March 7, 2025

Via Electronic Mail

The Honorable Lee Zeldin
Administrator
U.S. Environmental Protection Agency
Mail Code 1101A
1200 Pennsylvania Avenue, NW
Washington, DC 20460
Zeldin.Lee@epa.gov

Re: 2024 Cellulosic Biofuel Volume Requirement

Dear Administrator Zeldin:

The Coalition for Renewable Natural Gas ("RNG Coalition") is a non-profit association of companies and organizations dedicated to the advancement of renewable natural gas ("RNG") as a clean, green, alternative, and domestic energy and fuel resource. RNG is fuel derived from biogas that has been captured from organic waste streams—including agricultural wastes, municipal wastewater, and municipal solid waste in landfills—and upgraded to achieve quality standards necessary to blend with or substitute for geologic natural gas. Our membership includes companies throughout the value chain of waste feedstock conversion to transportation fuel under the Renewable Fuel Standard ("RFS"), including several obligated parties that have made significant investments in RNG. The RNG industry has grown substantially thanks to the RFS, with RNG making up over 95% of our nation's cellulosic biofuel production and generation of D3 RINs, including in 2024 (data as of February 10, 2025).

In December of 2024, the prior administration proposed to partially waive the cellulosic biofuel volume requirement for compliance year 2024 using its general waiver authority based on inadequate domestic supply, published at 89 Fed. Reg. 100,442.[1] Comments opposing the proposed waiver outnumbered the handful of comments supporting the waiver by about a 6-to-1 margin (about 30 to 5).[2] As explained in RNG Coalition's comments on the proposal, we believe EPA misread and misapplied the plain statutory language and court precedent on the meaning of inadequate domestic *supply* and proposed the waiver prematurely.[3] Commenters opposing the proposed partial waiver explained the detrimental impacts of EPA's proposal on current investments and planned projects and how such a waiver based on a mere shortfall in RIN

[1] The proposed rule included revisions to an earlier "Biogas Regulatory Reform Rule," which alleviate and clarify certain requirements. These revisions, along with suggested changes made in public comments, should be finalized as soon as possible. We urge this Administration to continue to work with the industry to streamline these overly burdensome requirements.
[2] This includes written comments submitted to the docket and oral testimony presented at a public hearing held on December 20, 2024. It does not include comments that did not directly address the proposed waiver.
[3] EPA-HQ-OAR-2024-0411-0030 at 2-15.

generation undermines the incentives established by Congress and the goals of the RFS program. Such a waiver would send signals to the market that EPA will not enforce the volumes it sets, creating uncertainty that turns investors away, undermining the economic, energy security, and environmental benefits investments in new RNG projects would have provided.

EPA's proposed waiver is based on a projected shortfall in D3 RIN generation. As RNG Coalition explained in its comments, however, domestic supply of RNG in 2024 cannot be defined by D3 RIN generation alone.[4] Nonetheless, even just looking at D3 RIN generation, a general waiver to reduce the cellulosic biofuel volume is not warranted for 2024. In the proposal, EPA indicated it expected only 970 million D3 RINs to be generated in 2024. 89 Fed. Reg. at 100,443. This was wrong. On February 20, 2025, EPA updated its D3 RIN generation numbers for 2024, reporting over 1.013 billion 2024 D3 RINs generated.[5] This included an increase of 25.6% over 2023 for RNG RINs, which exceeded the 25% growth rate used by EPA in setting the 2024 volume. The RNG industry did its job, despite numerous challenges it faced in 2024.

EPA also still reports over 30 million 2023 D3 RINs available for compliance.[6] While this did result in a "shortfall" in D3 RIN generation, this shortfall is about 4.3% of the cellulosic biofuel requirement and less than 0.22% of the total volume requirement for 2024. This does not consider potential reductions in the volume requirement (or increases in 2023 or 2024 D3 RIN availability) as a result of any subsequent determinations on small refinery exemption requests, which EPA is required to reassess based on the U.S. Court of Appeals for the D.C. Circuit overturning the interpretation of "disproportionate economic hardship" that had been used to deny all such requests in recent years.

This minimal shortfall does not risk substantial "noncompliance" (if any at all) nor does it risk any harms to the RFS program. As EPA found in denying a partial waiver for 2023, obligated parties can readily comply with the 2024 volume obligations. Indeed, Congress provided for deficit carryovers precisely to address such RIN generation shortfalls. 42 U.S.C. §7545(o)(5)(D). We note that the record in support of the proposed waiver provides no publicly available information that shows *any* harm to *any* obligated party. While EPA noted concerns for the potential for noncompliance by obligated parties that claimed a deficit in 2023, EPA provided no evidence,[7] nor are we aware of any evidence, that these obligated parties did not have access to RINs throughout 2024 to meet their compliance obligations. As EPA has previously recognized, granting a waiver based on such circumstances creates incentives for obligated parties *not* to buy RINs assuming EPA will reduce the volumes later.[8] Members of RNG Coalition saw this in action where RIN purchases were cancelled or obligated parties indicated no interest in purchasing available D3 RINs based on an expectation that EPA will

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[4] This was particularly true where EPA's own regulatory actions resulted in loss of RIN generation for available RNG supply, such as EPA's decision, under the biogas reforms, to remove the allowance of RIN generation for RNG that was stored off-site pending registration approval and EPA's delays in providing guidance on the biogas reforms that required the entire industry to change operations to comply with these new requirements.
[5] https://www.epa.gov/fuels-registration-reporting-and-compliance-help/rins-generated-transactions (data as of Feb. 10, 2025).
[6] https://www.epa.gov/fuels-registration-reporting-and-compliance-help/available-rins (data as of Feb. 10, 2025).
[7] Potentially relevant docket entries are marked as confidential business information and were not made publicly available. This does not allow for the public to meaningfully comment as required before EPA can issue a waiver.
[8] EPA, Denial of AFPM Petition for Waiver of 2016 Cellulosic Biofuel Standard, at 3-4 (2017), https://www.epa.gov/sites/default/files/2017-01/documents/afpm-rfs-petition-decision-ltr-2017-01-17.pdf.

issue a waiver. It also rewards recalcitrant parties, rendering the limits in the deficit carryover provision essentially meaningless. This is inconsistent with the statute and undermines the RFS.

On the other hand, as EPA also has found, a general waiver based on a potential shortfall in RINs "would be injurious to the RFS program because it would be disruptive to program participants and could result in reduced future demand for cellulosic biofuel production."[9] As noted above, several members of RNG Coalition and other public commenters explained the injuries they would suffer and the harms to the RFS if EPA finalizes a partial waiver.[10] This includes injuries already suffered as a result of the drop in RIN prices following EPA's proposal.

In short, EPA's proposed waiver that would be below actual RIN generation, would improperly consider 2023 deficits, would not account for potential small refinery exemptions that may be granted retroactively, and would undermine the incentives Congress established would be, alone, unlawful, arbitrary, and an abuse of discretion. To make matters worse, however, the American Fuel & Petrochemical Manufacturers ("AFPM") submitted comments asking EPA to go even further to reduce the 2024 cellulosic biofuel volume in a manner that would ensure a RIN bank of 9-17% of the 2025 target. It is telling that AFPM cites no statutory authority for such a reduction, claiming only a "sufficient programmatic justification" to take such action. Such a "programmatic justification" must be rejected. There is no statutory authority for such a waiver and, as explained, such an approach would go against EPA precedent, undermine the carefully crafted incentives created by Congress and, thereby, would be goal defying. Moreover, it would be well beyond EPA's proposal and thus not a logical outgrowth of the proposal, violating EPA's procedural obligations.

With the compliance deadline for 2024 approaching, we urge EPA to make clear that it is withdrawing the proposed partial waiver of the cellulosic biofuel volume requirements for 2024 as soon as possible. We urge EPA to get the RFS program back on track and to work with the RNG industry to ensure a workable program that facilitates compliance and promotes ongoing investments in RNG and biogas-derived fuels. We thank EPA staff for their efforts, and we look forward to continuing to work with EPA to maintain the success in growing the RNG industry and to ensure a cleaner, more diverse fuel supply for all Americans.

Respectfully submitted,

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cc: Sarah Dunham
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[9] 89 Fed. Reg. 20,961, 20,962 (Mar. 26, 2024).
[10] *See, e.g.*, EPA-HQ-OAR-2024-0411-0055 at 36-48, 52-55, 60-70, 83-86 (testimony of AMP Americas, California Bioenergy, Aemetis, Inc., Vision RNG, STX Commodities, WM, Opal Fuels, and Generate Capital); EPA-HQ-OAR-2024-0411-0023 (comments of Vision RNG); EPA-HQ-OAR-2024-0411-0052 at 1-3 (comments of Anew).