APPENDIX B

Comments of Sustainable Advanced Biofuel Refiners Coalition on
Renewable Fuel Standard (RFS) Program:
Standards for 2026 and 2027, Partial Waiver of 2025 Cellulosic Biofuel Volume Requirement,
and Other Changes, Proposed Rule, 90 Fed. Reg. 25,784 (June 17, 2025)

Docket ID No. EPA-HQ-OAR-2024-0505

August 8, 2025

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INTRODUCTION[1]

The Sustainable Advanced Biofuel Refiners (SABR) Coalition is a coalition of biodiesel stakeholders representing every link in the value chain—i.e., feedstock growers, biodiesel producers, distributors, retailers, consumers, developers, and products and services suppliers. These stakeholders, mostly small businesses, participate in the Renewable Fuel Standard (RFS) program and/or have invested heavily in building a significant production and distribution system for biodiesel in reliance on the RFS program. They have a significant interest in EPA's implementation of the RFS program and have seen biodiesel production under the RFS program shrink, as it becomes increasingly displaced by renewable diesel and renewable jet fuel in the biomass-based diesel market. Today's "biomass-based diesel" market was created by policy decisions by EPA under the RFS program, but this market largely drives demand for biodiesel.

Because of the substantial interests of its members, we are submitting these comments on EPA's proposed rule entitled "Renewable Fuel Standard (RFS) Program: Standards for 2026 and 2027, Partial Waiver of 2025 Cellulosic Biofuel Volume Requirement, and Other Changes," published at 90 Fed. Reg. 25,784 (June 17, 2025) (referred to as "Proposed RFS Set 2 Rule"). Our comments focus on the need for EPA to implement the biomass-based diesel and advanced biofuel categories in a manner that supports *all* biofuels, including biodiesel, renewable diesel, and renewable jet fuel, and gives meaning to the biomass-based diesel volume requirement. While we appreciate the proposed increase in the biomass-based diesel volume requirements, we continue to ask EPA to allow these biofuels to participate in the RFS program on a more level playing field.

Indeed, EPA's proposal includes reinterpretation of long-standing policies under the RFS in an effort to support U.S. producers and farmers. Similarly, EPA must reassess its interpretation of the fuels included under the statutory definition of "biomass-based diesel," particularly with respect to EPA's determinations to allow renewable jet fuel to generate D4 RINs. We believe EPA's interpretation is not consistent with the statute and does not focus the program on U.S. producers and U.S. feedstocks. Instead, it advantages renewable diesel and renewable jet fuel that are increasingly relying on foreign feedstocks to take advantage of other incentives available to them. This also opens the door for manipulation of the market and reduced competition if biodiesel producers continue to be squeezed out of the market. As biodiesel producers slow down production or even shut down, this has ripple effects throughout the economy, including the loss of high-skilled, well-paying jobs, lost contributions to local economies, and loss of markets for farmers, impacting the rural economy.

We also appreciate that EPA is finally proposing to revise its unlawful equivalence values for renewable diesel and renewable jet fuel. This has been another regulation that has been inconsistent with the statute that must be corrected. Unfortunately, EPA uses assumptions that we believe are biased and continue to advantage renewable diesel and renewable jet fuel *with no benefit to the environment*, as explained in more detail in Appendix A to SABR Coalition's comments. This is unlike the case when EPA set the equivalence value for biodiesel.

[1] For purposes of these comments, we define biodiesel as "a mono-alkyl ester that meets ASTM D6751." 40 C.F.R. § 80.1401. Renewable diesel is typically used to refer to renewable diesel that meets ASTM D975. However, based on EPA's uses and depending on the context, the term renewable diesel may also be used throughout these comments to include jet fuel, naphtha, and LPG, which are co-products of the renewable diesel production process.

Indeed, just EPA's rounding convention creates a bigger disparity between the two fuels than its own analysis shows, creating a significant advantage to renewable diesel producers on a per gallon basis. We believe EPA must take further action to correct the advantages its implementation of the program has given to renewable diesel to date.

We also ask EPA not to finalize those proposed changes that would only further disadvantage biodiesel. While we appreciate and support those aspects of the proposal that would appear to seek to facilitate compliance, EPA also includes proposals related to biodiesel's role in the heating oil market and would also appear to imply that testing of all the elements of the ASTM D6751 standard is required for every "batch" of biodiesel. EPA has provided producers flexibility in defining batches, and such a requirement penalizes smaller producers that sell their fuel in smaller "batches" even if produced at the same time, from a facility that follows quality assurance protocols, and does continuous testing as required by contracts or voluntary programs to confirm the quality of their fuel. Requiring a full battery of tests on each "batch" is unnecessary and may only serve to impose additional regulatory costs on the biodiesel industry with no benefit to the RFS program. We urge EPA not to finalize these proposed revisions.

DETAILED COMMENTS

EPA has listed certain Requests for Comments in the Proposed RFS Set 2 Rule that it has assigned "a unique identifier." 90 Fed. Reg. at 25,784. Although we do not believe this list is inclusive of all the issues raised by EPA's proposal, we attempt to refer to those identifiers as may be applicable. We have sought to organize related issues under the headers used by EPA in that list.

A. RENEWABLE FUEL VOLUMES AND ANALYSES

1. SABR Coalition agrees that there is ample biodiesel production capacity and feedstocks available to support increased volume requirements for biomass-based diesel and advanced biofuels. (A-1)

I. EPA, at a Minimum, Must Increase the Biomass-Based Diesel Volume Requirements from the Arbitrarily Low Numbers it Set for 2023-2025.

EPA claims that the Proposed RFS Set 2 Rule would result in 5.61 billion gallons of biomass-based diesel under the proposed biomass-based diesel requirement for 2026 and 5.86 billion gallons for 2027, accounting for projected impacts of the proposed RIN reduction for imported renewable fuel and renewable fuel produced from foreign feedstocks. 90 Fed. Reg. at 25,786. If correct, this would provide a significant increase in biomass-based diesel volumes compared to 2025, which was set at a mere 3.35 billion gallons. SABR Coalition agrees that there is ample production capacity and feedstock available for U.S. producers to meet these requirements and even higher volumes.

The Proposed RFS Set 2 Rule indicates that U.S. biodiesel production capacity registered under the RFS is 2.9 billion gallons "of which 2.6 billion gallons per year was at biodiesel facilities that generated RINs in 2024." 90 Fed. Reg. at 25,798. EPA's Draft Regulatory Impact Analysis (RIA), however, indicates that there is approximately 3.9 billion of total registered biodiesel production capacity in the United States. Draft RIA at 287 (EPA-HQ-OAR-2024-0505-

0315). Based on the industry's history of ramping up production to meet the volume requirements under the RFS, EPA properly determines that "domestic biodiesel production capacity is unlikely to limit domestic biodiesel production through 2030." 90 Fed. Reg. at 25,798. Biodiesel production capacity can be easily increased or turned back on, provided the right regulatory signals are in place. Thus, we agree that there is sufficient biodiesel capacity to contribute significantly more volumes to the RFS program.

However, we have concerns that EPA's proposal would "ensure" a minimum volume requirement of 5.61 billion gallons for 2026 or 5.86 billion gallons for 2027. EPA is proposing to revise the biomass-based diesel volume requirements to be in terms of ethanol-equivalent gallons or RINs versus biomass-based diesel gallons. It is unclear, for example, how EPA calculates a volume requirement of 5.61 billion gallons with its proposal for a 7.12 billion RIN requirement, which EPA claims accounts for projected impacts of the proposed RIN reduction for imported fuels and feedstocks. 90 Fed. Reg. at 25,786. EPA provides an estimated average equivalence value due to the expectation of RIN reduction for imported fuel and feedstocks, but it is unclear from the preamble how EPA calculated this number, and EPA indicates that volumes listed are "for illustrative purposes only." *Id.*

EPA also indicates that additional advanced biodiesel and renewable diesel gallons are likely (for a total of 6.83 billion biomass-based diesel gallons in 2026 and 7.16 billion biomass-based diesel gallons in 2027), which we assume would be to make up the difference in the advanced biofuel and overall renewable fuel volume categories. 90 Fed. Reg. at 25,787. Using EPA's same projection of 1.27 RINs per gallon that is reflected in the biomass-based diesel RIN/Gallon proposal, this would be around 8.67 billion RINs. According to EMTS (data as of July 10, 2025), there were almost 9.16 billion net D4 RINs generated in 2024. That is more than the total advanced biofuel requirement of 9.02 billion RINs that EPA is proposing for 2026. This indicates that there is already enough feedstocks available to produce this volume of biomass-based diesel gallons. Other analysis shows additional feedstocks are available to support even higher volumes. *See* GlobalData, *Lipid Feedstocks Outlook to 2030 & RVO Analysis*, ABFA Presentation, July 2025, https://advancedbiofuelsassociation.com/wp-content/uploads/2025/07/ABFA-Feedstock-Study-2025.pdf.

As such, we are concerned with various issues that may not require actual gallons be produced in 2026 and 2027 and, therefore, that EPA's proposal does not "ensure" any minimum applicable volume of biomass-based diesel under that category. First, as noted above, it is unclear how EPA translates these volumes to a biomass-based diesel requirement listed in RINs. So, we do not necessarily have confidence that the 7.12 and 7.50 billion RIN requirements will actually translate to the volumes EPA projects. We also are concerned that using "ethanol-equivalent gallons" does not ensure a minimum *volume* requirement, as is required under the RFS. 42 U.S.C. §7545(o)(2)(A). EPA itself claims that volumes under the statute are based on gallons, but EPA provides no real explanation why or how its volume stated in RINs reflects a minimum volume of biomass-based diesel. We further note that, if EPA does revise the proposed 50% import RIN reduction, that EPA must revise the requirements for biomass-based diesel to reflect those changes and ensure the minimum volumes EPA indicates it is proposing are, at least, the volume requirements it is finalizing.

Second, in light of the substantial overproduction of D4 RINs compared to the biomass-based diesel volume requirement set by EPA for 2024, there appears to be a significant amount of carryover RINs that will be available. We believe EPA underestimates the amount of potential carryover RINs from 2023 into 2024 because it is not accounting for deficits that may have been claimed by small refineries that may be waiting for a determination as to their pending exemption requests. EPA then claims estimating carryover beyond 2023 would be too uncertain (although it has done so in prior years) and "the uncertainties result in neither a net gain nor net loss of excess RINs for 2024 and 2025." Draft RIA at 31. This makes little sense. According to EMTS (data as of July 10, 2025), D4 RIN generation in 2024 exceeded the total advanced biofuel volume requirement of 6.54 billion RINs by over 2.6 billion RINs. Total RIN generation for 2024 exceeded 25.3 billion RINs to meet a 21.54 billion requirement. Even if you consider the total 2023 reported deficits of about 2 billion, that still leaves around 1.75 billion carryover RINs into 2025. While 2025 is only half over, D4 RIN generation through June (3.3 billion RINs) is currently on pace to exceed the total non-cellulosic advanced biofuel requirement for 2025 (as may be adjusted by EPA under the proposal). And, total RIN generation through June (11.16 billion RINs) appears on pace to meet the total volume requirement of 22.33 billion RINs. This again does not account for the pending small refinery exemption requests that EPA did not account for in setting the 2024 and 2025 volume requirements and has said it will not adjust if it subsequently grants any exemptions. We further do not know what EPA is going to do with the other pending small refinery exemptions, which could add even more RINs to the system.

Further, as previously explained to EPA and discussed further below, the unlawful equivalence values granted to renewable diesel and proposed for renewable jet fuel are too high. While we believe these fuels, particularly renewable jet fuel, do not meet the definition of "biomass-based diesel," these inflated equivalence values allow RINs to replace actual gallons to meet the volume requirements.

As such, while we support EPA's proposed increases in the biomass-based diesel volume requirements and agree there is more than sufficient production capacity and feedstock to meet those volumes, we have less confidence that the volumes EPA estimates will actually be required and, therefore, that EPA is not "ensuring" a minimum volume requirement will be met. We address alternative volume requirements that we believe would better meet the statutory requirements and goals in response to Request for Comment A-2 below.

II. EPA's Volume Requirements Must Support Growth of <u>All</u> Biofuels, Including Biodiesel, Renewable Diesel, and Renewable Jet Fuel. (A-7)

EPA requests comment on the advantages and disadvantages of establishing biomass-based diesel and advanced biofuel volume requirements at levels at or closer to the projected supplies of these fuels and the implications of doing so on the total renewable fuel volume if such an approach were adopted. 90 Fed. Reg. at 25,852. In the Set Rule, EPA set volume requirements for biomass-based diesel and advanced biofuel that were too low. Despite finding substantial increases in renewable diesel production capacity and finding renewable diesel production was displacing biodiesel production rather than fossil fuel in the marketplace, EPA did not set the 2023-2025 volume requirements close to potential production capacity. This led to biodiesel facilities to slow down production or idle.

The biodiesel industry urged EPA to set the volumes closer to biodiesel and renewable diesel production capacity to attempt to mitigate the displacement of biodiesel by renewable diesel. D4 RIN generation in 2024 show that EPA's volume requirements were woefully too low. While we believe there are additional actions that EPA can take to support biodiesel—America's first advanced biofuel, substantial increases in the requirements to support both biodiesel and renewable diesel are necessary. Otherwise, you will continue to see biodiesel facilities slowing or shutting down. The market will determine how to obtain feedstocks, and new facilities are likely to take action to secure feedstock sources prior to expending the money to invest in a renewable diesel refinery.

III. EPA Must Not Reduce the Volume Requirements Any Further, Requiring EPA to Account for Potential Small Refinery Exemptions When it Sets the Standards.

SABR Coalition appreciates EPA's recognition that it must account for projected small refinery exemptions when it sets the standards for 2026 and 2027. 90 Fed. Reg. at 25,833. We agree that EPA must do so to ensure the volume requirements are met. However, EPA has, to date, not provided the public with any transparency as to its potential policy for such exemptions moving forward nor how it plans to handle the numerous exemptions still pending for years 2016-2025. As EPA previously recognized, granting retroactive small refinery exemptions has negative implications for the volume requirements, and EPA must not allow these exemptions to impact those requirements. SABR Coalition urges EPA to provide the public with notice and an opportunity to comment on any proposed approach for handling these exemptions.

Due to EPA's handling of small refinery exemptions in the past, there was significant volatility in the RIN market. The volatility experienced created uncertainty in the program, which negatively impacted investments and growth despite there being ample feedstock sources and much greater room to grow. The retroactive nature of the exemptions being granted also effectively reduced the volume requirement outside EPA's waiver authority. EPA indicates that it will continue to decline to revise the percentage standards once finalized to account for any subsequent changes or other inaccuracies in the projection of exempt volumes of gasoline and diesel. 90 Fed. Reg. at 25,833. As such, to "ensure" the volume requirements are met, EPA must, at a minimum, account for potential exemptions in setting the standards. These projections must be as accurate as possible and, therefore, EPA should resolve these issues prior to finalizing the volume requirements for 2026 and 2027 or provide for adjustments if it cannot make the determination in time to issue the final standards by November 1, 2025.

We also believe EPA should provide the public with transparency on any revised approach to determining "disproportionate economic hardship." While EPA provides an upper and lower bound, this is a significant difference—from zero exempted gallons to 18 billion exempted gallons of gasoline and diesel fuel. Moreover, how EPA handles prior year exemptions can have significant implications for RIN availability. While EPA asserts these issues are beyond the scope of this action, we urge EPA to include the public in this decision-making process.

2. As an alternative volume requirement to those proposed for compliance years 2026 and 2027, EPA must consider providing, at least, a volume requirement for biodiesel as a subcategory of biomass-based diesel. (A-2)

In the Proposed RFS Set 2 Rule, EPA is proposing to change several long-standing policies based on its reassessment of statutory language. *See, e.g.,* 90 Fed. Reg. at 25,835 (asserting a new interpretation of the cellulosic waiver provision); *id.* at 25,839 (proposing a change in policy as to how RINs would be generated for foreign feedstocks and fuels); *id.* at 25,842 (proposing to "reverse" a 2010 determination that renewable electricity is an eligible fuel under the RFS).[2] EPA claims, at least for its proposed import RIN reduction, that EPA is making this reassessment to return the program to its original purpose—promote U.S. production of renewable fuels. In that case, EPA is claiming that it is "not advancing a new interpretation" of the statute but is relying on a "delegation of discretion" under the credit provisions of the statute, 42 U.S.C. §7545(o)(5)(A), but this is a different reading of the statutory language than it has previously expressed that would substantially expand EPA's authority. 90 Fed. Reg. at 25,839. We note that this is the same discretionary authority, among others, that SABR Coalition referenced in its comments on the Proposed Set Rule to provide for, at least, a specific volume requirement for biodiesel within the biomass-based diesel category, if EPA continued to decline to review the fuels it treats as "biomass-based diesel" that do not meet the plain language of the statutory definition. *See* Comments of SABR Coalition on Proposed Set Rule, Feb. 10, 2023 (EPA-HQ-OAR-2021-0427-0813). In reassessing its implementation of the biomass-based diesel program to ensure a certain market for biodiesel, EPA would, in fact, return to the purposes of the statute as Congress intended and can promote U.S. production of renewable fuels over imported feedstocks and fuel.[3] Under SABR Coalition's approach, EPA would still be promoting *all* renewable fuels, including renewable diesel and renewable jet fuel, but would do so without continuing to allow these fuels to simply displace biodiesel. As such, we, again, urge EPA to ensure an ongoing role for biodiesel under the RFS program.

I. Congress Sought to Promote Biodiesel Specifically under the RFS Program.

In 2005, Congress first established the RFS program under the Energy Policy Act of 2005 to address "renewable content of gasoline." Pub. L. No. 109-58, § 1501, 119 Stat. 594, 1067 (2005). The original RFS program defined renewable fuel to include "biodiesel" and also provided for appropriate credits for "biodiesel." The statute incorporated by reference the definition of "biodiesel" in § 312(f) of the Energy Policy Act of 1992 (42 U.S.C. § 13220(f)).[4] In 2005, § 13220(f) defined "biodiesel" as "a diesel fuel *substitute* produced from nonpetroleum renewable resources that meets the registration requirements for fuels and fuel additives established by the Environmental Protection Agency under section 7545 of this title." The

[2] Except as may be discussed in these comments, SABR Coalition takes no position on these changes.
[3] The U.S. Court of Appeals for the D.C. Circuit did not reach the merits of SABR Coalition's challenge to EPA's continued adherence to a flawed definition of "biomass-based diesel."
[4] Recognizing that biodiesel was often blended with diesel fuel for use as a transportation fuel, the full definition of "biodiesel" in RFS1 is as follows: "(II) biodiesel (as defined in section 312(f) of the Energy Policy Act of 1992 (42 U.S.C. 13220(f))) and any blending components derived from renew able fuel (provided that only the renewable fuel portion of any such blending component shall be considered part of the applicable volume under the renewable fuel program established by this subsection)." Pub. L. No. 109-58, §1501(a)(2), 119 Stat. 1068.

Energy Policy Act of 2005 made numerous mentions of "biodiesel," including amending the definition of "biodiesel" in 42 U.S.C. §13220(f) to clarify use of additional feedstocks for biodiesel production. Pub. L. No. 109-58, § 1515, 119 Stat. 1091. While in some cases the definition of "biodiesel" included a reference to ASTM D6751, that is a fuel quality standard, and the RFS program was not intended to regulate fuel quality. Further, the only references to "renewable diesel" defined it as "diesel fuel" not a "diesel fuel substitute" or "biodiesel" meeting ASTM D975. Pub. L. No. 109-58, §1346(a). Congress knew the difference between biodiesel fuels that are "substitutes" for diesel fuel and "renewable diesel" that EPA has referred to as "drop-in" diesel fuel. While EPA has drawn different lines in its regulations for the RFS program, it is the statute's definitions that control, and this distinction matters, as EPA is not ensuring a minimum volume requirement for "biodiesel."

The 2007 amendments to the RFS program expanded the program to require renewable fuel in all transportation fuel and established a separate "biomass-based diesel" category. Pub. L. No. 110-140, §201, 121 Stat. 1492, 1520 (2007). Congress continued to incorporate the definition of "biodiesel" in 42 U.S.C. § 13220(f) in its definition of biomass-based diesel and to allow the appropriate amount of credits for "biodiesel."

While the definition incorporated into the RFS program refers to "a diesel fuel substitute," the biodiesel being referenced in that definition was methyl esters, which was considered a "substitute" to diesel fuel due to the presence of oxygen that distinguishes it from "diesel fuels" that meet ASTM D975. *See* H.R. Rep. No. 105-727, at 8-9 (1998) This is evidenced in the statutory language under 42 U.S.C. §13220 that references 20% biodiesel blends, which typically refers to B20 that is a reference to biodiesel defined as methyl esters, not "renewable diesel" meeting ASTM D975 (i.e., diesel fuel). Pub. L. No. 105-388, § 7(a), 112 Stat. 3477, 3480 (1998); *see also* U.S. Department of Energy (DOE), *Biofuel Basics*, Bioenergy Technologies Office, https://www.energy.gov/eere/bioenergy/biofuel-basics (last visited Aug. 7, 2025) (noting B20 as "the most common blend" of biodiesel). Prior to this change, DOE had only determined that B100, which is pure biodiesel (methyl esters), qualifies as alternative fuels. *See* H.R. Rep. No. 105-727, at 8-9. This change allowed use of B20 fuel to qualify for the credit. There was no discussion of "renewable diesel" meeting ASTM D975 around the passage of the definition of "biodiesel" in 42 U.S.C. §13220.

The first U.S. biodiesel specification was the American Society for Testing & Materials (ASTM) standard D6751, Standard Specification for Biodiesel Fuel (B100) Blend Stock for Distillate Fuels, which was adopted in 2002. To address fuel quality concerns, the biodiesel industry began to utilize this specification to further clarify the definition of biodiesel. There is no indication, however, that the term "biodiesel" was intended to more broadly refer to any and all types of diesel fuel substitutes or any and all renewable fuels that could be used in an engine that may use a form of distillate fuel. Elsewhere in the Energy Policy Act of 2005, as noted above, Congress used the term "renewable diesel," which it treated differently from "biodiesel." *Compare* Pub. L. No. 109-58, § 1346, 119 Stat. 1055 (adding renewable diesel to tax credit) *with* § 757, 119 Stat. 832 (biodiesel engine testing program). Indeed, in 2007, Congress also added subsection (u) to 42 U.S.C. § 7545, which referenced specifications for "B5" and "B20," referring to the same definition in 42 U.S.C. § 13220(f). Pub. L. No. 110-140, § 247, 121 Stat. 1547. Again, B5 and B20 refer to blends of methyl esters, not renewable diesel. This is consistent with the view that the "biggest difference between biofuels and petroleum feedstocks

is oxygen content." Sippy K Chauhan and Anuradha Shukla, *Environmental Impacts of Production of Biodiesel and its Use in Transportation Sector* (2011), https://www.intechopen.com/chapters/19108. EPA continues to ignore the key term "substitute" in the statute, and, because it has redefined these terms, continues to ignore the difference between renewable diesel that meets ASTM D975 and other renewable fuels that can be used as a "substitute" for diesel fuels. Again, if Congress simply thought that biodiesel was the same as all fuels, why did it define renewable diesel as a different fuel instead of simply defining it as "biodiesel" that meets ASTM D975 compared to "biodiesel" that meets ASTM D6751.

The history of the RFS program, which EPA also continues to ignore, makes clear that biodiesel was on top of Congress's mind with respect to the RFS program. In May 2005, then President Bush spoke at a biodiesel plant in Virginia, stating "Biodiesel is one of our nation's most promising alternative fuel sources." Office of the Press Secretary, President Discusses Biodiesel and Alternative Fuel Sources, May 16, 2005, https://georgewbush-whitehouse.archives.gov/news/releases/2005/05/20050516.html. President Bush touted the RFS, recognizing that the government must "make sure that the environment is such that the entrepreneurial spirit remains strong." *Id.* The biodiesel industry represented that entrepreneurial spirit. There would not have appeared to be any renewable diesel in production in 2005 or 2007 in the United States. And, while biodiesel production was truly home-grown, the first significant gallons of renewable diesel under the RFS program was imported by foreign producers.[5] The first U.S. renewable diesel plant is considered to be the plant in Geismer, Louisiana, which became operational in 2010. *See* Tom Bryan, *Renewable Diesel's Rising Tide*, Biodiesel Magazine, Jan. 12, 2021, https://biodieselmagazine.com/articles/2517318/renewable-diesels-rising-tide.

The support for both ethanol and biodiesel is evidenced throughout the legislative history of the RFS.[6] Biodiesel was considered an advanced biofuel, and Congress sought to support "cellulosic biofuels." But there was no mention that we could find of "renewable diesel" or even alternatives to biodiesel, which can utilize different feedstocks and supports all the environmental, economic and energy security goals of Congress. Thus, Congress sought specifically to promote biodiesel under the RFS program, including when it expanded the program to include a specific category for biomass-based diesel.

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[5] Neste, which has plants located outside the U.S., reported its first sales of renewable diesel in the U.S. market in 2012, although EPA referenced Neste as an example of renewable diesel when it promulgated the RFS1 regulations. *See* 72 Fed. Reg. 23,900, 23,917 (May 1, 2007); Neste Oil, *History*, https://web.archive.org/web/20130509081751/http://www.nesteoil.com/default.asp?path=1,41,537,2396 (last visited Aug. 7, 2025). There were limited volumes of "renewable diesel" prior to 2012 reported in EPA's EMTS data. Today, domestic production of renewable diesel does exceed imports, but they have also increased their use of imported foreign feedstocks.

[6] *See, e.g.,* House Committee on Agriculture June 28, 2005 Press Release, *Gutknecht Introduces Renewable Fuels Act of 2005*, https://agriculture.house.gov/news/documentsingle.aspx?DocumentID=1847; S. Rep. No. 110-65, at 2-3, 8 (2007); 153 Cong. Rec. E238 (Feb. 1, 2007) (statement of Rep. Weller, Illinois); 153 Cong. Rec. H732, H733 (Jan. 18, 2007) (statement of Rep. Braley, Iowa); 153 Cong. Rec. E2529 (Dec. 10, 2007) (statement of Rep. DeLauro, Connecticut); 153 Cong. Rec. S1615-S1617 (Feb. 6, 2007) (statement of Sen. Grassley, Iowa); 153 Cong. Rec. H13398-H13403 (Nov. 8, 2007) (statement of Rep. Inslee, Washington); 153 Cong. Rec. S3732-S3735 (Mar. 26, 2007) (statement of Sen. Salazar, Colorado); 153 Cong. Rec. H14260, H14265 (Dec. 6, 2007) (statement of Rep. Herseth Sandlin, South Dakota).

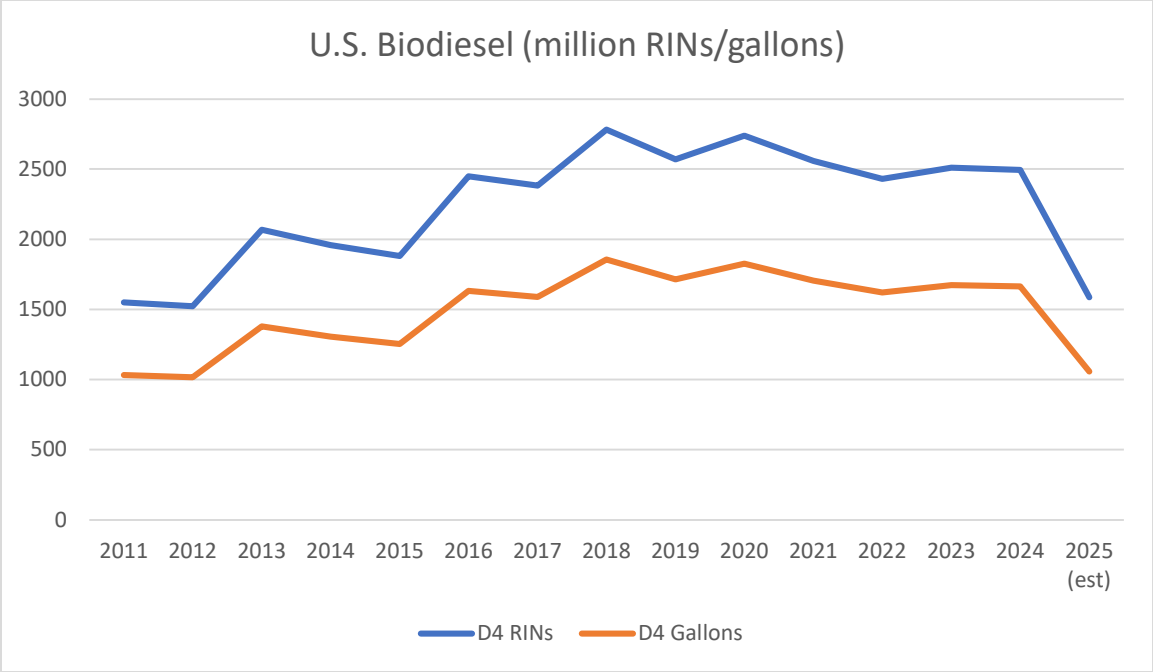
II. Retaining the Current Structure of the Biomass-Based Diesel Program Does Not "Ensure" the Volume Requirements or Best Further the Goals of Congress.

A. Renewable diesel has been displacing biodiesel production.

EPA states that, since 2018, domestic biodiesel production "decreased slightly" to approximately 1.7 billion gallons in 2024 and that "overall biodiesel supply in the U.S. has remained between 1.6 and 1.8 billion gallons since 2016." 90 Fed. Reg. at 25,798. EPA's analysis ignores the negative impacts its implementation of the biomass-based diesel program has had on U.S. biodiesel production in recent years.

Biodiesel has faced difficulties since the start of the RFS program, whether it be EPA's delay in starting the biomass-based diesel program, the impacts of the expansion of the small refinery exemptions that created substantial volatility in the market, the impact of the fraud cases on small producers leading to quality assurance programs and added regulatory costs, or EPA's general handling of the "nested" nature within the advanced biofuel category that stifled biomass-based diesel growth. Notwithstanding the regulatory hurdles EPA has placed before it, the industry had consistently met and exceeded expectations regarding production, including when EPA has claimed feedstock constraints. Congress's expectations for biodiesel were exceeded in 2011, when the industry was already producing more than 1 billion gallons (the goal set by Congress for 2012). It again exceeded EPA's expectation for 2013 when EPA first set the biomass-based diesel volume after the end of the statutory volumes to 1.28 billion gallons.

This all has changed as renewable diesel producers (largely with obligated parties at their helm) have taken advantage of the disparate treatment embedded in EPA's implementation of the RFS program. While EPA attempts to claim that U.S. biodiesel supply has remained steady, U.S. biodiesel production has been declining in recent years, despite EPA increasing the biomass-based diesel volume requirements. This trend is illustrated in the following graph, which is based on EMTS D4 RIN generation data for U.S. biodiesel (data as of July 10, 2025). The policy advantages that renewable diesel is able to take advantage of (which are not required by statute) allows it to displace biodiesel wholly unrelated to any other market factor that might otherwise come into play. Indeed, biodiesel is cheaper than renewable diesel and improves engine performance.



Thus, it has become apparent that EPA's implementation of the biomass-based diesel program is disadvantaging biodiesel producers, which we believe is inconsistent with the statutory language and counter to the goals of Congress. This has resulted in the displacement of biodiesel with renewable diesel with no added benefit for the environment, the economy, or energy independence. To date, neither EPA nor obligated parties have identified any concern with ensuring a specified volume of biodiesel with respect to the operation of the RFS program. They simply point to EPA's definition of "biomass-based diesel" and call it a day. As explained above, this definition is not as broad as they claim, and discussed below (as EPA has clearly indicated in this proposal), these definitions do not somehow constrain EPA's authority to ensure the goals of the statute are met.

SABR Coalition had recommended and recommends again that EPA create a biodiesel specific volume requirement (whether solely through the biomass-based diesel volume category or through a subcategory) of 2 billion gallons. This is below EPA's estimates of U.S. biodiesel production capacity and can be easily achieved. It is also less than EPA's own estimates for biodiesel specifically under its proposed volumes (and even estimated volumes) under all scenarios (around 2.1 billion gallons). *See* Draft RIA at 88 (Table 3.1-7), 89 (Table 3.1.8) and 308 (Table 7.2.6-2). While the higher volumes may stem the downward trend of U.S. biodiesel production, as noted above, there remain uncertainties that this will be the case, and such a requirement would only codify what EPA believes the market can and will do. This would "ensure" the volumes EPA is projecting and, as discussed further below, the benefits of such a category are established and substantial. As these volumes are within EPA's own estimates, we believe it is a logical outgrowth of the proposal, including EPA's requests for comments on alternative volume requirements and for comments on setting the biomass-based diesel volumes closer to projected supplies. We also believe this would not require reopening EPA's definitions if it simply creates a subcategory for biodiesel. At a minimum, EPA has ample time to provide additional notice to implement such an approach for 2027, which can be done if it sets the

standards separate from setting the volume requirements, which would allow EPA to get better estimates of gasoline and diesel fuel use for setting those standards and get a better handle on small refinery exemptions.

B. The current RFS implementation does not let the market work.

In addition to the low volumes EPA had set for 2023-2025, EPA's implementation of the RFS program advantages renewable diesel and renewable jet fuel over biodiesel.

First, EPA has basically admitted that the equivalence value it set for renewable diesel was unlawful. EPA did not dispute SABR Coalition's argument that the current equivalence value is unlawful and unfairly disadvantages biodiesel. Rather, EPA simply stated it enjoys discretion in when to correct these violations. EPA Br. at 87-88, *Ctr. for Biological Diversity v. EPA*, Nos. 23-1177 (D.C. Cir. filed Sept. 6, 2024) ("EPA Br."); *see also* EPA, *Renewable Fuel Standard (RFS) Program: Standards for 2023-2025 and Other Changes – Response to Comments*, at 64 (2023) (EPA-HQ-OAR-2024-0505-0156) (acknowledging difference in equivalence values is an "additional incentive renewable diesel is provided over biodiesel"); Draft RIA at 9 ("Renewable diesel also currently generates more credits per gallon than biodiesel, providing additional revenue for renewable diesel producers and blenders."). While EPA is finally proposing to revise the equivalence value, as discussed further below, EPA's proposal perpetuates the existing bias favoring renewable diesel.

Second, EPA has also approved RIN generation for co-products of the renewable diesel production process—naphtha and LPG (but only for certain feedstocks)—that is not available for biodiesel co-products. Indeed, EPA discounted the benefit of glycerin in its lifecycle analysis for biodiesel by deeming the glycerin to have a low-value use (which is as a fuel source). 75 Fed. Reg. 14,670, 14,783 (Mar. 26, 2010). EPA also proposes to assign a favorable "default" equivalence value to renewable naphtha (discussed further below and in the attached White Paper). While these pathways generate D5 RINs, where EPA has essentially allowed the advanced biofuel category to do the work for biomass-based diesel, prices for D4 RINs and D5 RINs have tracked each other, giving renewable diesel producers significant benefits in RIN values for these co-products. Because of these disparities, we do not believe these RIN prices accurately reflect the market for these fuels and RINs.

Third, EPA continues to ignore that renewable diesel facilities are largely owned by or affiliated with obligated parties. EPA touts the increase in renewable diesel production facilities, which we do not oppose. However, EPA estimates this production capacity to be increasing to 9.6 billion gallons by 2028. Draft RIA at 289. According to the U.S. Energy Information Administration (EIA), there are currently 22 renewable diesel plants in the United States compared to 56 biodiesel plants (a reduction from 72 facilities in 2022 and 102 facilities in 2019).[7] Of the 22 renewable diesel facilities, at least 17 are owned or operated by an obligated

[7] EIA, *U.S. Renewable Diesel Fuel and Other Biofuels Plant Production Capacity,* Release Date: Aug. 15, 2024, https://www.eia.gov/biofuels/renewable/capacity/; EIA, U.S. Biodiesel Plant Production Capacity, Aug. 15, 2024, https://www.eia.gov/biofuels/biodiesel/capacity/. This reduction is largely the result of smaller biodiesel plants being forced to shut down.

party or affiliated with one (e.g., through a joint venture).[8] Why this matters is because, under EPA's regulations, obligated parties only need to own the fuel to separate the RIN, which it can use for compliance or sell.[9] 40 C.F.R. § 80.1429(b)(1). While there is some incentive to require blending above their renewable volume obligation or RVO, *Id.* § 80.1429(b)(7), this does not actually require the obligated party to use the biofuel. Regardless, obligated parties can easily place to 5% of renewable diesel in their diesel fuel, as it is still considered diesel fuel under D975 for purposes of labelling and distribution. While these obligated parties are complying with their RVOs, this leaves little room to incentivize other diesel fuel substitutes or to build the needed infrastructure to grow the volumes under the RFS program. EPA may believe this facilitates compliance costs, but that is not a factor to be considered or a goal of the RFS program. *Monroe Energy, LLC v. EPA*, 750 F.3d 909, 919 (D.C. Cir. 2014) ("RINs are costlier than in prior years, ... high RIN prices should, in theory, incentivize precisely the sorts of technology and infrastructure investments and fuel supply diversification that the RFS program was intended to promote.").

We believe the impacts of EPA's regulations affect renewable diesel and biodiesel differently, largely due to the different structure of the renewable diesel market compared to the biodiesel fuel markets. Unlike renewable diesel, biodiesel producers tend to have to share the RIN value with blenders/marketers, which, in turn, use that value to reduce prices at the pump. For renewable diesel production associated with obligated parties, there is no party to share the RIN value with to get their fuel sold and distributed. This does have implications for the RFS program and the RIN market (e.g., allows renewable diesel RIN prices to be skewed upward or gives obligated parties greater control over RIN prices/availability).

In addition, biodiesel producers often have to look to other customers to sell the biodiesel, rather than have a built-in buyer like the majority of current and anticipated renewable diesel production. This has led to different marketing and business strategies that are constrained by EPA's regulations, but only for biodiesel. In particular, the biodiesel industry has several restrictions on the ability to separate RINs.[10] Even in this proposal, EPA is again proposing to impose greater burdens on biodiesel producers and limitations on its use in the heating oil market that may not be the same as that faced by renewable diesel producers.

This also can have significant impacts on the RIN market. Having the biomass-based diesel category essentially be controlled by a handful of entities allows RIN hoarding, can result in RIN market manipulation, and does not ensure RIN liquidity. Refiners with access to these assets pay only for the renewable diesel they produce, which is recovered with the sales of the fuel. Maximizing renewable jet fuel production also will give these refiners an advantage since those fuels are not currently obligated under the RFS program. Thus, these refineries will likely

[8] EIA, *U.S. Renewable Diesel Fuel and Other Biofuels Plant Production Capacity,* Release Date: Aug. 15, 2024, https://www.eia.gov/biofuels/renewable/capacity/.

[9] Provisions on RIN holdings (40 C.F.R. § 80.1435) promulgated as part of EPA's RIN reforms apply only to D6 RINs.

[10] The biodiesel industry has long sought to have the ability for the biodiesel producer to separate RINs, which obligated parties opposed. EPA-HQ-OAR-2005-0161-2249 at 29-30; EPA-HQ-OAR-2012-0223-0030 at 21-22; EPA-HQ-OAR-2012-0621-0069 at 17-18.

be RIN-long and could control the majority of the RINs needed to meet the biomass-based diesel category. This will reduce RIN liquidity. As EPA found,

> Obligated parties have a strong disincentive to trade RINs close to the expiry date because they do not want to risk falling short of their obligations and be in violation of the law. As our publicly available RFS data indicate, obligated parties typically hold roughly 90 percent of D6 RINs. That number indicates that a significant majority of the RIN market is typically held for compliance rather than liquidly traded.

EPA, *Modifications to Fuel Regulations to Provide Flexibility for E15; Modifications to RFS RIN Market Regulations: Response to Comments*, at 79 (2019) (EPA-HQ-OAR-2018-0775-1174). While EPA was discussing D6 RINs, where renewable diesel assets are increasingly affiliated with obligated parties, this is likely to occur in the biomass-based diesel program as well, reducing RIN liquidity. As other refiners must increasingly rely on these handful of refiners to meet their biomass-based diesel obligations (whether by buying the renewable diesel or buying the RINs), the costs of diesel fuel to consumers are likely to increase to recoup costs. The refiners with the renewable diesel assets will likely feel little to no pressure and be the dominant market party, passing the higher diesel fuel prices along to consumers while retaining the additional RIN value, thus gaining high base prices and the RIN values whether in reduced compliance costs or in sales of excess RINs. This is simply a totally different market than Congress envisioned, which will essentially squeeze small folks and biodiesel producers out. This could result in the following negative impacts.

> *More restricted supply:* This could result in less output (i.e., just meeting the bare minimum required rather than push for growth), rather than continuing to invest in new technologies, new feedstocks, and new infrastructure to support growth. COVID-19 revealed the vulnerabilities of a consolidated supply chain, especially in cases of shortages.
>
> *Higher prices:* This could result in higher prices where renewable diesel is already more expensive than biodiesel. Higher prices could lead to higher costs to transport goods.
>
> *Risk of Anti-Competitive Behavior:* This also increases the risk of anti-competitive behavior. We've seen gas prices increasing with companies seeing record profits. These are the same companies that are increasingly controlling the biomass-based diesel market.
>
> *Potential for RIN Market Manipulation:* EPA has noted the potential for RIN market manipulation as a "concern" with the RFS. *See, e.g.,* 84 Fed. Reg. 10,584, 10,607 (Mar. 21, 2019). One potential way for RIN market manipulation is when "a small number of sophisticated market participants control a large number of 'surplus' RINs that they hoard and use to squeeze the market." *Id.* Such could easily be the case here. EPA previously noted that lack of storage for biofuels could limit the ability for this to occur, *id.* at 10,609, but, here, there would essentially be no limits on these obligated parties storing renewable diesel, which is claimed to be a "drop-in" fuel and largely indistinguishable from petroleum diesel. Further, the limits on RIN separation are substantially eased for

obligated parties. *Cf. id.* at 10,610. EPA has declined to finalize most of the provisions that have been proposed or suggested to address the potential for RIN market manipulation. Those it has adopted focus on D6 RINs.

While EPA could assert, so long as the biomass-based diesel volumes are being met, that is all it is required to do. But it would not do so in a way that would meet the goals Congress sought.

Other disparities in the market raise questions as to the purpose of forcing biodiesel to compete with renewable diesel and renewable jet fuel. EPA has acknowledged that state low carbon fuel standard (LCFS) programs could provide an advantage to renewable diesel and sustainable aviation fuel production relative to biodiesel production in the United States. 87 Fed. Reg. 80,582, 80,597 (Dec. 30, 2022). "The availability of LCFS credits will likely be a significant factor in the competition between biodiesel producers and renewable producers for access to new feedstocks, particularly feedstocks with low carbon intensity (CI) scores in California's LCFS program." *Id.* at 80,598. EPA acknowledges again that "much of this new renewable diesel will also be used in California and other states with state incentive programs (e.g., Oregon)." Draft RIA at 326; *see also* DOE Alternative Fuels Data Center, *Renewable Diesel*, https://afdc.energy.gov/fuels/renewable_diesel.html (last visited Aug. 7, 2025) ("Nearly all domestically produced and imported renewable diesel is used in California due to economic benefits under the Low Carbon Fuel Standard."). This has not changed since 2022 even with the growth in RFS volumes. We note that Congress wanted a national program and to diversify renewable fuels to be used most effectively across the country. S. Rep. No. 110-65, at 2-3 (2007); 42 U.S.C. §7545(o)(2)(A)(iii)(II) (prohibiting geographic restrictions on use of biofuels); *cf.* Draft RIA at 69 (projecting biodiesel use in each State, except Montana, in a no-RFS scenario). This also indicates that biodiesel and renewable diesel largely serve different geographic regions.

As SABR Coalition has previously explained, we believe EPA could easily implement the program in a manner that would reach the goals of Congress *and* continue to support these investments in renewable diesel. We believe the best solution is to require a minimum level of biodiesel, which retains the incentives for renewable diesel and renewable jet fuel. The following are just some of the benefits of our approach.

Greater diversification and innovation: Ensuring a place for biodiesel supports diversification and innovation. Industries with a mix of small and large companies tend to generate new products and processes faster. New entrants would have a great incentive to find new sources of feedstock. ***Importantly, renewable diesel and renewable jet fuel would still be highly competitive and can still grow under the RFS.***

Reduced Prices at the Pump and for Goods: The biodiesel market typically includes retailers, which have passed RIN prices to consumers in the form of *discounts* not higher prices. As NATSO has routinely told EPA: "The only reason fuel marketers blend biodiesel into their diesel fuel supply is to make the finished product less expensive." NATSO Letter to EPA, Aug. 17, 2018, at 6 (EPA-HQ-OAR-2018-0167-0662).

Increased Competition: More competition can help control price increases and provide more options for consumers. Biodiesel, unlike renewable diesel, does provide added benefits for vehicle operations.

Greater RIN Liquidity: More RIN generators leads to increased RIN liquidity. Some might claim creating a separate biodiesel category will increase RIN prices. We do not believe this is necessarily true. We acknowledge that it may change the dynamic between D4 and D5 RIN prices, but we believe this would result in RIN prices better reflecting market conditions versus the case now where renewable diesel, renewable jet fuel and biodiesel are thrown in the same market due to the RFS program. And, we believe, for the reasons noted above, RIN prices may artificially increase if a handful of entities control the bulk of the D4 RINs. Moreover, we are asking for only a 2-billion gallon program (to start, with increases as appropriate). This is less than what the market has been able to bear and less than biodiesel production capacity (and potential supply). Biodiesel producers will continue to have to compete against each other for this market.

Better Environment and Stronger Communities: Small businesses are integral to healthy communities. As discussed further below, biodiesel provides numerous environmental benefits, and the loss of biodiesel facilities can have significant, detrimental impacts on the local communities in which they are located.

III. EPA has Authority to Determine How to Comply with the Biomass-Based Diesel Program.

A. Requiring the minimum volume of biomass-based diesel to include at least 2 billion gallons of biodiesel is consistent with the statute.

Providing a specific volume requirement for biodiesel is consistent with EPA's statutory authority under "set." Under the SABR Coalition proposal, EPA could simply amend 40 C.F.R. § 80.1427, which outlines how RINs are used to demonstrate compliance, to add a provision that requires the minimum biomass-based diesel volume to be met by D4 RINs with fuel code of 20. The proposal would not change the categories established by Congress or current D Codes but would change how the volumes are *complied with*. EPA has authority to establish biodiesel as the fuel used to comply with the biomass-based diesel volume requirement under its set authority or breakout the volume requirements for biodiesel and renewable diesel/renewable jet fuel.

Under set, the applicable volumes set post-2023 must be "based on a review of the implementation of the program during calendar years specified in the tables." 42 U.S.C. § 7545(o)(2)(B)(ii). This review allows EPA to reconsider how implementation of the RFS program—here, the biomass-based diesel program—may be acting as a constraint or detriment to the support for biofuel production. For several years, the biomass-based diesel program has been moribund. EPA continues to acknowledge that "the BBD standard has not independently driven the use of BBD in the market." 90 Fed. Reg. at 25,825. "Instead, the advanced biofuel standard has driven the use of BBD in the market." *Id.* But statutes must be construed "'so that effect is given to all its provisions, so that no part will be inoperative or superfluous, void or insignificant." *Del. Dep't of Nat. Res. & Envtl. Control v. EPA*, 895 F.3d 90, 99 (2018) (quoting *Corley v. United States*, 556 U.S. 303, 314 (2009) (quoting *Hibbs v. Winn*, 542 U.S. 88, 101

(2004)); *see also United States v. Tohono O'odham Nation*, 563 U.S. 307, 315 (2011) (statutes should not be rendered "nugatory through construction"). Where EPA has found that advanced biofuels is driving renewable diesel production, the biomass-based diesel category is essentially rendered inoperative, superfluous, or, at best, insignificant. Surely Congress intended something more by establishing this as a distinct category with the advanced biofuel category. While Congress only set statutory volumes through 2012, it did not remove the biomass-based diesel category and, moreover, it imposed a floor on biomass-based diesel volumes to apply throughout the program, indicating it is supposed to be operative. To provide meaning to the biomass-based diesel volumes, EPA should help preserve and grow the U.S. biodiesel industry similar to the "implied" conventional biofuel category for ethanol.

EPA has not disputed that it has discretion to establish a subcategory for biodiesel. As EPA has stated: "The statute is silent with regard to how applicable volume requirements should be implemented for years after 2022." 87 Fed. Reg. at 80,630.

> For years after 2022, the CAA does not expressly direct EPA to continue to implement volume requirements through percentage standards established through annual rulemakings. Furthermore, in establishing volumes for years after 2022, EPA is directed to review "the implementation of the program" in years during which Congress provided statutory volumes. Thus, Congress provided EPA discretion as to how to implement the volume requirements of [the] RFS program in years 2023 and beyond.

Id. at 80,589 (emphasis added). In addition, while EPA has construed biomass-based diesel as including a broader set of fuels, EPA is required to ensure "at least" the applicable volumes. 42 U.S.C. § 7545(o)(2)(A)(i). In other words, these are "minimum volumes." *Nat'l Petrochemical & Refiners Ass'n v. EPA*, 630 F.3d 145, 147 (D.C. .Cir. 2010). And, as noted above, EPA acknowledges that the advanced biofuel volumes are doing the work for renewable diesel. A review of the implementation of the program indicates that the biomass-based diesel program would better ensure the volumes are met and the goals of the program achieved by requiring a minimum of biodiesel under the biomass-based diesel category.

Ensuring and promoting continued use of biodiesel is also consistent with the statutory structure. In requiring a minimum of biomass-based diesel volumes equal to the 2012 volume under "set," 42 U.S.C. § 7545(o)(2)(B)(v), the statute illustrates that Congress sought to protect existing biodiesel and the investments that had been made. In 2012, biodiesel made up the majority of biomass-based diesel production—biodiesel volumes exceeded 1 billion gallons, with all other biomass-based diesel fuels as EPA has defined them (e.g., renewable diesel, heating oil, jet fuel) representing less than 9% of D4 RINs generated.[11]

[11] EPA, *RINs Generated Transactions* (as of July 10, 2025), https://www.epa.gov/fuels-registration-reporting-and-compliance-help/rins-generated-transactions. The 1 billion gallon minimum level would not be appropriate. EPA must consider the statutory factors, all of which support a higher volume. Biodiesel has already reached over 2 billion gallons under the RFS program, nothing in the statutory factors would support going backwards.

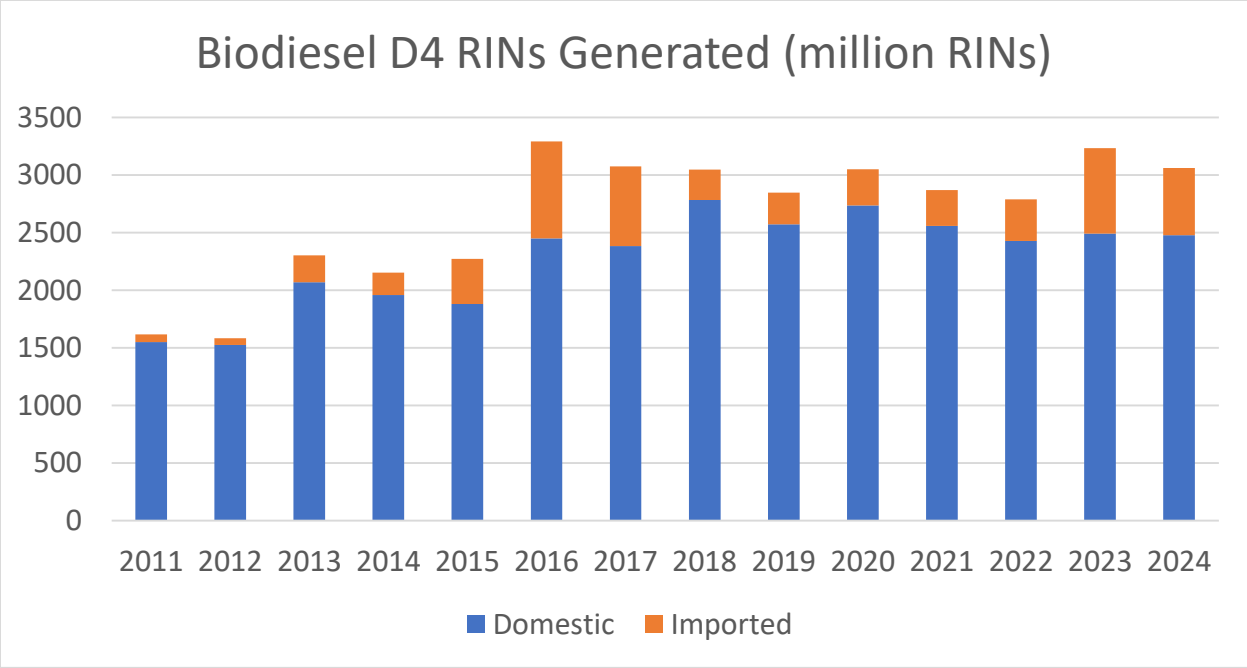
Similar to EPA's claims with respect to its proposed import RIN reduction, a specific requirement for biodiesel would support "Congress' focus" in establishing the RFS as EPA argues in the Proposed RFS Set 2 Rule. EPA states:

> From the purpose statements in these two enactments, where Congress' focus is clearly on American jobs, American energy independence and security, and increasing the production of American clean renewable fuels, it is evident that Congress intended the RFS program to be a program for the benefit of the American people generally and for certain important segments of the American domestic economy specifically. We believe it is consistent with this Congressional intent to take steps to ensure that most of the economic value of the RFS program flows to American fuel and feedstock producers rather than their foreign competitors.

90 Fed. Reg. at 25,838. Ensuring a role for biodiesel within the biomass-based diesel program supports these goals.

Biodiesel is truly a homegrown industry. As shown in the table below, which is based on EMTS RIN generation data (as of July 10, 2025), the vast majority of biodiesel has been produced domestically. Even with increases in biodiesel imports from Argentina in 2016 and 2017, which are now subject to significant subsidies, domestic production of D4 biodiesel has represented, on average, about 87% of the D4 RINs generated since 2011. According to the Draft RIA, the largest source of feedstock for biodiesel is domestic soybean oil—about 47% of biodiesel generated D4 RINs were derived from U.S. soybean and camelina oil. Draft RIA at 94 (Table 3.2-4). Based on the volumes listed in Table 3.2-4 of the Draft RIA (800 million gallons) and the number of D4 RINs generated for imported biodiesel from EMTS data for 2024 (585 million RINs or 390 million gallons), we estimate less than 25% of U.S. biodiesel production used imported feedstocks (410 million gallons out of 1650 million total gallons).

While renewable diesel domestic production has increased in recent years, renewable diesel imports generated more RINs than biodiesel imports in 2024 (831 million D4 RINs for renewable diesel compared to 585 million D4 RINs for biodiesel). Importantly, domestic renewable diesel production uses substantially more imported feedstocks than U.S. biodiesel production, particularly used cooking oil and animal fats from China, Southeast Asia, and South America, that EPA indicates is driving its concerns with respect to the import RIN reduction proposal. 90 Fed. Reg. at 25,838. Based on the volumes listed in Table 3.2-4 of the Draft RIA (1.82 billion gallons) and the number of D4 RINs generated for imported renewable diesel (831 million RINs), we estimate 1.33 billion gallons of domestically produced renewable diesel was derived from imported feedstocks. Out of about 3,066 million total gallons (using a 1.7 equivalence value that EPA has now proposed to revise), that is about 43% of the feedstocks used by domestic renewable diesel producers. EPA largely ignores this distinction between the two fuels, attributing its concerns regarding imported feedstocks to biomass-based diesel generally.



Biodiesel facilities are also located throughout the country. *See* Draft RIA at 62-63. EPA's analysis of jobs and economic impacts again addresses all biomass-based diesel fuels, rather than analyze biodiesel and renewable diesel separately. Although EPA subsequently cited some new construction jobs with respect to renewable diesel, EPA previously found that jobs associated with renewable diesel production largely replace lost petroleum refinery jobs. EPA, Draft Regulatory Impact Analysis: RFS Standards for 2023-2025 and Other Changes, at 402 (2022), https://nepis.epa.gov/Exe/ZyPDF.cgi?Dockey=P10168RA.pdf. We note that Congress has expressed concerns with refiners simply use refinery resources to produce "renewable diesel" and drive "out of the United States an important industry"—biodiesel. 153 Cong. Rec. S8022, S8025 (June 20, 2007) (statement of Senator Kyl, Arizona).

On rural development, EPA ignores the locations of the biodiesel plants in numerous rural and smaller communities that may rely on these plants for jobs and contributions to the local economy. As an example of the benefits biodiesel provides regarding jobs and impacts on the rural economy, one can look at State of Iowa—one of the largest producers of biodiesel in the country. Although Iowa biodiesel producers slowed down production at the end of 2024, the biodiesel industry was found to account for more than $850 million of Iowa GDP in 2023. *See* ABF Economics, *Contribution of the Renewable Fuels Industry to the Economy of Iowa*, at 11 (2024), https://iowarfa.org/wp-content/uploads/2024/02/2023-Iowa-Biofuels-Impact-FINAL.pdf. "Jobs are created because of increased economic activity caused by biodiesel production." *Id.* The increase in economic activity generated by biodiesel production has been found to support nearly 5,700 full-time-equivalent jobs in all sectors of the Iowa economy. *Id.* "The biodiesel industry accounts for about $410 million of household income for Iowans. *Id.* Indeed, the same authority and rationale that EPA claims gives it discretion to impose RIN reductions on imports, that is providing for credits "as appropriate," supports ensuring biodiesel volumes through a specified biodiesel requirement. As described above, such an approach to support domestic production of biofuels and feedstocks is also more consistent with the statute than the import RIN reduction proposal.

B. The definition of "biomass-based diesel" does not restrict EPA's discretion.

Although not disputing it has authority to establish a subcategory within biomass-based diesel, EPA has previously argued against a biodiesel specific requirement based on its claim that the definition of biomass-based diesel is not limited to the specific product "biodiesel." However, even if this were true, the biomass-based diesel definition would merely define the outside scope of the fuels that *could* qualify to meet the biomass-based diesel program, not those fuels that *must* be used to meet the biomass-diesel volume requirement.

We believe there is ample discretion for EPA to specifically support biodiesel. Congress gave EPA discretion to issue compliance regulations to ensure these minimum volumes and to give appropriate credits for biodiesel. 42 U.S.C. § 7545(o)(2)(A)(iii), (o)(5)(A)(ii). EPA has already interpreted the credit provision to mean that it can give more credit based on energy content compared to ethanol, and now claims this provision gives it authority to limit the number of RINs that can be produced for imported fuels and feedstocks. It is not a stretch to say that EPA can also determine how to implement a *minimum* volume of biomass-based diesel under the program, even if that means requiring a specified level of a particular type of biomass-based diesel.

To date, EPA has not undertaken a meaningful analysis of the statutory language, asserting only that the definition encompasses "any" diesel fuel substitute. EPA Br. at 74. But the statute does not use the term "any." The statute references "a" diesel fuel substitute. EPA then claims that Congress did not seek to refer to a particular "product." *Id.* There are numerous problems with this argument. First, EPA ignores that the statute says a diesel fuel "substitute." "Diesel fuel" has been defined by Congress to include "renewable diesel" and when Congress referred to biodiesel—a diesel fuel substitute—it referred to mono-alkyl esters. Pub. L. No. 109-58, §§757, 1346, 119 Stat. 833, 1055; Pub. L. No. 110-140, §247, 121 Stat. 1547-1548; 42 U.S.C. §7545(u). A "word is presumed to have the same meaning in all subsections of the same statute." *Morrison-Knudsen Constr. Co. v. Director*, 461 U.S. 624, 633 (1983) (citation omitted). Indeed, EPA considers renewable diesel that meets ASTM D975 as a "drop-in" fuel and continues to note that biodiesel is different than diesel fuel due to the fact that it is oxygenated. *See, e.g.,* Draft RIA at 140. Renewable diesel then is diesel fuel from renewable sources to distinguish it from petroleum, but, contrary to EPA's attempts to rewrite the statute, the statute does not say a "petroleum" diesel fuel substitute.

Second, SABR Coalition's position is not based on Congress defining biomass-based diesel to refer to a particular "product." While EPA defines biodiesel to be a mono-alkyl ester that meets ASTM D6751, other fuels that could meet the statutory definition of "biodiesel" are treated by EPA in its regulations as "renewable diesel." Where we disagree with EPA is that renewable diesel that meets ASTM D975 is generally treated in the marketplace as "diesel fuel" and does not meet the definition of "a diesel fuel substitute." That EPA has used the term "renewable diesel" to encompass fuels that otherwise might be considered "biodiesel" under the statute does not undermine SABR Coalition's argument. Under the statute, compliance with ASTM D6751 is not required for a fuel to be a diesel fuel substitute and able to be used in transportation fuel or heating oil. It merely distinguishes biodiesel that meets certain fuel quality standards from other diesel fuel substitutes that might not be of the same fuel quality. The RFS,

however, does not give EPA authority to regulate fuel quality. That the industry references ASTM D6751 to assure the quality of the fuel to the marketplace does not mean that Congress intended to include renewable diesel that meets ASTM D975 (i.e. "diesel fuel") to be considered biomass-based diesel. Indeed, under EPA's theory, why isn't renewable diesel simply defined as "biodiesel that meets ASTM D975." We believe that this is because there is a difference between a diesel fuel substitute like biodiesel that is oxygenated and a diesel fuel that meets ASTM D975 but comes from renewable sources rather than petroleum. The problem for EPA is that the statute references a "diesel fuel substitute."

Finally, EPA recently argued that it can exclude fuels specifically listed in the definition of advanced biofuel from the RFS altogether. *Coalition for Renewable Natural Gas v. EPA*, 108 F.4th 846, 853 (D.C. Cir. 2024) ("Renewable fuel derived from biogas is just one permissible source from which EPA may meet its statutory mandate. Biogas could, instead, be excluded entirely."). Even if renewable diesel or renewable jet fuel *could* fall under the definition and therefore be "just one permissible source from which EPA may meet its statutory mandate," it certainly follows that EPA can "ensure" a minimum volume of biodiesel while continuing to support renewable diesel and renewable jet fuel under the advanced biofuel category or through a non-biodiesel specific requirement under the biomass-based diesel category.

C. EPA is not precluded from establishing different categories or subcategories for which it sets renewable volume obligations.

Although EPA did not deny it had authority to establish a sub-category within the biomass-based diesel category in response to SABR Coalition's prior comments, we also acknowledge that EPA has previously declined to create a subcategory within the cellulosic biofuel category for renewable electricity (eRINs), but the rationale EPA used there is not applicable to the biomass-based diesel category. EPA, *Renewable Fuel Standard (RFS) Program: RFS Annual Rules – Response to Comments*, at 56-57 (2022) (EPA-HQ-OAR-2024-0505-0146) ("RFS Annual Rules RTC").

First, EPA has asserted that the statute only listed four categories. In that case, however, EPA was addressing cellulosic biofuel, which continued to have statutory volumes listed in the table in 42 U.S.C. § 7545(o)(2)(B)(i) for the applicable year for which the request was made. Here EPA is relying on 42 U.S.C. § 7545(o)(2)(B)(ii), under which EPA has asserted it has discretion in how it implements the volumes. EPA has indicated that "[u]nder the statutory requirement that we review implementation of the program in prior years as part of our determination of the appropriate volume requirements for years after 2022, we considered the use of percentage standards as the implementation mechanism for volume requirements." 87 Fed. Reg. at 80,630. But there are other mechanisms that could have been used. The "set" provision gives EPA specific criteria to consider and, as discussed below, these criteria support treating biodiesel separately from renewable diesel. Further, as discussed above, treating biodiesel separately from renewable diesel is consistent with the statute.

Second, EPA has cited to 42 U.S.C. § 7545(o)(3)(B), which required EPA to set percentage standards to meet the volume requirements. EPA pointed to the statutory requirement that the RFS standards for each year "shall" "consist of a single applicable percentage that applies to all categories of persons specified in subclause (I)," where subclause (I) directs EPA to

determine the obligated parties. RFS Annual Rules RTC at 57 (quoting 42 U.S.C. § 7545(o)(3)(B)(ii)(III)). EPA has asserted that this indicates that EPA cannot divide the percentage standard for a renewable fuel category into standards for multiple subcategories of renewable fuel, including eRINs. We believe EPA misinterprets this provision. This provision merely indicates that for the particular volume requirement being addressed, all obligated parties should be subject to the same percentage standard. This does not mean that there could not be more than one volume requirement within any particular category to "ensure" the minimum applicable volume be met. Rather it means that EPA cannot establish one percentage standard for integrated refiners and a different percentage standard for small refineries. Regardless, as EPA acknowledges, this provision only applied through compliance year 2022 and, thus, serves as no limitation here.

Third, EPA cited to 42 U.S.C. § 7545(o)(7)(D), which requires EPA to "reduce the applicable volume" of cellulosic biofuel when "the projected volume of cellulosic biofuel production is less than the minimum applicable volume established under paragraph (2)(B)." RFS Annual Rules RTC at 57 n.58. EPA has consistently projected cellulosic biofuels based on the component fuels—e.g., CNG/LNG and liquid ethanol, and, as such, it is not clear that Congress intended to preclude subcategories. Moreover, in determining the meaning of any Act of Congress, unless the context indicates otherwise "words importing the singular include and apply to several persons, parties, or things." 1 U.S.C. §1. Thus, rules of statutory construction do not obviate that EPA could not create subcategories based on this waiver provision. While there is a separate biomass-based diesel waiver, applying that waiver is similarly not dependent on one category of biomass-based diesel. 42 U.S.C. § 7545(o)(7)(E). Under that provision, EPA can continue to "periodically" evaluate the impact of biodiesel and renewable diesel on diesel fuel prices and adjust the relevant subcategory requirement, as well as the advanced biofuel, and renewable fuel volumes to account for this potential need for a reduction of the "biomass-based diesel requirement**s**." *Id.* (emphasis added). We note that EPA has yet to use this waiver authority or to provide much guidance on how it would operate.

Finally, EPA references 42 U.S.C. § 7545(o)(7)(F) that gives EPA authority in certain circumstances to reset the statutory volumes, which all ended in 2022. RFS Annual Rules RTC at 57 n.58. In short, none of these provisions can be read to limit EPA's discretion post-2022. Indeed, EPA appears to acknowledge it may have discretion to establish categories, noting that, to the extent the commenter on that proposal was asking EPA to exercise its discretion to revise the implementing regulations to create a new biofuel category, that request was beyond the scope of that rulemaking. RFS Annual Rules RTC at 57. While this is not a "new biofuel category," EPA did not deny it had such discretion.

EPA has been hesitant to create specific volume requirements because of its claims that the statute suggests that qualifying biofuels should compete with each other within each standard. RFS Annual Rules RTC at 57. But Congress sought to increase production of biofuels indicating that it believed the volumes should be *additive* to compete with *petroleum*, not with each other. Even if, as EPA claims, Congress sought to have biofuels compete with each other within the relevant categories, we believe co-processed renewable diesel and renewable jet fuel should compete with renewable diesel and renewable jet fuel. EPA does not explain why it is more appropriate for these fuels to compete with biodiesel (particularly when they don't meet the definition of biomass-based diesel in the statute). This is particularly strange when biodiesel does

not participate in the jet fuel market. Indeed, renewable diesel is increasingly being treated as the main diesel fuel with biodiesel more like an additive that provides:[12]

- Superior lubricity to renewable diesel and can even have a lower freezing point;
- Carbon Intensity (CI) scores that are lower than petroleum diesel allow for emissions carbon intensity reduction today;
- One of the lowest overall engine emissions of any diesel fuel option; and
- Better elastomer swell, density, and bulk modulus properties than straight renewable diesel.

And, as noted above, Congress recognized that biodiesel may be treated differently in the credit provision.

Moreover, fewer renewable diesel facilities meeting the biomass-based diesel volumes eliminates competition, not promotes competition. Biodiesel facilities also often sell into local markets and provide more competition in the marketplace, diversifying the nation's energy portfolio, promoting energy independence and security, and reducing prices at the pump. This also promotes efficiencies in the transportation fuel market and RIN liquidity, supporting the credit program Congress envisioned. More important, as discussed above, EPA has given preferential treatment to renewable diesel and jet fuel. A sub-category for biodiesel would simply support existing investments.

3. Renewable Jet Fuel is more appropriately handled separately from the biomass-based diesel category. (A-2, A-4, A-5, D-1 (definition of renewable jet fuel), E-2)

EPA specifically requests comment on alternatives to the volume requirements (A-2), the appropriate volume of non-cellulosic advanced biofuel for 2026 and 2027 (A-4), a revised definition of "renewable jet fuel" (D-1), and the "potential production volume and impacts of renewable jet fuel on the statutory factors" (A-5). Responding to these requests for comment, however, necessarily requires a discussion of where "renewable jet fuel" properly fits in the overall statutory scheme. SABR Coalition believes that "renewable jet fuel" does not properly fall under the biomass-based diesel category and its inclusion there has had negative implications with respect to the statutory factors. While renewable jet fuel can be considered an "advanced biofuel" if it is produced from a proper advanced biofuel feedstock and meets the greenhouse gas emissions reductions requirement, it further believes that EPA can and should create a separate requirement for renewable jet fuel that recognizes the distinct market for jet fuel and that recognizes the advancements in renewable jet fuel production that involves a wide range of feedstocks, including that that may not qualify as advanced biofuel (e.g., corn starch).

How EPA categorizes "renewable jet fuel" necessarily informs the application of the statutory factors. The statute defines renewable jet fuel as "additional renewable fuel." 42 U.S.C.

[12] Chevron, *UltraClean BlenD*, https://www.regi.com/products/endura-fuels/ultraclean-blend (last visited Aug. 7, 2025).

§7545(o)(1)(A). It gives EPA the discretion to issue regulations providing: (i) for the generation of an appropriate amount of credits by any person that refines, blends, or imports additional renewable fuels; and (ii) for the use of such credits by the generator, or the transfer of all or a portion of the credits to another person, for the purpose of complying with the volume requirements. *Id.* §7545(o)(5)(E). Although, unlike home heating oil, arguably jet fuel falls under the definition of "transportation fuel," EPA decided not to require fossil-based jet fuel to be included in the fuel used by a refiner or importer to calculate their RVOs. 75 Fed. Reg. at 14,724.

In 2010, EPA initially only approved jet fuel pathways for generation of D7 or D5 RINs, not D4 biomass-based diesel RINs.[13] 75 Fed. Reg. at 14,795-14,796. In 2013, however, EPA allowed renewable jet diesel to be considered biomass-based diesel or advanced biofuel (when co-processed with petroleum feedstocks) solely based on EPA's assertion that it is produced through the same process as renewable diesel. 78 Fed. Reg. 14,190, 14,198, 14,201 (Mar. 5, 2013); *see also* EPA Br. at 75. EPA simply stated that it was interpreting references to renewable diesel to include jet fuel. The Proposed RFS Set 2 Rule, however, calls this treatment into question where EPA proposes to define "renewable jet fuel" as "jet fuel that is renewable fuel and that meets ASTM D7566." 90 Fed. Reg. at 25,859. This is not the same as "renewable diesel," as even EPA has defined it, and, importantly, biomass-based diesel is supposed to be a "diesel" fuel substitute. Under 40 C.F.R. § 80.2, diesel fuel is defined as: a distillate fuel *commonly or commercially known or sold as* No. 1 diesel fuel or No. 2 diesel fuel, which does not include jet fuel meeting ASTM D7566. *See* EIA, *Glossary – Distillate fuel*, https://www.eia.gov/tools/glossary/index.php?id=distillate%20fuel%20oil, https://www.eia.gov/tools/glossary/index.php?id=J (last visited Aug. 7, 2025).

The Proposed RFS Set 2 Rule also references a potential pathway "for the production of renewable jet fuel from corn ethanol." 90 Fed. Reg. at 25,853 (Request for Comment E-2). Where EPA has treated renewable jet fuel as "biomass-based diesel," EPA must address whether the definition of biomass-based diesel could include such fuel. Review of the definition would make clear that it cannot be considered biomass-based diesel, as is true for renewable jet fuel generally.

Biomass-based diesel in the statute is defined as "biodiesel," under 42 U.S.C. § 13220(f). There, biodiesel is defined as "a diesel fuel substitute produced from nonpetroleum renewable resources that meets the registration requirements for fuels and fuel additives established by the Environmental Protection Agency under section 7545 of this title." 42 U.S.C. § 13220(f). This means only those fuels that are registered under Part 79 as a motor vehicle fuel can be considered "biodiesel." 42 U.S.C. §13220(f) applies to fleet requirements (i.e., motor vehicles) and only motor vehicle fuel is subject to the registration requirements for fuels and fuel additives. The biodiesel industry took great effort to become a registered fuel under Part 79, including undergoing substantial emission testing. None of that is required for jet fuel. EPA asserted that this does not require EPA to register fuels to be considered "biomass-based diesel." EPA Br. at 77. But the purpose of that provision was to address *motor vehicle usage*, which, as EPA acknowledges, requires registration. This means that Congress was referring to motor vehicle fuels, not jet fuel that is not subject at all to these requirements.

[13] D7 RINs can be used toward meeting the biomass-based diesel requirement.

In addition, ethanol-to-jet fuel is not derived from lipid feedstocks like biodiesel. The definition of "biodiesel" in 42 U.S.C. §13220(f), however, references these types of feedstocks only, including (i) animal wastes, including poultry fats and poultry wastes, and other waste materials; or (ii) municipal solid waste and sludges and oils derived from wastewater and the treatment of wastewater. While EPA has approved sugar ethanol-to-jet as "biomass-based diesel," which does not meet this definition and EPA has not explained how it meets this definition, ethanol from corn starch is also excluded from the definition of "advanced biofuel." 42 U.S.C. §7545(o)(1)(B)(ii)(II). Thus, it is not even clear that corn ethanol to jet could qualify as an advanced biofuel (assuming it can meet the 50% greenhouse gas emissions reduction) if corn ethanol itself cannot qualify as an advanced biofuel. Since biomass-based diesel is a type of "advanced biofuel," it then likely cannot qualify under the advanced biofuel definition either.

4. EPA's Conflation of Biodiesel and Renewable Diesel Does not Adequately Analyze or Realize the Benefits of Biodiesel under the Listed Statutory Factors. (A-8)

EPA's treatment of biodiesel, renewable diesel and renewable jet fuel as one "biomass-based diesel" market ignores key differences between these fuels and markets and renders their review of the statutory factors fundamentally flawed. We believe this allows renewable diesel to be credited with benefits associated with biodiesel production, but then EPA can pick and choose when to highlight renewable diesel or renewable jet fuel separately. However, as EPA does for corn ethanol, EPA should consider the "importance of ongoing support" for biodiesel. 90 Fed. Reg. at 25,826. Just as is the case for corn ethanol, ensuring an ongoing role for biodiesel would support incentives for the market to invest in infrastructure (versus "drop-in" renewable diesel) and provide the same benefits, including: positive impacts on employment and the economy, particularly for farmers, as well as for retailers that distribute biodiesel, reducing the need for petroleum imports, and providing greater greenhouse gas emissions reductions. *Id.* This is even more so in the case of biodiesel, which is an advanced biofuel and has diverse feedstocks. While EPA is projecting a role for biodiesel with the increased volume requirements it is proposing, as noted above, there are no assurances under EPA's proposal as to the actual gallons that will be required, and there is nothing to suggest in EPA's review of the statutory factors that renewable diesel and renewable jet fuel *must* be part of the same category as biodiesel to continue to grow. Indeed, EPA has acknowledged, again and again, that the advanced biofuel volume requirement is incentivizing their growth.

Below we highlight the benefits associated with biodiesel, noting where EPA must recognize the differences between biodiesel and renewable diesel. We further note that EPA seems to conflate renewable jet fuel with renewable diesel, but renewable jet fuel is in different markets, has higher emissions due to increased energy requirements, and has different implications for the review of the statutory factors.

I. The impact of the production and use of renewable fuels on the environment

Biodiesel is an environmentally safe fuel. "According to a life cycle study performed by the United States Department of Agriculture and the Department of Energy, the production of biodiesel compared to the production of petroleum fuels generates 78% less carbon dioxide, 79%

less wastewater, and 96% less hazardous waste." EPA, *Environmental Laws Applicable to Construction and Operation of Biodiesel Production Facilities*, at I-3, Nov. 2008, https://archive.epa.gov/region07/biofuels/web/pdf/biodiesel_manual.pdf. It is clear that the environmental benefits of biodiesel are significant and would be lost if the downward trend of biodiesel production continues or biodiesel volumes do not continue to increase.

1. Impacts on Air Quality

Biodiesel provides benefits for air quality. Its emissions significantly outperform petroleum-based diesel. EPA acknowledges that modeling shows "that the use of *biodiesel* is mostly seen as having a beneficial impact on criteria pollutant emissions relative to petroleum diesel use." Draft RIA at 122 (emphasis added). EPA further acknowledges that there are no emissions issues associated with biodiesel for post-2007 vehicles. *Id.* According to the Diesel Technology Forum, "[o]f the largest highway tractor-trailer size (Class 8) trucks 97% of are powered by diesel. Of the smaller and medium duty commercial trucks, 75% are powered by diesel." Diesel Technology Forum, *Trucking*, https://dieselforum.org/trucking (last visited Aug. 7, 2025). Sixty-one percent of those trucks are powered by advanced diesel technology. *Id.* Significant percentages of transit buses and school buses are also powered by diesel with the majority of those also being powered by advanced diesel technology. *Id.* Even for older vehicles, however, biodiesel provides significant reductions in air emissions overall. *Id.* at 140. On the other hand, EPA finds that there are no emissions impacts (i.e., no reductions) when using renewable diesel in lieu of petroleum diesel because they are "chemically analogous." *Id.* at 140-141.

EPA also purports to assess air quality impacts comparing ethanol, biodiesel, and renewable diesel to a "no-RFS baseline." We are unable to recreate EPA's emissions factors for biodiesel based on the limited information provided by EPA (and the lack of reference to biodiesel in the document cited in the Draft RIA). Nonetheless, we believe this is a false comparison. EPA is not estimating biodiesel production to increase under the proposed volumes through 2030, and using 1716 million gallons of biodiesel production to determine potential emissions appears wholly arbitrary.

It is well understood that biodiesel has "the highest energy balance of any alternative fuel, which means more energy is created from biodiesel than what is needed to produce it." Nebraska Department of Environmental Quality, *Air Quality and Biodiesel Production*, at 1-1 (2007), https://dee.nebraska.gov/sites/default/files/publications/06-272.pdf; *see also* EPA, *Environmental Laws Applicable to Construction and Operation of Biodiesel Production Facilities*, *supra*, at I-3. While we do not dispute that production of biodiesel has air emissions, most biodiesel plants will not be considered a major source emitter of air pollution due mainly to their relatively low emissions and simple production process. *See* Jenny Boeckman, *A Permitting Primer*, Biodiesel Magazine, Oct. 15, 2007, https://biodieselmagazine.com/articles/a-permitting-primer-1869. This is unlike petroleum refineries and renewable diesel plants. "It is well established that oil refineries are the largest industrial source of volatile organic compounds and carbon dioxide, which leads to ozone and smog formation in tropospohere. The second known source of sulphur dioxide which contributes to particulate matter and acid rain and the third largest source of nitrogen oxide, all these are known as ozone precursors." Sippy K Chauhan and

Anuradha Shukla, *Environmental Impacts of Production of Biodiesel and its Use in Transportation Sector* (2011), https://www.intechopen.com/chapters/19108.

It is just not clear how EPA is using higher emissions factors for biodiesel production for certain of the pollutants than for renewable diesel production. EPA's analysis of **175** biodiesel facilities in 2017 (compared to 57 facilities today) showed significantly less SO_2 and VOC emissions than EPA estimates for biodiesel in this Draft RIA. *Compare* Draft RIA at 126-127, *with* EPA, *Renewable Fuel Standard (RFS) Program: Standards for 2023-2025 and Other Changes – Regulatory Impact Analysis*, at 113 (2023) (EPA-HQ-OAR-2024-0505-0153) ("Set Rule RIA"). Further, particulate matter is more often associated with handling of oilseeds at the plant, which is not common for biodiesel facilities. EPA, *Environmental Laws Applicable to Construction and Operation of Biodiesel Production Facilities*, *supra*, at 12. In any event, it is unclear why biodiesel would be estimated to have higher particulate matter emissions than renewable diesel facilities that utilize the same feedstocks. Draft RIA at 126. Much of the emissions from biodiesel plants also is from energy use. Renewable diesel and renewable jet fuel production uses much more energy than biodiesel, again raising questions as to the factors used by EPA. Again, we could not find these answers based on the limited information provided by EPA in the docket and the limited time we had to respond to the proposed rule.

Even under EPA's false comparison, we note that, unlike renewable diesel production, biodiesel production has little to no emissions of air toxics. Draft RIA at 128-131. Also some VOCs are more dangerous than others, such as benzene, PAHs, and butadiene that are more attributed to oil and gas operations. *See* UCAR, Center for Science Education, *Volatile Organic Compounds (VOCs)*, https://scied.ucar.edu/learning-zone/air-quality/volatile-organic-compounds (last visited Aug. 8, 2025). This is of particular relevance, as emissions of toxic air pollutants can have significant impacts on the local communities. Draft RIA at 141 ("we would expect some localized increases in some air pollutant concentrations, particularly at locations near production and transport route"). EPA previously recognized this difference, finding that air emissions for renewable diesel production would be similar to the emissions profile for a petroleum refinery. Set Rule RIA at 117. EPA further noted that "there will be emissions impacts from new facilities constructed to produce renewable diesel." *Id.* This can be compared to local municipalities, for example, turning to biodiesel (including B100) to take "advantage of a practical and immediately useable alternative fuel that is shown to reduce emissions and will provide cleaner air." Illinois Soybean Association*, Biodiesel improving air quality in Chicago parks*, June 22, 2020, https://biodieselmagazine.com/articles/2517050/biodiesel-improving-air-quality-in-chicago-parks.

2. Impacts on wetlands, ecosystems, and wildlife habitat from land use change.

The impacts identified on wetlands, ecosystems, and wildlife habitat from land use change by EPA are largely based on crop production. This is because biodiesel itself is less toxic than petroleum fuel and thus has reduced impact on the environment.

We note that agricultural land under production has been on the decline since 2007, when the RFS program was expanded to expressly require biomass-based diesel. Based on the most recent Census of Agriculture, "[t]he amount of farmland and number of farms in the U.S.

continue to decline." Farmland Information Center, Fact Sheet, *2022 Census of Agriculture*, at 2 (2024), https://farmlandinfo.org/wp-content/uploads/sites/2/2024/02/census-of-ag-fact-sheet-2022.pdf. In the meantime, use of conservation practices are increasing. *Id.* at 3; *see also* Kate Vaiknoras, *U.S. Soybean Production Expands Since 2002 as Farmers Adopt New Practices, Technologies*, USDA Economic Research Service – Amber Waves, July 26, 2023, https://www.ers.usda.gov/amber-waves/2023/july/u-s-soybean-production-expands-since-2002-as-farmers-adopt-new-practices-technologies/. EPA continues to reference studies by Lark to claim conversion of grassland to cropland attributable to the RFS that have been disputed by numerous scientists. *See, e.g.,* Draft RIA at 143-144. "There is no compelling scientific evidence linking the RFS to the conversion of grasslands and loss of biodiversity. ... Research based on misclassifications of land use and flawed assumptions and methodologies spurred skepticism about the environmental and [greenhouse gas] emission reduction benefits of biofuels but that research has since been disproven." Todd Neeley, *Scientists: RFS Land Use Claims False*, Progressive Farmer, July 8, 2024, https://www.dtnpf.com/agriculture/web/ag/news/business-inputs/article/2024/07/08/scientists-push-court-reject-land. EPA confirms that it has "found no studies or publications linking the effects of the RFS specifically to conversion of natural lands such as grasslands and wetlands." Draft RIA at 147. Nonetheless, we also note that renewable diesel and biodiesel utilize the same feedstocks.

Moreover, we are asking for a biodiesel specific target that is *less* than what the industry has achieved in prior years, and EPA projects no increases in biodiesel through 2030 under the RFS. As such, its reference to an analysis from 2024 regarding the impact of the RFS on biodiesel production seems irrelevant. Draft RIA at 144. Regardless, this does not indicate that this has had impacts on decisions of farmers when soybeans have significant markets compared to soybean oil. As such, we do not believe supporting biodiesel through the RFS will result in any impacts on wetlands, ecosystems, and wildlife habitat from land use change, including indirect land use changes. Indeed, we believe this would incentivize new entrants into the renewable diesel market to look for new or alternative feedstocks than utilize existing resources.

We note that the U.S. Court of Appeals for the D.C. Circuit recently upheld EPA's determination that the Set Rule was not likely to adversely affect endangered species or their critical habitats. *Ctr. for Biological Diversity v. EPA*, 141 F.4th 153, 178-179 (D.C. Cir. 2025). While EPA proposes increased volumes overall, we believe a similar determination is warranted here. As discussed above, there is simply no evidence that would tie the volume increases, particularly with respect to biodiesel production, to adverse impacts on endangered species or their habitat.

3. Impacts on soil and water quality

The impacts identified on soil and water quality are largely based on crop-based feedstocks used for biofuel production. While we do not agree with EPA's analysis generally, renewable diesel and biodiesel largely use the same feedstocks. Of significant concern, however, is the potential for jet fuel to take advantage of a higher tax credit (plus bonuses) to outcompete biodiesel for waste oils. This would not have any added benefits to the environment but could be mitigated if biodiesel had its own mandate.

As an initial matter, we dispute EPA's claim that "palm oil production for biodiesel is an established industry in Southeast Asia for exportation to other countries such as the U.S. and should be considered." Draft RIA at 153. The only way for palm oil to be used under the RFS is if it qualifies for use at a grandfathered facility to generate D6 RINs. According to EIA, there has been minimal amounts of biodiesel imported from Indonesia, Malaysia and Singapore into the United States since 2019.[14] According to EMTS data (Total Net Generation Report, Feedstock Summary),[15] there also has generally been much greater numbers of renewable diesel D6 RINs than biodiesel since 2013 with no D6 RINs generated for biodiesel in 2017, 2020, 2021 and 2022. The only exception was 2024 where D6 RINs for biodiesel was around 22.8 million and 2025 where D6 RINs for biodiesel (through June) is at 153,911, although EPA only reports the RINs as being from "All Other Feedstock." It is important to note that there were subsidies imposed on palm-based biodiesel from Indonesia, but not on palm-based renewable diesel.

By comparison, D6 RINs generated for renewable diesel has been as high as 340.9 million in 2015, although EPA claims that, from 2018-2023, "[n]early all of these RINs were retired for reasons other than compliance with the annual volume obligations." Draft RIA at 320. EIA reports steady imports of renewable diesel from Singapore since 2019 and also shows imports from Malaysia in 2024.[16] There is simply no evidence that palm oil production for biodiesel is of any concern, although, as EPA notes in the preamble, there is some concern that imports of used cooking oil (which are also mostly used for renewable diesel and renewable jet fuel production) may be "fraudulently labeled or adulterated with unused palm oil." 90 Fed. Reg. at 25,839. While we dispute the concerns regarding diversion of feedstocks, as we believe there is sufficient feedstocks to meet the volume requirements without any claimed diversion, even if true, this would be driven by projected increases in renewable diesel and renewable jet fuel, not biodiesel. *Id.* at 25,801, 25,823; *see also* 87 Fed. Reg. at 80,627 (recognizing if additional conventional fuel is needed to meet the "excess" gallons for 2024 and 2025, imports may increase mostly likely in the form of "renewable diesel produced from palm oil").

As discussed above, there are no studies that specifically link the impacts reviewed by EPA to the RFS. They certainly cannot be traced to biodiesel production that has been on a downward trend and, even if increased under the proposal, would still be around levels it has previously achieved and would not be projected to increase through 2030. Nonetheless, increased biodiesel production can have benefits with respect to soil and water quality. EPA acknowledges that soy crops may have reduced impacts on water quality than corn crops. Draft RIA at 157. It has been found that soybeans require less fertilizer, pesticide, and irrigation inputs than most commoditized row crops, and therefore represent significantly less potential water quality and quantity impacts. H2O'C Engineering, *Water Quantity and Quality Issues Related to Biodiesel*, at 17 (2010) (EPA-HQ-OAR-2021-0427-0813, Ex. 3). Moreover, farmers continue to improve the use of water, nutrients, and pesticides in an ongoing effort to reduce energy consumption and land use. *Id.* Ensuring a strong economic environment—which the RFS can provide—is key to the success of these efforts. Finally, soy biodiesel has a higher net energy balance than most

[14] https://www.eia.gov/dnav/pet/PET_MOVE_IMPCUS_A2_NUS_EPOORDB_IM0_MBBL_A.htm.
[15] https://www.epa.gov/fuels-registration-reporting-and-compliance-help/rins-generated-transactions (data as of July 10, 2025).
[16] https://www.eia.gov/dnav/pet/pet_move_impcus_a2_nus_EPOORDO_im0_mbbl_a.htm.

biofuels, and when water-related impacts are calculated on this basis, as opposed to on a per-acre basis, the impacts of soy biodiesel are minimal. *Id.*

Biofuels support farmers, which then promotes improved farming practices. Improved farming practices generally reduce the potential impacts of agricultural production on waters. It also allows lands to remain in the hands of farmers, especially family farmers, who are stewards of the land. "There's no end to the effects that urbanization can have on water bodies. … As you expect, urbanization rarely improves water quality…." U.S. Geological Society, *Urbanization and Water Quality*, Water Science School, June 12, 2018, https://www.usgs.gov/special-topics/water-science-school/science/urbanization-and-water-quality. EPA only minimally recognizes that conservation practices can help mitigate any potential effects without providing much analysis of the positive environmental impact of maintaining existing farmland and preventing land development which increases stream bank erosion and sediment. Draft RIA at 162. With efforts to include climate smart agriculture in calculating emissions rates under various federal incentives, such conservation efforts are only likely to increase.

In addition, biodiesel facilities, which are located all over the country, often collect waste (e.g., used cooking oil) from the local community. This serves as a means to reduce waste in those communities, which reduces the need for disposal that can reduce leaching into soil and groundwater. EPA references the potential for spills but ignores that biodiesel is substantially less toxic than petroleum diesel, which it replaces. Like ethanol, this makes biodiesel "highly suitable for marine and farm uses" and reduces its "potential impact on soil and water." Sippy K Chauhan and Anuradha Shukla, *Environmental Impacts of Production of Biodiesel and its Use in Transportation Sector* (2011), https://www.intechopen.com/chapters/19108. Oil, on the other hand, is often shipped over long distances with much greater risk of leakage and spills. *Id.*

Moreover, we are asking for a biodiesel target that is *less* than what the industry has achieved in prior years. As such, we do not believe this change will result in any impact on soil and water quality. Indeed, we believe this would incentivize new entrants into the renewable diesel market to look for new or alternative feedstocks rather than utilizing existing resources.

4. Impacts on water quantity and availability

In reviewing impacts on water quantity, EPA again considers crop production rather than biofuel production. EPA does recognize that soybeans require less irrigation than corn, and that data suggests that irrigation rates have declined on a per acre level for soybeans. Draft RIA at 158. EPA again refers to potential land use impacts that we dispute above, but at least recognizes that any changes would be likely due to increased renewable diesel volumes. Draft RIA at 159.

EPA, however, then claims that "ethanol, biodiesel and renewable diesel made from vegetable oils are substantially more water intensive than the petroleum fuels they would displace," without citing any reference. Draft RIA at 159. Biodiesel production has been found to have minimal impacts on water quantity and availability. Overall oil refinery water consumption is 0.29–0.63 gallon water per gallon of refinery products. Pingping Sun, et al., *Estimation of U.S. refinery water consumption and allocation to refinery products*, Fuel 221 (2015): 542-557 (EPA-HQ-OAR-2021-0427-0415). Estimated water consumption for biodiesel production is 0.31 gal/gal. Qingshi Tu, et al., *Water consumption estimates of the biodiesel process in the US*, U.S.

Environmental Protection Agency Papers, 261 (2016) (EPA-HQ-OAR-2021-0427-0415). EPA has previously recognized that more water is needed for renewable diesel plants than biodiesel plants. RFS Set RIA at 243. This makes sense since they are largely based on similar production processes as petroleum fuels. Wastewater treatment needs for renewable diesel, however, are higher than for the petroleum refinery, although the wastewater is less toxic.

5. Climate Change

Despite all the uncertainties, EPA continues to rely on economic models that purport to look at "market-mediated effects" of biofuel production and use to assess greenhouse gas emissions. Draft RIA at 172. In particular, EPA cannot provide any real world evidence that these models are "accurate" in their estimate with respect to "indirect emissions." These may provide a way to conduct comparisons, but EPA must use consistent assumptions and system boundaries for all fuels, including petroleum based fuels that are being displaced. We also do not believe it is appropriate for EPA to consider emissions outside of the United States. EPA has no authority to regulate activity outside of the United States and these emissions likely relate to third parties with no connection to U.S. biofuel production. Government policies and other factors can impact actions outside the United States. EPA, in short, does not have the expertise to review and address these issues. We further note that EPA continues to appear not to address indirect emissions associated with the baseline petroleum fuel. Draft RIA at 189. With shifting refining capacity and the need for more marginal sources of crude oil, indirect emissions should be explored to ensure a better comparison.

As with other assessment, we continue to believe a comparison against a no RFS baseline is not a proper way to review the factors that are supposed to inform whether additional increases in biofuels are appropriate. Rather, since the models are so uncertain this should really be an exercise of comparing fuels than claiming EPA is quantifying actual emissions. Key to this analysis for biodiesel is that, as EPA's own analysis shows, biodiesel fuel production has significantly less greenhouse gas emissions compared to renewable diesel and ethanol. *See* Proposed Set 2 Rule Climate Change Analyses, EPA-HQ-OAR-2024-0505-0310 at page 24 of the PDF; Draft RIA at 198; *see also* Hui Xu, et al., *Life Cycle Greenhouse Gas Emissions of Biodiesel and Renewable Diesel Production in the United States*, Environ. Sci. Technol. 2022, 56, 7512−7521 (EPA-HQ-OAR-2021-0427-0415) (finding well-to-wheel emissions of soybean, canola, and carinata oil to renewable diesel pathways are about 8−10% higher than their biodiesel counterparts). We also note that, because biodiesel production facilities are located throughout the country and many use local feedstocks and serve local markets, they likely should have reduced emissions associated with feedstock and fuel transport. EPA appears to recognize this in its discussion on emissions related to fuel transport, although it is not clear if EPA is accounting for the increased imports of feedstocks used by renewable diesel facilities in these estimates. Draft RIA at 187.

We also are unclear as to the basis behind the assumptions in determining the difference in consumption for biodiesel from different feedstocks under the proposed volumes. Draft RIA at 177. For example, if volume requirements are increasing, EPA does not explain (that we could find) why biodiesel from used cooking oil and tallow are estimated to go down from a no RFS baseline. This may be due to other policy incentives that favor renewable diesel that do not reflect the impacts regarding the *RFS.* Where renewable diesel and renewable jet fuel utilize the

same feedstocks, EPA's allocation of feedstocks likely impacts total emissions calculated. But, as noted, biodiesel production requires significantly less energy and, thus, has significantly less greenhouse gas emissions.

Thus, we do not believe EPA's analysis properly accounts for biodiesel's greenhouse gas emissions reductions benefits with respect to potential increases in volume requirements under the RFS. Further, it should be noted that biodiesel is cheaper to produce than renewable diesel, making these additional greenhouse gas emission reductions from biodiesel more cost-effective. This is ignored in EPA's analysis of impacts on climate change.

II. The impact of renewable fuels on the energy security of the U.S.

EPA has previously recognized that energy security is furthered by diversification of fuels, particularly with respect to the biomass-based diesel category. *See, e.g.,* 77 Fed. Reg. 59,458, 59,471 (Sept. 27, 2012). EPA has since focused on "net petroleum imports," noting that the United States has been a "modest net petroleum exporter," and now appears to be considering "changes in imports and exports of renewable fuels and renewable fuel feedstocks." 90 Fed. Reg. at 25,813. Using a similar analysis as in prior years, EPA has estimated total energy security benefits of $138-151 million with respect to its proposed volume for 2026 and $150-176 million with respect to its proposed volume for 2027. *Id*. at 25,814. This estimate excludes various considerations that render it a conservative estimate.

While SABR Coalition agrees that the RFS program should be implemented in a manner that supports domestic production, we believe EPA's conflation of biodiesel and renewable diesel fails to recognize the differences in how the markets have developed, which, in turn, ignores the energy security benefits of ensuring an ongoing and certain role for biodiesel in the RFS program. The biodiesel industry has long been concerned with biodiesel production overseas that may not have the same worker and environmental protections as U.S. biodiesel producers. The biodiesel industry took action to address biodiesel imports from Argentina and Indonesia that were flooding the market in 2016. Draft RIA at 285. Imports of biodiesel have fluctuated, but U.S. biodiesel production started and has remained the dominant source of biodiesel, and we anticipate imports likely to reduce again as a result of changes in the tax credits. Renewable diesel, on the other hand, largely started as an imported fuel, although U.S. producers have finally gotten onboard. Where the majority of renewable diesel imports have come from Neste's facility in Singapore, it is not clear if the tax changes will significantly impact imports of renewable diesel where producers had long targeted sales in the United States. *See, e.g.,* EIA, *U.S. imports of renewable diesel increased in the early months of 2024,* Today in Energy, Aug. 6, 2024, https://www.eia.gov/todayinenergy/detail.php?id=62704; *see also* Victor Hale, *Neste's Strategic Pivot to Sustainable Aviation Fuel (SAF): Turning Margin Pressures into a Long-Term Competitive Edge*, July 24, 2025, https://www.ainvest.com/news/neste-strategic-pivot-sustainable-aviation-fuel-saf-turning-margin-pressures-long-term-competitive-edge-2507/ ("Neste's dominance in SAF is further solidified by its partnerships with industry giants. A landmark 2025 deal with Amazon Air to supply 7,500 metric tons of neat SAF for cargo operations at two U.S. airports exemplifies this.").

While U.S. producers have looked at foreign feedstocks, these feedstocks were largely canola from Canada to fill feedstock needs or excess soybean oil from Mexico that is from

crushing soybeans *grown in the United States.* In other words, foreign feedstocks are used by biodiesel producers based on market efficiencies. This is unlike U.S. renewable diesel that is looking to take advantage of various policies by importing used cooking oil from overseas as a primary feedstock source and now looking increasingly at imports of tallow. *See, e.g.,* Pro Farmer Editors, *U.S. Biofuels Maker Defends UCO From China – A major U.S. producer of renewable diesel, defended impots of used cooking oil (UCO) as a feedstock to produce biofuels*, Farm Journal Ag Web, Oct. 30, 2024, https://www.agweb.com/markets/pro-farmer-analysis/u-s-biofuels-maker-defends-uco-china; Dr. Scott Gerlt, *Used Cooking Oil Imports for Biofuels Exceed Expectations*, American Soybean Association, Apr. 4, 2024, https://soygrowers.com/news-releases/used-cooking-oil-imports-for-biofuels-exceed-expectations/; Henri-Jean Bardon, *US Renewable Diesel Producers Pivot to Tallow as Brazil Exports Surge*, Globalbiodiesel Substack, Feb. 11, 2025, https://globalbiodiesel.substack.com/p/us-renewable-diesel-producers-pivot.

EPA acknowledges that "[a]vailable data suggests that there is significant unused biodiesel production capacity in the U.S., and thus domestic biodiesel production could grow without the need to invest in additional production capacity." 90 Fed. Reg. at 25,798. EPA should not only institute a biodiesel-specific obligation that supports the use of this existing production capacity, but it should also set overall advanced volumes high enough to enhance U.S. energy security by ensuring that all existing domestic biofuel resources can produce for the market. In addition, we believe if EPA does not adopt our proposed approach there would be reduced competition, which would have negative implications for energy security. Energy security consideration go beyond merely "the amount of fossil fuel energy displaced." *Id*. at 25,819. In seeking to ensure EPA supports ongoing U.S. biodiesel production, SABR Coalition is seeking to ensure continued diversity of fuels in the diesel fuel market.

We further note that, when considering energy use at an "acceptable price[s]," biodiesel is among the most cost-effective fuel used to meet the RFS volume requirements. 90 Fed. Reg. at 25,813. EPA's own assessment shows that projected biodiesel production costs per gallon are less than that for renewable diesel and renewable jet fuel (Draft RIA at 402, 405-406, 409).

Table 10.1.2.3-2: Summary of Estimated Biodiesel Production Costs ($/gal)

Year	Soy Oil	Corn Oil	FOG
2026	4.02	3.41	3.15
2027	3.64	3.09	2.86
2028	3.51	2.98	2.76
2029	3.36	2.87	2.66
2030	3.22	2.75	2.55

Table 10.1.2.4-5 Summary of Estimated Renewable Diesel Production Costs ($/gal)

Year	Soy Oil	Corn Oil	FOG
2026	4.40	3.79	3.54
2027	4.02	3.48	3.25
2028	3.89	3.37	3.15
2029	3.78	3.29	3.08
2030	3.64	3.17	2.97

The cost estimates for renewable jet fuel were higher than for renewable diesel by as much as $1.

EPA also estimates "total costs" for these fuels, which includes additional costs for "fuel economy" of biodiesel and renewable diesel. Draft RIA at 433. We do not think such additional costs are appropriate, as the most common blend of biodiesel (B20) has minimal to no impacts on fuel economy. Since 2010, B20 blends have become the most common blend. And, biodiesel has been seen as an ideal additive, even for renewable diesel, because it provides greater lubrication and leaves fewer particulate deposits behind. It burns more efficiently, which makes up for a reduction in BTUs compared to renewable diesel. Millions of miles of fleet data show that B20 has the same fuel economy and horsepower, calling into question the basis for EPA's equivalence values that give renewable diesel greater credit based on an incorrect theory that it displaces more petroleum based diesel fuel. *See, e.g.,* Jason Gonderman, *Running on Environmentally Friendly B20 Biodiesel - Debunking The Biofuel Myth*, Motortrend, May 26, 2015, https://www.motortrend.com/reviews/running-on-environmentally-friendly-b20-biodiesel/. Nonetheless, biodiesel production's estimated total costs, even under EPA's analysis, are still less than those of renewable diesel production. Draft RIA at 433.

III. The expected annual rate of future commercial production of renewable fuels

Production capacity is not a barrier to reaching and exceeding 2 billion gallons of U.S. biodiesel production, as projected by EPA. Draft RIA at 308. As noted above, "[a]vailable data suggests that there is significant unused biodiesel production capacity in the U.S., and thus domestic biodiesel production could grow without the need to invest in additional production capacity." 90 Fed. Reg. at 25,798; *see also* Draft RIA at 288. Although EPA's preamble references 2.9 billion gallons of registered U.S. biodiesel production capacity, the Draft RIA indicates that there is approximately 3.9 billion gallons of U.S. biodiesel production capacity, including active and idled facilities. Draft RIA at 287-288. EIA may report reduced (or fluctuating) production capacity, but we believe this does not reflect the potential capacity of existing biodiesel plants, which are currently underutilized. *Id.* at 288.

IV. The impact of renewable fuels on the infrastructure of the U.S. and deliverability of goods

EPA's Draft RIA recognizes that over 2 billion gallons of biodiesel has been consumed in the United States. Draft RIA at 324. It also recognizes that biodiesel blending is often done downstream of terminals, and that some biodiesel is being transported via pipeline. *Id.* EPA also recognizes that "substantial volumes of B10-B20" are being used. *Id.* EPA indicates that it does not "anticipate any challenges associated with the infrastructure to distribute and use biodiesel through 2027." *Id.* EPA further notes that there is production capacity and infrastructure to handle higher volumes than EPA projects. *Id.*

Despite the ability of the biodiesel industry to increase production and use, when EPA properly implements the RFS, EPA states that "[e]xpanding biodiesel blending infrastructure to accommodate significantly higher biodiesel volumes may also pose challenges." Draft RIA at 325. EPA references terminals, ignoring its earlier statement that blending has often occurred downstream of the terminals. *Id.* EPA also claims "significant infrastructure changes" would be needed to expand retail of biodiesel blends, when, again, EPA just explained that biodiesel at levels of B10 and B20 are easily distributed. *Id.* Biodiesel can also be blended with renewable

diesel. As such, based on EPA's estimate of around 51 billion gallons of diesel fuel consumption in 2026 and 2027 (EPA-HQ-OAR-2024-0505-0290), the current market can accommodate over 10 billion gallons of biodiesel. Even if additional infrastructure is needed, EPA has provided no incentives for the market to make those changes, because its implementation of the program favors renewable diesel and renewable jet fuel as the source of growth. Moreover, renewable diesel is focused on California markets, further reducing the need to invest in infrastructure in the rest of the country.

EPA appears to finally recognize that the biodiesel industry has taken action to address potential issues with different cold flow properties of different feedstocks used in biodiesel production. Draft RIA at 325. But, EPA inexplicably references biodiesel produced from palm oil as being subject to wax formation at higher temperatures, which may require additional actions to ensure adequate cold-flow performance of palm-based biodiesel blends. *Id.* As discussed above, there is simply no evidence that any increase in biodiesel will be palm-based biodiesel, which can only generate a D6 RIN and not an advanced biofuel RIN. This discussion, then, seems irrelevant and should be removed in the final RIA.

V. The impact of the use of renewable fuels on the cost to consumers of transportation fuel and on the cost to transport goods

EPA's assessment of the fuel costs and costs to transport goods is inadequate. EPA estimates costs to transport goods for the proposed volumes as a whole. 90 Fed. Reg. at 25,831-25,832. This limited analysis does not accurately depict the difference between the biodiesel market and the renewable diesel/jet fuel markets.

> The RFS, when implemented properly, has proven to be an effective, market-based program that diversifies, enhances, and improves the emissions characteristics of the nation's fuel supply while lowering costs for consumers. … Given the central importance of trucking and diesel fuel in our nation's supply chain for goods, low-cost biodiesel not only makes fuel cheaper for fleets and truck drivers, but it subsequently lowers shipping costs and thus makes <u>all</u> goods more affordable.

NATSO Comment Letter to EPA, Aug. 17, 2018, at 1 (EPA-HQ-OAR-2018-0167-0662). As noted above, without biodiesel, these dynamics in the biomass-based diesel market will likely change to the detriment of consumers.

VI. The impact of the use of renewable fuel on other factors, including job creation, the price and supply of agricultural commodities, rural economic development, and food prices

EPA generally found that the proposed volume requirements will have positive impacts on jobs and rural development. 90 Fed. Reg. at 25,830. EPA also determined that "most of the increase in the use of agricultural commodities used for biofuel production will be met by increased production of these feedstocks rather than diversion from existing markets." *Id.* at 25,832. EPA further found that the proposed volumes will have "only a minimal impact on agricultural commodity and food prices, with any resulting price increases expected be small."

Id. EPA's summary of these factors looks at the volumes proposed as a whole. Even the Draft RIA, however, does not reference biodiesel specifically, looking, for example, at a study that conflated biodiesel and renewable diesel in assessing job and economic impacts.

We believe our proposal, over EPA's current and proposed handling of biomass-based diesel, will provide numerous economic benefits, without impacts on agricultural commodities or food prices.

B. IMPORT RIN REDUCTION

I. SABR Coalition Supports Efforts to Promote U.S. Production of Biofuels and Feedstocks. (B-1)

Under EPA's proposal, foreign renewable fuel and U.S. biofuels produced from foreign feedstocks would generate half the number of RINs that the same gallon of fuel would generate if produced in the United States from U.S. feedstocks. 90 Fed. Reg. at 25,787. SABR Coalition agrees that there are environmental and enforcement concerns with respect to fuels and feedstocks that are shipped in from overseas, particularly, as EPA notes, China. *Id.* at 25,838-25,839. We also agree that Congress sought to "support American agriculture and strengthen rural economies in the U.S." *Id.* at 25,838. We dispute, however, any implication that increased imported feedstocks are being used by biodiesel producers. As discussed above (see *supra* Section A.4.I.), the significant increase in imported feedstock has been used to support renewable diesel production, not biodiesel. This has, in part, helped renewable diesel production displace biodiesel production under the biomass-based diesel program. As discussed above, we believe ensuring a strong U.S. biodiesel component of the program furthers these goals and is consistent with the statute. The U.S. biodiesel industry started hand-in-hand with U.S. soybean farmers. A majority of biodiesel producers continue and will continue to use U.S. produced soybean oil.

We incorporate by reference the comments of the American Soybean Association with respect to EPA's proposal for a 50% reduction in RIN values for imported fuels and U.S. produced fuels derived from imported feedstocks, except as further explained below.

II. EPA Should Not Apply the Import RIN Reduction to U.S. Biodiesel Production Using Feedstock that May Have been Grown or Produced in Canada or Mexico. (B–2)

While SABR Coalition agrees that there are concerns with enforcement with respect to feedstock and fuels imported from overseas, these same concerns are not present with respect to feedstock that U.S. biodiesel producers use that may be grown in Canada (e.g., canola) or processed in Mexico (e.g., soybean oil). While EPA also references recent concerns raised by the U.S. Department of Treasury and Internal Revenue Service with respect to verifying foreign feedstocks, the U.S. Congress recently made clear that these concerns did not apply to feedstock from Canada and Mexico used in U.S. biofuel production. *See* Pub. L. No. 119-21, §70521(a) (extending Clean Fuel Production Tax Credit to apply to fuel "derived from a feedstock which was produced or grown in the United States, Mexico, or Canada").

Canola from Canada has long been utilized by U.S. biodiesel producers under the RFS program. In 2010, EPA added canola to the list of pathways, recognizing it had historically been used in the production of biodiesel. 75 Fed. Reg. 43,522, 43,524 (July 26, 2010). Biodiesel plants were located in areas where canola is the closest and most efficient feedstock to use. It also has properties that make it more ideal to use in colder climates. In addition, the United States is a significant exporter of soybeans, and Mexico is the second largest whole soybean market for the United States. *See* U.S. Soybean Export Council, Country Snapshot: Mexico, at 1 (2022), https://ussec.org/wp-content/uploads/2022/03/USSEC_CountrySnapshot_Mexico.pdf. Mexico has increased its crush capacity to meet soybean meal and oil demands, but much of this demand is met using U.S. soybeans. *Id.* Biodiesel facilities, particularly those in the Southern States, purchase excess soybean oil from Mexico, again, as a more cost-effective feedstock. In particular, these feedstocks provide added flexibility to biodiesel producers and can easily be used to make up any shortfalls in U.S. domestic production. In addition, the trade flows for biodiesel and U.S. farmers also work both ways for these countries, and EPA's proposal could lead to retaliatory actions by these countries.

In short, we believe applying the import RIN reduction to feedstocks from Mexico and Canada could hinder and harm U.S. biodiesel producers and also could close off markets for U.S. farmers. This would not necessarily lead to U.S. biodiesel using more feedstocks crushed in the United States, as these feedstocks are generally used due to their proximity, availability, or because they are more cost-effective. This is particularly the case where renewable diesel facilities, due to the advantages received, can outbid U.S. biodiesel producers for domestic feedstocks. Loss of access to cost-effective feedstocks, including feedstocks that are derived from soybeans grown in the United States, may result in U.S. biodiesel producers closing. This would not fulfill the intent of Congress and would not support domestic production of biofuels if it leads to a slow down or even closing of U.S. biodiesel production. In other words, it would not be "appropriate" to impose a RIN reduction requirement on U.S. biodiesel producers using feedstock grown or processed (e.g., crushed) in Canada or Mexico.

III. SABR Coalition agrees that recordkeeping, reporting, attest engagement, and QAP requirements are needed to ensure against fraud with respect to feedstock and fuels imported from overseas. (B–3)

SABR Coalition agrees that it is more difficult to establish that feedstock or fuels imported from countries outside of North America are in compliance with the RFS regulatory requirements. EPA recognizes this in the proposal, referring to concerns with used cooking oil from China containing palm oil and the potential that "some UCO shipments may be fraudulently labeled or adulterated with unused palm oil." 90 Fed. Reg. at 25,839, *see also id.* at 25,824. While the reduction in RIN values may disincentivize such fraudulent activity, EPA should ensure there are sufficient safeguards to verify that the imported feedstock being used is, in fact, UCO or tallow and the fuel being imported also is produced from feedstock that meets the renewable biomass requirements.

IV. For planted crops and oils derived from planted crops used by the biodiesel industry, the "feedstock point of origin" should be where the "feedstock was produced or grown." (B–4)

EPA proposes definitions on the "feedstock point of origin." 90 Fed. Reg. at 25,840. EPA states that the feedstock point of origin would generally be considered to be "the location, either domestic or foreign, where a feedstock is grown, produced, generated, extracted, collected, or harvested." *Id.* For planted crops, EPA indicates this would be "the location of the feedstock supplier that supplied the feedstock to the renewable fuel producer or biointermediate producer (e.g., grain elevator)." *Id.* For oils derived from planted crops, EPA indicates this would be "the location where the oil is extracted from the planted crop, cover crop, or algae (e.g., crushing facility)." *Id.* It is not clear, however, that EPA's proposed definitions of the point of origin would prevent the grain elevator or crusher from importing and storing foreign grains or crushing foreign oilseeds.

We believe that the feedstock point of origin should be defined for U.S. (Canada and Mexico) in a manner that is consistent with the renewable biomass provisions of the regulations. That is, U.S. producers need only show whatever documentation is required to show compliance with the aggregate compliance approach that applies to the United States and Canada and should not be subject to significant recordkeeping requirements. For planted crops grown in Mexico, this may require compliance with the individual tracking requirements.

D. OTHER RFS PROGRAM AMENDMENTS (D-1)

I. EPA Must Revise the Equivalence Values for Renewable Diesel, Naphtha and Jet Fuel, but Its Proposed Values Use Arbitrary Assumptions to Inflate the Values (Section X.A. of Preamble).

In 2006, EPA asserted that, under the RFS, they will need to "specify the degree to which individual types of renewable fuel should be counted toward compliance," establishing the "equivalence value" under the program. *See* EPA Mem., Calculation of Equivalence Values for renewable fuels under the RFS program, Aug. 23, 2006, at 1 (EPA-HQ-OAR-2021-0427-0012). The equivalence value determines the number of RINs that can be generated per gallon of renewable fuel produced. *Id.* EPA indicated that the equivalence value takes into account the renewable content of a renewable fuel in comparison to that for ethanol and the energy content of the renewable fuel relative to that for ethanol. *Id.* This approach led to an equivalence value of 1.7 for most renewable diesel produced today under the RFS program and 1.5 for biodiesel. 40 C.F.R. § 80.1415(b). The difference is that biodiesel has long had its equivalence value discounted based on the use of non-renewable methanol in the production process. 87 Fed. Reg. at 80,707; EPA-HQ-OAR-2021-0427-0012 at 2-3. For other biofuels, an equivalence value had to be sought from EPA. "Previously approved equivalence values for naphtha range from 1.4 to 1.5 with the majority approved at 1.5, and for renewable jet fuel range from 1.6 to 1.7, with the majority approved at 1.6." 90 Fed. Reg. at 25,843. Since they are not approved through rulemaking, EPA has not provided its methodology for approving these values.

EPA is proposing to revise the equivalence value for renewable diesel, naphtha, and jet fuel to account for the non-renewable portion of these fuels. 90 Fed. Reg. at 25,842. As EPA

acknowledges, "[b]y not accounting for the hydrogen produced from fossil natural gas in these fuels, we are effectively allowing these hydrotreated fuels to generate RINs for non-renewable content." *Id.*; *see also* 87 Fed. Reg. 80,704 ("Fuel that derives its energy from fossil fuel (a subset of non-renewable feedstocks) is replacing one form of fossil fuel for another, not reducing the quantity of fossil fuel present in a transportation fuel.") Renewable fuel must *displace fossil fuel*. 42 U.S.C. §7545(o)(1)(J). This flawed equivalence value has been in place since the start of the program and has resulted in windfalls to renewable diesel plants despite the fact that RINs were being generated for fossil-based energy that was not actually displacing fossil fuel used in transportation fuel. It has been over two years since EPA acknowledged that it had established equivalence values for renewable diesel in a manner that provided those fuel producers with significant advantages over biodiesel producers. It also was represented to the Court that changes were being made. EPA must revise these equivalence values and apply them as soon as possible.

EPA asks for comment on alternative approaches to recognizing and accounting for the non-renewable content found in renewable diesel, naphtha, and jet fuel. 90 Fed. Reg.at 25,843. SABR Coalition had presented calculations that showed the equivalence value for renewable diesel should be closer to 1.5 and for renewable jet fuel at 1.3. *See* Comment Submitted by SABR Coalition, EPA-HQ-OAR-2021-0427-1147; Comment Submitted by SABR Coalition, EPA-HQ-OAR-2021-0427-1148. Dr. Robert McCormick, NREL, Dr. Jon Van Gerpen, University of Idaho, and Dr. Dragon Simovic, Lola Vega, Inc., all reviewed SABR Coalition's analysis and found the approach to be scientifically valid. These letters are incorporated by reference and attached to these comments.

Here, EPA is proposing to reduce the 1.7 equivalence value for renewable diesel to 1.6 and setting a default value for renewable jet fuel at 1.6 and for renewable naphtha at 1.4. 90 Fed. Reg. at 25,843. However, these values appear to be based on very favorable or flawed assumptions that continue to overvalue renewable diesel and renewable jet fuel. Now that EPA has shown the math behind its proposed equivalence values, we have reviewed EPA's calculations and attempted to utilize similar approaches. The Update to Renewability and EV Calculations for RD and SAF, prepared by engineers with Renewable Biofuels provides an analysis of EPA's calculations and is attached as Appendix A to SABR Coalition's comments. A review of the spreadsheet provided by EPA revealed various errors, which have been reviewed by technical experts and updated as part of this review.

In addition to errors found, the analysis found various flaws and incorrect assumptions that appear to set values that are not representative of fuel being sold today and continue to be too high to be used as a "default" value. These are briefly summarized below.

1. Energy content for renewable diesel was increased from 122,000 Btu/Gal to 123,800 Btu/Gal without providing substantial proof. EPA simply references data it claims was provided by renewable diesel facilities, although we found no requirements in the regulations that require such data and the data is not in the docket. As such, there is no way to determine whether the data is representative of the industry or the accuracy of the data.

2. EPA claims to use the feedstock mix for renewable diesel from 2024 data but appears to assume and replace the entire used cooking oil and distillers corn oil contribution with tallow, which unfairly pushes renewable diesel equivalency value higher. Globally, used cooking oil is predominantly produced from vegetable oils used as frying oils and as such replacement of used cooking oil with vegetable oil would be better scientific representation. In the case of distillers corn oil, renewability data for corn oil will be more representative rather than EPA's choice to replace it with tallow. We further note that the recent revisions to the 45Z Clean Fuel Production Tax credit (and EPA's proposed import RIN reduction) strongly shifts the policy towards more soybean oil consumption for biofuels production in the United States, so just using the 2024 feedstock mix data cannot be shown to be representative of the industry, is likely to be obsolete, and incorrect.

3. Renewable jet fuel is composed of molecules with carbon chain length from C8 to C16. Rather than considering a more typical composition, EPA assumed C14 and C16 molecules as the composition of renewable jet fuel for its default value. This, however, is not reflective of the current industry practice and does not account for purpose build renewable jet plants already in operation and construction, with ability to produce up to 100% renewable jet fuel. This selection of longer chain molecules again results in an intentionally higher equivalence value. A similar argument applies to renewable naphtha where assumptions made are not reflective of industry operations which also artificially inflates the equivalence value for renewable naphtha.

As further evidence of bias toward renewable diesel fuels compared to biodiesel, EPA rounded biodiesel's equivalence value down from 1.54 to 1.5, but is rounding renewable diesel's equivalence value up from 1.56 to 1.6. This rounding alone gives renewable diesel a significant advantage even though the values are much closer than the 0.1 difference in equivalence value. This difference is vitally important. There were around 2.98 billion gallons of renewable diesel that had a 1.7 equivalence value reported in 2024. A 0.1 difference in the equivalence value results in almost 298 million additional RINs for renewable diesel. At $1.20 a RIN, this is a 12-cent advantage per gallon. This also distorts the market and allows a more expensive, higher carbon fuel to have an added competitive edge against the goals of Congress. A potential alternative to remove this bias and advantage is that EPA can set equivalence values out to two decimal places. We do not believe this would create undue burdens on the industry and would better ensure actual gallons are produced to meet the volume requirements under the statute.

At a minimum, however, EPA's proposed values are not proper "default" values without requiring proof that the fuel produced meets the energy content EPA uses in its calculations. Depending on the method chosen and assumptions used there is a high degree of variability in calculating the equivalence values for hydrotreated fuels. For renewable diesel, the variability ranges from 1.5 to 1.6, depending on the energy content and feedstock used. When RINs are trading at $1/RIN, this variability results in a difference of $.10 per gallon in RIN generation, which is very impactful in the cost-sensitive heavy-duty fuel market. The difference increases as RIN prices increase. At $2/D4 RIN, the difference is $.20/gal. A 1.6 "default" equivalence value is at the very top end of the range when most renewable diesel cannot show 1.6 to be an appropriate value other than through using the most favorable assumptions and then rounding up. It is quite unusual to set a default value for anything using the top end of a range rather than the

bottom end of the range. This variability is not just from one refinery to another, even within the same refinery, various factors can cause values to drop below 1.55, where it should be rounded down to 1.5, as EPA did with biodiesel. Because the 1.6 is dependent on the high energy content used by EPA, if renewable diesel producers are going to claim a 1.6 equivalence value, which, again, is at the high end of the range, they must demonstrate that their fuel meets the threshold energy content of 123,800 BTU/gallons, not just initially but through ongoing testing with regular intervals, using either ASTM D240 or similar test which costs less than $400. If they do not want to do the testing, then they should use 1.5 as their equivalence value.

A similar variability occurs with renewable jet fuel, which is in the range of 1.4 to 1.5. Because of the flawed assumptions used by EPA, its calculations indicate a 1.6 equivalence value, which simply cannot be supported as representative of renewable jet fuel. The assumption used by EPA that C14 and C16 hydrocarbons are derived solely by fractionating shorter-chain fatty acids from renewable diesel is not accurate and does not reflect current commercial renewable jet fuel production practices. Renewable jet production typically involves cracking longer-chain fatty acids to produce renewable jet fuel-range hydrocarbons (C8 to C16). By selecting only C14 and C16 as model molecules and excluding short chain cracked hydrocarbons, which have a higher non-renewable fraction, EPA's calculations would inflate the equivalence value for renewable jet fuel to 1.6. When a representative composition of C9 to C16 molecules is used and the same heat of combustion methodology is applied, the equivalence value for renewable jet fuel is recalculated to 1.43, which rounds down to 1.4. Nonetheless, there also may be variability that could have some renewable jet fuel's equivalence value to be rounded to 1.5. For the higher 1.5 value, however, we believe this would only apply to fuels with at least 119,000 BTU/gallon, similarly requiring a threshold energy content level to claim. Similar to our recommendation for renewable diesel, renewable jet fuel should have the same ongoing compliance testing for anyone seeking to use the upper end of the range. The test method for BTU value for renewable jet fuel would also be ASTM D240.

We urge EPA to revise the equivalence values using a scientifically defensible calculation that does not favor one fuel over another. We look forward to working with this Administration to create a level playing field that allows fuels to compete without EPA tipping the scales.

In addition, EPA indicates that some producers have explored using hydrogen produced from qualifying renewable biomass rather than from fossil natural gas in the hydrotreating process. 90 Fed. Reg. at 25,843. While SABR Coalition does not oppose providing some incentive for use of renewable hydrogen, RIN generation must be limited to using renewable biomass as defined in the statute. We do not believe renewable hydrogen would constitute "biomass-based diesel" under the plain definition in the statute, as it most likely will be produced from renewable natural gas and not oil/lipid feedstocks and so would not be able to generate a D4 RIN. We think it would more appropriately generate a D3 or D5 RIN. EPA also must make sure there is no "double-counting" and appropriately estimates the energy attributed to the renewable hydrogen versus the renewable biomass used to produce the diesel fuel or co-product. Further, a similar assessment should be done for using renewable methanol or ethanol in the biodiesel production process, allowing biodiesel producers to generate RINs for using renewable methanol or even undenatured ethanol instead of fossil-based methanol.

II. EPA does not provide an adequate explanation for the proposed changes in 40 C.F.R. §80.1426(f) regarding RIN Generation and Assignment (Section X.B.1. of Preamble).

EPA is proposing to specify when RINs must be generated and assigned for both renewable fuel and renewable natural gas ("RNG") in 40 C.F.R. §80.1426(f). 90 Fed. Reg. at 25,843. The only reason provided for these changes, however, is that it has received questions regarding RIN assignment related to RNG, which is governed by 40 C.F.R. §80.125. We are not aware of any questions regarding when RINs are assigned for liquid fuels, such as biodiesel.

Under the proposed new provision, RINs are to be generated at "the point of production or point of sale" for domestic renewable fuel producers. 90 Fed. Reg. at 25,843. EPA has long provided producers flexibility as to when to generate RINs per "batch" of fuel, which can depend on the type of production at the facility (e.g., batch or continuous). As such, it is unclear the purpose of these changes. In addition, the phrases "point of production or point of sale" are unclear in this context, as they are typically used to refer to a location. Thus, this does not appear to provide any clarification as to *when* RINs are to be generated or assigned. To the extent EPA believes such changes are necessary, it should provide the public with a clear and fulsome explanation for them and meaning behind the terms used. This should be provided with the notice of proposed rulemaking and not, for the first time, in the final rule.

III. Biodiesel can be used as "home heating oil" at any blend level (Section X.B.2. of Preamble).

EPA proposes a "clarification" to the definition of "heating oil" that "pure biodiesel (i.e., B100) or neat biodiesel (i.e., B99) that is used for process heat or power generation is not heating oil." 90 Fed. Reg. at 25,844. However, EPA has expressly stated that blends of biodiesel above B80 fall under the definition of "heating oil." 75 Fed. Reg. 14,670, 14,865 (Mar. 26, 2010) (incorporating definition of 40 C.F.R. §80.2(ccc) that included blends above B80 in the definition of "heating oil"); EPA, *Renewable Fuel Standard Program (RFS2) Summary and Analysis of Comments,* at 3-223 (Feb. 2010), https://nepis.epa.gov/Exe/ZyPDF.cgi?Dockey=P1007GC4.pdf ("RFS2 RTC") ("RINs can be separated from biodiesel blends with greater than 80 percent biodiesel if such blends are designated and used as transportation fuel, heating oil, or jet fuel at that blend level."); RFS2 RTC at 3-225 ("We agree that parties designating neat renewable fuels as transportation fuel, heating oil, or jet fuel for use without further blending can separate the RINs."). "Pure biodiesel" or "neat biodiesel" is a fuel that is "at least 80 percent mono-alkyl esters of long chain fatty acids derived from vegetable oils or animal fats."[17] 78 Fed. Reg. 62,462, 62,464 (Oct. 22, 2013). It makes little sense to distinguish B98 from B99 or B100.

EPA has also consistently explained that the end uses of biodiesel need not be tracked, even if used for process heat or power generation. 75 Fed. Reg. at 14,687; RFS2 RTC at 3-221. "[B]y using the broader industry interpretation of the term 'home heating oil' to refer to all heating oil that could be used in homes, whether or not it ultimately does, the RFS2 program will

[17] We note that "neat biodiesel" is typically used to refer to B100, not B99. EPA itself has used the term "neat" to refer to 100% renewable fuel.

be greatly simplified for both regulated parties and EPA enforcement personnel, and appropriate credit will be provided for the use of renewable fuels that displace fossil fuels." RFS2 RTC at 3-221. This broader definition "is in keeping both with the [greenhouse gas] reduction and energy security goals of EISA." *Id.* Moreover, the producer of the biodiesel generates the RIN, not the blender of biodiesel into heating oil. As such, this "clarification" also creates confusion for biodiesel producers that sell B100 and B99 into the heating oil market or that sell to marketers or terminals. Nothing in the statute would limit such uses of biodiesel blends.

The only real explanation EPA provides for apparently distinguishing B98 from B99 or B100 is that EPA claims that "pure biodiesel (B100)" and "neat biodiesel (B99)" are not "commonly or commercially known as heating oil" and are not "sold for use in furnaces, boilers, or similar applications." 90 Fed. Reg. at 25,844. In an unsupported statement, EPA states that pure or neat biodiesel "has several natural qualities that make it problematic as a heating oil, the primary issue being that biodiesel gels at low temperatures and could negatively impact the equipment being fueled by biodiesel (e.g., by clogging filters)." *Id*. But EPA does not explain why the one to two percent difference is material or why EPA would appear to be promoting *adding* petroleum-based fuel to heating oil to reduce the renewable fuel present is consistent with the RFS program or Congress's goals to *reduce* reliance on fossil-based fuels.

We also believe EPA's unsupported statement is simply incorrect. B100 is being marketed as a viable heating oil. *See, e.g., B100 – The Future has Arrived!*, Oil & Energy Online, https://oilandenergyonline.com/articles/all/b100-future-has-arrived/ (last visited Aug. 7, 2025). The Underwriters Laboratories (UL) has updated its UL 296 Standard for Oil Burners to include liquid fuel-fired burners intended for use with biodiesel blends of 20% to 100% with heating oil. National Oilheat Research Alliance (NORA), *UL Liquid Fuel Burner Safety Standard Amended to Include Biodiesel Blends up to B100*, Dec. 13, 2022, https://noraweb.org/2022/12/ul-liquid-fuel-burner-safety-standard-amended-to-include-biodiesel-blends-up-to-b100/. Major equipment manufacturers are advertising burners, boilers, and furnaces that will accept B99 and B100 and are also converting older boilers to have B100 capability.[18] The use of increasing blends of biodiesel, in turn, has reduced costs overall for customers. *See* Energy Kinetics, *Revolutionizing Heating: Energy Kinetics Introduces B100 Compatible Boilers*, https://energykinetics.com/biofuel-boilers/ (last visited Aug. 7, 2025).

EPA may be concerned with the ability of biodiesel producers to use biodiesel at their facilities. While we do not believe this is allowed to generate RINs under the current RFS regulations, if that is EPA's concern, they should make that clear, rather than create confusion and potentially exclude viable fuels from the heating oil market. As such, SABR Coalition strongly opposes the proposed change to the definition of "heating oil," but is happy to work

[18] As some examples, see Energy Kinetics, *Revolutionizing Heating: Energy Kinetics Introduces B100 Compatible Boilers*, https://energykinetics.com/biofuel-boilers/ (last visited Aug. 7, 2025); Beckett, *The NEW Beckett RF Oil, Biodiesel, and Renewable Diesel Burner*, https://www.beckettcorp.com/ (last visited Aug. 7, 2025); Carlin Combustion Technology, *Ready When You Are. Confidently burn #2 through B100 with Carlin*, https://carlincombustion.com/b100/ (last visited Aug. 7, 2025); *Carlin Begins Production on UL Listed B100 Burners*, https://oilandenergyonline.com/articles/all/carlin-begins-production-ul-listed-b100-burners/ (last visited Aug. 7, 2025).

with EPA to address the concern it may have with respect to biodiesel plants utilizing biodiesel for which it had generated RINs for process energy.

IV. EPA's Proposed Revisions to the Percentage Standard Formulas Seem Generally to be Non-Substantive, Except the Biomass-Based Diesel Volume Requirement Should Ensure the Physical Gallons Set by EPA are Met (Section X.C. of Preamble).

EPA proposes various changes to the percentage standard equations. 90 Fed. Reg. at 25,844-25,845. Most important, EPA is proposing to change the biomass-based diesel volume requirement from being expressed in physical gallons to gallon-RINs. *Id*. at 25,844. The problem with EPA's proposal is that gallon-RINs are based on an ethanol-equivalency. As EPA previously indicated, the biomass-based diesel program should be based on biodiesel-equivalency. *Id.* The "more complex mixture of fuels" used under the biomass-based diesel program, which appears to be EPA's argument for this change, is because of EPA's improper expansion of the definition to include fuels clearly not included in the definition, such as renewable jet fuel. *Id.* While we believe this illustrates that Congress intended a "biodiesel" category and not a free for all, we do not believe there has been "confusion among stakeholders regarding how to interpret the BBD volume requirement." *Id.* The formula for determining how many RINs are needed for compliance is clear.

By changing the formula from gallons to RINs, on the other hand, it is entirely unclear what the "applicable volume" is that EPA is setting under 42 U.S.C. §7545(o)(2)(B)(ii). Indeed, we believe this favors renewable diesel that has a higher RIN value that can *reduce* the actual volumes needed. The following is by way of illustration (and does not account for reduced RIN values for imports).

> EPA proposed volume requirement for 2026: 7.12 billion RINs
>
> If the requirement is met by all renewable diesel and renewable jet fuel, the volume requirement would be: 4.45 billion gallons (based on EPA's proposed 1.6 equivalence values)
>
> If the requirement is met by 50% renewable diesel/renewable jet fuel and 50% biodiesel, the volume requirement would be: 2.225 billion gallons (renewable diesel/jet fuel) plus 2.37 billion gallons (biodiesel) for a total of 4.6 billion gallons

There is now a greater incentive for obligated parties to purchase renewable diesel over biodiesel to reduce their obligation.

It is also unclear what applicable volume EPA is "ensuring" be met. Contrary to the claimed purpose of the change, there would seem to be even more confusion as to "how to interpret the BBD volume requirement." 90 Fed. Reg. at 25,844. If EPA goes down this road, then the only way to "ensure" a specific volume would be to create subcategories based on equivalence values. This again shows why SABR Coalition's proposal for handling the biomass-based diesel program makes the most sense.

With respect to the other proposed changes to the percentage standard formula, the removal of GS_i, DS_i, RGS_i and RDS_i seem clarifying. In the proposed revised definitions of RG_i and RD_i, however, EPA would continue to refer to the amount of *blended* renewable fuel. 90 Fed. Reg. at 25,862. It is not clear if the term "blended" is necessary in these revised definitions, such that they may be better as follows:

> RG_i = Amount of renewable fuel projected to be contained in the projection of Gi for year i, in gallons.
>
> RD_i = Amount of renewable fuel projected to be contained in the projection of Di for year i, in gallons.

V. EPA Should Add All Approved Feedstocks for Biodiesel to Table 1 of 40 C.F.R. §80.1426 (Section X.D. of Preamble).

SABR Coalition has concerns with the proposed changes to the pathways listing "heating oil," which is discussed in response to EPA's proposed changes to the definitions below.

We further do not necessarily dispute the new pathway for waste fats, oils, and greases as a feedstock for producing renewable naphtha and LPG in pathway I of Table 1 to 40 C.F.R. §80.1426. 90 Fed. Reg. at 25,848-25,849. EPA indicates that it has approved a facility-specific petition for naphtha and LPG produced from biogenic waste oils, fats, and greases, noting that, as a general matter, these fuels should meet the 50% greenhouse gas emissions reduction requirement for advanced biofuels. *Id.* at 25,849. However, EPA has approved other feedstocks for use in biodiesel that EPA has continued not to include in Table 1, even though EPA has found that, based on a typical biodiesel production plant, they would meet the 50% greenhouse gas emissions reduction requirement.[19] These feedstocks include cottonseed oil, carinata oil, and pennycress oil. *See* EPA, Other Actions for the Renewable Fuel Standard Program – Lifecycle Greenhouse Gas Emissions Analyses, https://www.epa.gov/renewable-fuel-standard/other-actions-renewable-fuel-standard-program. As with the proposed pathway for naphtha and LPG, EPA has approved company specific pathways for cottonseed oil, which uses industry average biodiesel production data[20] and carinata oil.[21] Like carinata oil, pennycress oil is not expected to have significant land use change impacts. 80 Fed. Reg. 15,002, 15,003 (Mar. 20, 2015). There is similarly no reason for biodiesel producers to go through a petition process on a "more time consuming and burdensome facility-specific basis" to utilize these feedstocks. 90 Fed. Reg. at 25,849. This could also help support increased production of these feedstocks, which include crops for which EPA has found no significant land use impacts. EPA provides no explanation why the naphtha and LPG pathway should deserve different treatment than these other feedstocks for biodiesel production.

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[19] We note that renewable diesel and renewable jet fuel require more energy than biodiesel.

[20] *See* EPA March 25, 2025 Letter, https://www.epa.gov/system/files/documents/2025-03/scott-petro-determination-2025-03-25.pdf; EPA July 20, 2020 Letter, https://www.epa.gov/sites/default/files/2020-07/documents/reg-deter-ltr-2020-07-20.pdf.

[21] EPA June 30, 2022 Letter, https://www.epa.gov/system/files/documents/2022-07/reg-geismar-carinata-deter-ltr-2022-06-30.pdf. While these approvals were for renewable diesel, renewable diesel production requires more energy than biodiesel, indicating that biodiesel production should also meet the 50% reduction. We further note that EPA found that carinata does not have land use impacts.

VI. SABR Coalition Opposes the Proposed Definition of "Renewable Fuel Oil" (Section X.E.1. of Preamble).

EPA proposes to add a new definition of "renewable fuel oil."[22] 90 Fed. Reg. at 25,849. The proposed definition would define "renewable fuel oil" as "heating oil that is renewable fuel and that meets paragraph (2) of the definition of heating oil." *Id.* at 25,859. This definition would then be used throughout the regulations, including, but not limited to, in reference to requirements for end user affidavits and separate product transfer documents. The problem is that EPA is also proposing a new paragraph (2) to the definition of heating oil regarding the use of pure biodiesel and neat biodiesel for process energy (which SABR Coalition also opposes). The only explanation in support of the proposed new definition of "renewable fuel oil" is that EPA is seeking to clarify use of terms. *Id.* at 25,849. But with the proposed change to paragraph (2) in the definition of heating oil and the proposed revision to the pathways that list heating oil in Table 1 of 40 C.F.R. §80.1426, this proposal has only caused confusion.

Because EPA did not indicate it intended to make any substantive changes to the regulations, which require it to follow notice and comment requirements and to explain the change in position, we assume this was an error on EPA's part and EPA was not intending to apply the requirements currently applicable to "renewable fuel oil" to all "heating oil," as one might read the proposed new definition of "renewable fuel oil." Although, as noted, we oppose the proposed new paragraph (2) to the definition of heating oil and, if that change is not made, the definition of "renewable fuel oil" could then be consistent with current regulations, SABR Coalition opposes this change to the extent EPA did, in fact, seek to expand the requirements that currently only apply to fuel oil that meets current paragraph (2) of the current definition of heating oil. Such an expansion of the current regulations would be in violation of the notice and comment requirements of the Clean Air Act and would be arbitrary because EPA did not explain the basis for a change to a longstanding regulation and policy.

When it expanded the RFS program, Congress gave EPA authority to allow for the generation of "credits" (i.e., RINs) for "fuel that is produced from renewable biomass and that is used to replace or reduce the quantity of fossil fuel present in *home heating oil* or jet fuel." 42 U.S.C. §7545(o)(1)(A), (o)(5)(E) (emphasis added). In 2010, EPA defined "home heating oil" by incorporating the definition in former 40 C.F.R. §80.2(ccc), which defined "heating oil" as "any No. 1, No. 2, or non-petroleum diesel blend that is sold for use in furnaces, boilers, and similar applications and which is commonly or commercially known or sold as heating oil, fuel oil, and similar trade names, and that is not jet fuel, kerosene, or MVNRLM [(motor vehicle, nonroad, locomotive and marine)] diesel fuel." 75 Fed. Reg. at 14,865 (previously codified at 40 C.F.R.§80.1401); 40 C.F.R. §80.2(ccc) (2011). EPA essentially defined "home heating oil" to refer to the heating oil market, which uses heating oil in homes for various uses, such as heating the home, use in water heaters, etc., as well as commercial and industrial uses. As such, the use was not limited to heating homes or even to being used in homes. 75 Fed. Reg. at 14,687. When EPA expanded the definition of heating oil to include certain fuel oils used only for heating of spaces in 2013, EPA "confirm[ed] that inclusion of the new heating oil provision for fuel oils

[22] EPA indicates it was proposing a new definition of "renewable fuel producer," but we did not see it in the proposed regulations and, as such, it is not entirely clear how that definition would actually read. In light of our concerns with other purported "clarifying" changes, we believe the regulated community should see the actual proposed regulatory language before EPA finalizes it.

does not impact the current definition and use of biodiesel as heating oil, even where that biodiesel is used for process heat, power generation, or in stationary sources." EPA, *Regulation of Fuels and Fuel Additives: Modifications to Renewable Fuel Standard Program - Response to Comments*, at 13-14 (Sept. 2013), https://nepis.epa.gov/Exe/ZyPDF.cgi?Dockey=P100GYHD.PDF. This has been the policy of the agency for 15 years.

For these added "fuel oils" (which we understand to be basically one type of fuel oil produced from pyrolysis), EPA limited the use of those fuels, but not heating oil generally, to be used for heating or cooling spaces only, imposing additional requirements to establish that the fuel oil was not being used for other purposes, including requiring affidavits from end users. 78 Fed. Reg. at 62,462. EPA claimed that "[t]hese requirements are tailored to be the least restrictive possible while reasonably ensuring compliance with the amended definition of heating oil" and that it was "aware of producers who have customers willing to sign such affidavits." *Id.* at 62,468. However, EPA expressly stated that these requirements "will not apply to *fuels* qualifying under the original part of the 40 CFR 80.1401 definition." *Id.* at 62,466.

Applying these same requirements on the larger heating oil market could impact hundreds of millions of gallons and could effectively exclude biodiesel producers from the heating oil market that it has long supported. Indeed, any attempt to expand the current requirements that are only applicable to certain "fuel oils" is arbitrary, as there is no reasoned explanation that could support such expansion. For example, the requirements for these fuel oils are different than the requirements for biodiesel and, as such, it is unclear how they would apply for biodiesel producers. The most significant issue, however, is that it would be practically impossible to obtain affidavits from millions of local homeowners and businesses that are the end users of heating oil. Such a requirement would likely disincentivize producers from selling to heating oil distributors and distributors from purchasing fuel with RINs, and increase costs to consumers at a time that energy costs continue to increase. Again, EPA's silence on these issues indicates that the proposed definition is an error. Nonetheless, SABR Coalition wants to be clear that such requirements should not be imposed, including on any blend level of biodiesel up to and including B100, as they could undermine Congress's goals of supporting increased use of renewable fuels in the heating oil market.

VII. SABR Coalition Generally Supports EPA's Proposed Revisions to Compliance Reporting, Recordkeeping, and Registration Provisions (Section X.F. of Preamble).

EPA proposes several revisions to compliance reporting, recordkeeping, and registration requirements. SABR Coalition generally supports those revisions that would streamline the requirements, including reducing the burdens on third-party auditors that may facilitate their ability to work with producers to meet the regulatory requirements. We address each briefly below. We note that, while we may not oppose these revisions, we urge EPA to focus on ensuring the volume requirements are issued in a timely manner and to prioritize finalizing the changes to the equivalence values for renewable diesel, renewable naphtha, and renewable jet fuel.

- Exempt Small Refinery Compliance Reporting: SABR Coalition supports the proposed requirement that small refineries submit compliance reports. 90 Fed. Reg. at 25,850. We also urge EPA to report to the public, at least, the aggregate volumes exempted each year, if not the particular volumes reported by individual small refineries if those are deemed to be confidential business information. This would provide transparency to the public and help validate the accuracy of or update EPA's projections when it sets the standards.

- Compliance Report Updates: SABR Coalition supports the proposed revisions to the production outlook reports and the removal of unnecessary quarterly reporting requirements imposed on biodiesel producers. 90 Fed. Reg. at 25,850.

- Third-Party Auditor Registration Renewal. SABR Coalition supports EPA's proposal to change the frequency of when independent third-party auditors are required to renew their registrations from each year to every two years. 90 Fed. Reg. at 25,850. We believe this would reduce the burdens on auditors and facilitate the ability of producers to hire auditors to comply with the RFS requirements.

- Engineering Review Site Visits. SABR Coalition is concerned with EPA's proposal to require site visits for engineering reviews to be conducted within six months prior to submitting a registration request in order to ensure that the site visit is reflective of current operation of the facility. 90 Fed. Reg. at 25,851. While we understand EPA's concern, we are concerned with the limited number of engineers available if such time limits could impact registrations and registration updates. In addition, there may be reasons for delay that are outside the control of either the producer or the engineer. EPA should allow for some leeway to address these potential concerns.

VIII. SABR Coalition Strongly Opposes Any Requirement to Test Each Batch of Biodiesel with Respect to the ASTM D6751 Specification and Urges EPA to Correct the Definitions of Biodiesel and Renewable Diesel to be Consistent with the Statutory Definition of "Biomass-Based Diesel" (Section X.H. of Preamble).

Again on the order of imposing undue burdens on biodiesel producers without any justification for doing so, EPA's preamble indicates that each batch of biodiesel must be tested for and meet "all the parameters specified in ASTM D6751." 90 Fed. Reg. at 25,851. A definition referencing an ASTM standard, however, does not give EPA authority to regulate fuel quality, and EPA has not met the requirements to regulate all aspects of biodiesel under 42 U.S.C. §7545(c). Requiring "each batch" to be tested imposes significant burdens on biodiesel producers who already must have an engineer certify that their production process results in biodiesel. Many producers also participate in voluntary programs where they are audited to ensure they are following the proper processes to produce high quality fuel. And, any fuel quality issues are often minor and dealt with by the customers directly. Importantly, not meeting the specifications does not render the biodiesel unable to be used as transportation fuel, nor does it have any impact on whether it can qualify as biomass-based diesel.

Consistent with contract requirements and voluntary programs and also just to ensure proper functioning of their equipment for both fuel quality and the safety of the plant's employees, biodiesel producers routinely monitor and test the biodiesel they produce to ensure it

is compliant with the ASTM specifications. While "all the parameters" are tested for on a regular basis, not all parameters must be tested each time a batch is checked. Some parameters are generally constant or highly unlikely to be exceeded due to the nature of biodiesel or the feedstock being used, and certain parameters are more likely to be of concern that requires more frequent testing. For example, cetane is one of the most stable parameters and is very rarely out of spec. Yet it is by far the most expensive test in ASTM D6751, costing approximately 4 to 5 times of what most of the other tests cost. Other parameters are not related to engine performance but serve more as a safety standard for the production process or facilitate storage. These parameters do not render the biodiesel unusable as a transportation fuel.[23]

While the biodiesel industry routinely conducts fuel quality testing of the biodiesel produced, the concern with EPA's preamble language is the reference to require testing for each "batch" of biodiesel. EPA has given producers flexibility in how to define a batch, so long as it is not more than one month's production. A batch is simply the volume of biodiesel for which the producer assigns a sequential number of RINs. For example, one day's biodiesel production can be stored in a tank, with the tank being tested. A "batch," however, could be separate volumes of biodiesel placed into a tanker truck to a particular customer for which RINs are assigned to that volume withdrawn. It is unreasonable and unnecessary for each delivery to be tested when the production as a whole was already tested. This can be particularly onerous for smaller facilities that may not have testing labs on site or that have smaller customers resulting in smaller batches. EPA provides no defense for requiring testing for each parameter on a per "batch" basis. For example, for renewable natural gas, EPA only requires annual testing to ensure the fuel meets the applicable pipeline specifications and has even proposed to reduce that to once every three years.

We further note that we are not aware of any other renewable fuel under the program that requires such testing on each "batch." In particular, where are the requirements for renewable diesel to show that their fuel meets ASTM D975 or to show that their fuel has the energy content required to use an equivalence value of 1.7 (or 1.6 as now proposed by EPA). EPA now proposes to revise the definition of "renewable jet fuel" to include reference to an ASTM specification, but we do not see any reference to requiring testing of each "batch" for renewable jet fuel. There simply is no justification to impose such significant costs on biodiesel producers. Nor does EPA cite to any concerns regarding biodiesel not meeting those requirements or with current testing done by biodiesel producers.

Indeed, EPA is proposing to revise the definition of biodiesel, which it contends is to "clarify" that it must be a renewable fuel. 90 Fed. Reg. at 25,851. EPA is now proposing to redefine biodiesel from "a mono-alkyl ester that meets ASTM D6751" to "diesel fuel that is renewable fuel and that meets ASTM D6751." 40 C.F.R. §80.2; 90 Fed. Reg. at 25,858. It is entirely unclear why EPA believes such a "clarification" is necessary when the current definition has long been used by the industry. In addition, the reference to "diesel fuel" (which is defined to include biodiesel) creates an odd circular definition. Further, with the "clarifications" requiring compliance with Part 1090, it is entirely unclear why there is a need to reference ASTM D6751 any longer. Indeed, Part 1090 defines "biodiesel" as "a diesel fuel composed of mono-alkyl esters made from nonpetroleum feedstocks." 40 C.F.R. §1090.80. If EPA claims that it must

[23] For a discussion of these parameters, see Biodiesel Fuel Quality, Farm Energy, Apt. 3, 2019, https://farm-energy.extension.org/biodiesel-fuel-quality/.

clarify its regulations to ensure biodiesel under the RFS program complies with Part 1090 then they should also use consistent definitions. Compliance with the fuel regulations, the voluntary quality assurance programs, and EPA's oversight through engineering reviews and registrations should be more than enough evidence that the biodiesel is a "transportation fuel" (or able to be used as "heating oil") under the RFS program.

EPA is also proposing to revise the definition of "renewable diesel." To the extent that EPA is claiming the second part of the definition of renewable diesel meets the definition of "biodiesel" under the statute, EPA should revise these definitions accordingly where renewable diesel that meets ASTM D975 is not a "diesel fuel substitute." In other words, EPA should finally define these fuels consistent with the statutory definition and Congressional intent. EPA should also revise the pathway table to correct the D Codes for renewable diesel and renewable jet fuel.

IX. EPA Cannot List Proposed Changes as Mere Technical Amendments or Clarifications when they Involve Substantive Changes to a Regulation that Has Been Relied on By the Regulated Industry (Section X.I. of Preamble).

EPA has begun a practice of proposing "miscellaneous technical corrections and clarifications" to RFS regulations, providing little explanation for those changes. EPA then claims that it complied with the notice requirements because it provided regulatory language. However, the Clean Air Act requires more, as does good governance.

While we address certain of the "technical amendments" elsewhere, we note that EPA is proposing to change the definition of responsible corporate officer under 40 C.F.R. §1090.80. EPA indicates it is removing "operations manager" as an example from the definition. 90 Fed. Reg. at 25,852. EPA only states that this is "clarifying" the definition. But this would appear to be a substantive change that EPA is again making without any explanation in violation of the notice and comment requirements of the Clean Air Act. Stakeholders may have already relied on that example in the definition, and EPA should be required to explain to the public why it is making the change. For example, the general manager of a biodiesel plant should be able to serve as a responsible corporate officer and are more often the closest to the facility. Since EPA does not explain this change, it is unclear what is EPA's concern with inclusion of operations manager. As such, we oppose this "technical amendment" and it should not be finalized until EPA complies with its notice and comment obligations.

E. POLICY CONSIDERATIONS

In EPA's list of Request for Comments, it lists several issues under the heading of "policy considerations." We address each below.

E-1: Where applicable, any legitimate reliance interests impacted by EPA's proposed changes in policy. (E–1)

Biodiesel producers had legitimate reliance interests on the ability to use feedstock from Canada and feedstock processed in Mexico and obtain full RIN value. We do not believe EPA has raised policy concerns that are sufficient to undermine these interests.

Biodiesel producers have also had legitimate reliance interests on the ability to sell biodiesel, including B99 and B100, into the heating oil market, which could include use for power generation and process energy. While we continue to believe some of the proposed changes were inadvertent, EPA's proposed revisions to the heating oil definition and new "renewable fuel oil" definition could be read to undermine that reliance. If intentional, EPA does not adequately explain its change in policy.

E-2: A general pathway for the production of renewable jet fuel from corn ethanol, including the consideration of technologies that could reduce the GHG emissions for this pathway such as the use of carbon capture and storage and renewable natural gas for process energy (E–2).

SABR Coalition does not oppose consideration of a corn ethanol-to-jet pathway that includes consideration of carbon capture and storage and RNG for process energy. However, as discussed above, such pathway would not be considered biomass-based diesel, and the definition of "advanced biofuel" excludes ethanol from corn starch.

Because of this added complexity with respect to renewable jet fuel, we believe EPA should consider a separate "jet fuel" obligation, as jet fuel is a "transportation fuel" under the RFS program, that could be met by any type of renewable jet fuel to allow corn ethanol to jet fuel to be able to compete more favorably with other renewable jet fuels. EPA has discretion to provide appropriate credits, but it cannot redefine biomass-based diesel or advanced biofuel. Such fuels should not be used to displace biodiesel under the biomass-based diesel program.

E-3: The definition of "produced from renewable biomass" (E–3).

Generally speaking, we believe EPA should allow for innovation of new fuels, so long as no petroleum-based feedstocks are counted toward generating RINs and so long as EPA accounts for these volumes when it sets the volume requirements so that they are additive to the program (as Congress intended). We do not believe Congress was attempting to limit the displacement of fossil fuels solely to the energy used to run motor vehicles. Rather, Congress sought to introduce renewable fuels into the marketplace that reduced the amount of fossil fuel in the transportation fuel sector. 42 U.S.C. §§ 7545(o)(1)(J), (2)(A)(i).

We do agree with EPA that its consideration of a definition of produced from renewable biomass does not restrict its ability to revise the equivalence values for renewable diesel, as the equivalence value is based on the fuel's energy compared to ethanol. For new fuels that may fall under a broader definition (e.g., to include mass in the definition), EPA can consider whether and how to address RIN generation for that fuel. This does not, however, justify allowing invalid RINs to continue to be generated for renewable diesel, renewable jet fuel, or their co-products.

We further note that EPA has stated that biodiesel's energy comes from the renewable biomass and does not note any concerns with impacts to biodiesel as a result of its proposed change to the definition of produced from renewable biomass. However, to the extent EPA is also still considering changes to the definition of co-processed fuel, EPA must make clear that biodiesel is not implicated.

E-4: Additional program amendments to ensure the validity of imported renewable fuels and feedstocks (E–4).

As discussed in response to Request for Comment B-2, EPA should continue to allow the biodiesel producers to utilize feedstock that may be imported from Canada and Mexico. While SABR Coalition agrees that EPA should consider additional requirements to ensure imported fuels and feedstocks from outside of Canada and Mexico meet the renewable biomass requirements, the point of feedstock origin requirements should not impose substantial new requirements on U.S. biodiesel producers that are using feedstocks sourced from North America.

In addition, EPA can provide the public with more information on the feedstocks used by renewable diesel producers to generate RINs, including grandfathered feedstocks. In 2023 and 2024, for example, over 50% of the renewable diesel, renewable jet fuel, and renewable heating oil D4 RINs reported by EPA simply lists "All other feedstock."[24] Since feedstock must be included in the registration, EPA should have this information and can easily adjust the EMTS to report more specificity to the public. EPA should also consider adding foreign feedstocks to the EMTS data that is reported if it finalizes the import RIN reduction proposal.

E-5: Program enhancements to increase the use of qualifying woody-biomass to produce renewable transportation fuel (E–5).

SABR Coalition provides no comment on this request.

E-6: An option to apply the import RIN reduction provisions to imported renewable fuel and renewable fuel produced domestically from foreign feedstock from only a subset of countries to reflect the reduced economic, energy security, and environmental benefits of imported renewable fuel and feedstocks from those countries (E–6).

As discussed in response to Request for Comment B-2, feedstocks from North America used by U.S. biodiesel producers should not be subject to the import RIN reduction provisions.

E-7: Any other modifications to the RFS program designed to unleash the production of American energy (E–7).

We support Administrator Zeldin's goal to unleash American energy. However, several of the proposed provisions would hamper rather than support U.S. biodiesel producers. As such, we urge EPA not to finalize those proposals as discussed above.

We also believe that ensuring a role for U.S. biodiesel producers will retain existing production capacity and better support expansion of biodiesel that EPA estimates, at best, will be stagnant for the next five years, even with the proposed increased volume requirements. We discuss ways EPA can do so above. This includes, but is not limited to, providing for a biodiesel specific requirement and creating a new obligation related to jet fuel that would not force biodiesel to compete with fuels under the biomass-based diesel program that it cannot compete with in the marketplace. We believe that this would better ensure a diversity of fuels in the

[24] EPA, *RINs Generated Transactions* (as of July 10, 2025), https://www.epa.gov/fuels-registration-reporting-and-compliance-help/rins-generated-transactions.

overall diesel market. As discussed above, displacing biodiesel with a handful of renewable diesel facilities for purposes of the biomass-based diesel requirement can result in similar concerns with monopolistic type control as was had with OPEC and petroleum producing countries, which raises the very concerns that led Congress to establish the RFS program in the first place.

We also believe EPA should consider other restraints on use of biodiesel in other markets. For example, EPA should allow B99 and B100 use in the heating oil market, rather than propose to effectively cut out these fuels despite efforts by the industry to ensure equipment can use these fuels. In addition, if serving as a constraint to including renewable fuels used for domestic shipping, EPA should reassess its use of engine class to define oceangoing vessels. There is no indication that Congress sought to exclude domestic shipping from the RFS program. For example, ocean-going vessel has been defined as "a vessel in use on the high seas or the Great Lakes; but does not include a vessel which operates primarily on rivers, other lakes, bays, sounds or within the 3-nautical-mile limit of the coastal area of the 48 contiguous States, except when used in mapping, charting, or surveying operations or when in or sailing to or from foreign, territorial, Hawaiian, or Alaskan waters, or waters outside its normal area of operations or outside the 3-nautical-mile limit."[25] To the extent EPA's definition of ocean-going vessels is restricting the ability to generate RINs for domestic shipping or other marine fuel uses, EPA should clarify and revise its regulations.

In addition, renewable methanol and ethanol can be used in the biodiesel production process. Where EPA has reduced biodiesel's RIN values due to use of methanol in the production process, EPA should also allow RIN generation for those facilities that use renewable methanol or ethanol to encourage the use of those inputs in lieu of fossil based methanol. This would be consistent with any attempts by EPA to support use of renewable hydrogen in the production of renewable diesel.

Finally, EPA should not allow any decisions with respect to pending and future small refinery exemptions to negatively impact the volume requirements. This is further discussed in response to Request for Comment A-1, §III. EPA also can increase transparency on the volume obligations throughout the year. If needed, EPA can require monthly reports of production and/or imports so that biofuel parties can better track demand. EPA can report this information in an aggregated fashion (e.g., by PADD) in the event parties have claimed this to be confidential business information.

[25] 5 C.F.R. §630.702; *see also* 33 C.F.R. §151.05 (defining oceangoing ship and noting U.S. ships operating exclusively on the Great Lakes of North America or their connecting and tributary waters, or exclusively on the internal waters of the United States and Canada "is not an 'oceangoing' ship"); 33 C.F.R. §158.120 (same).