The final waiver amount is slightly higher than the 1.19 billion RINs proposed, reflecting updated production data. Obligated parties should account for this reduction when finalizing 2025 compliance calculations.

Litigation and Next Steps

Challenges to the final rule must be filed within 60 days of publication in the Federal Register (i.e., by June 1, 2026). RFS final rules are invariably challenged in court, and this rule presents multiple contested issues. SRE reallocation is expected to be particularly contentious, with petitioners likely to bring suit on both sides. The elimination of eRINs and the treatment of imported fuels are also likely litigation targets. Such challenges typically take 18 to 24 months to resolve, and EPA has noted in the preamble that several provisions can be severed, meaning individual issues may proceed as standalone cases.

EMA marketers should take the following steps in advance of the June 15, 2026 effective date:

- **Review 2026–2027 RVO compliance strategies** in light of the record-high volume obligations, revised SRE reallocation volumes, and deferred equivalence value changes.
- **Update PTD templates** to include the mandatory heating oil warning language before June 15, 2026.
- **Audit heating oil customer base** to identify end-users with potential process heat applications and assess RIN generation eligibility.
- **Implement affidavit procedures** for renewable fuel oil RIN generation, including end-user verification documentation.
- **Begin planning for 2028 IRR provisions** if your supply chain includes foreign-sourced fuels or feedstocks.

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