



January 21, 2025

Attention: Docket ID No. EPA-HQ-OAR- 2024-0411

Mr. James Payne
Acting Administrator
U.S. Environmental Protection Agency
EPA Docket Center
Office of Air and Radiation Docket
Mail Code 28221T
1200 Pennsylvania Ave NW
Washington, DC 20460

Via: www.regulations.gov

Re: Comments on *Renewable Fuel Standard (RFS) Program: Proposed Partial Waiver of 2024 Cellulosic Biofuel Volume Requirement and Extension of 2024 Compliance Deadline*; 89 Fed. Reg. 100442; December 12, 2024).

Dear Acting Administrator Payne,

The Renewable Fuels Association (RFA) appreciates the opportunity to comment on the U.S. Environmental Protection Agency's (EPA) proposal to partially waive the 2024 renewable volume obligation (RVO) for cellulosic biofuels (Renewable Fuel Standard (RFS) Program: Partial Waiver of 2024 Cellulosic Biofuel Volume Requirement and Extension of 2024 Compliance Deadline; 89 Fed. Reg. 100442).

RFA is the leading trade association for America's ethanol industry. Its mission is to drive growth in sustainable renewable fuels and bioproducts for a better future. Founded in 1981, RFA serves as the premier organization for industry leaders and supporters. We work every day to help America become cleaner, safer, and more economically vibrant.

In its final rule for 2023-2025 renewable volume obligations, otherwise known as the "Set Rule," EPA wrote, "We generally do not think it is appropriate to reconsider and revise previously finalized RFS standards. Revising standards has the potential to decrease market certainty and create unnecessary market disruption."

We wholeheartedly agree. RFA believes that retrospectively lowering RVOs destabilizes the RIN market, discourages investment, and is contrary to the market-forcing purpose of the RFS program. Reopening RVOs long after they have been finalized chills investment and growth in cellulosic biofuel production and causes a loss of confidence in EPA's standards.

However, we understand the challenge EPA is facing with regard to setting cellulosic biofuel standards in a manner that is simultaneously consistent with the agency's statutory authorities,

court decisions, and the Congressional intent of the RFS program. It is critical that any decision to utilize the agency's waiver authority to partially waive the 2024 cellulosic biofuel RVO clearly meets the statutory requirements for such waivers. Unfortunately, we do not believe that EPA's proposal to use its general waiver authority has fully satisfied these requirements.

As EPA recognized in the proposal, the agency may waive volumes using its general waiver authority only if EPA determines there is an "inadequate domestic supply" of renewable fuel based solely on the volumes of renewable fuel available to obligated parties, meaning EPA is prohibited from considering any demand-side factors in making its determination. A given obligated party's decision to carry a RIN deficit forward is not necessarily reflective of an inadequate supply and very well could reflect the party's own demand-side considerations, which EPA may not consider. We believe that EPA's proposal impermissibly considers the cellulosic D3 RIN deficits carried forward from 2023. Nowhere in the statute is EPA authorized to consider a *prior year's* deficits in assessing the available supply for the current compliance year. Thus, RFA believes EPA must exclude the carryover deficits from 2023 in its analysis of the available supply for meeting 2024 standards.

While EPA proposes to use its general waiver authority to reduce the 2024 cellulosic standard, RFA believes the cellulosic waiver is specifically intended to address shortfalls in cellulosic volumes and is therefore the best mechanism to address the projected shortfall for 2024. As noted by EPA in the proposal, this waiver authority could allow the agency to adjust the volume requirement to the projected volume of available supply and make cellulosic waiver credits available to obligated parties to cover any remaining shortfall.

Ideally, if there is a shortfall in the physical supply of cellulosic biofuels and carryover D3 RINs available to meet the standard, the purpose of the RFS could best be maintained by EPA using a cellulosic waiver and offering for sale an amount of cellulosic waiver credits that is equal to the size of the shortfall at a price calculated using the formula established in 42 U.S.C. § 7545(o)(7)(ii). This approach would strike the proper balance between honoring the market-forcing intent of the RFS and mitigating uncertainty around the available supply of cellulosic biofuels.

We encourage EPA to carefully consider these and other comments received from stakeholders regarding the potential basis and rationale for using the cellulosic waiver and waiver credits to address shortfalls in the physical supply of cellulosic biofuels.

Notwithstanding the above, RFA strongly supports EPA's proposal to maintain the 2024 advanced biofuel and total renewable fuel RVOs as finalized.

Thank you for the opportunity to provide these comments.

Sincerely,

A handwritten signature in black ink that reads "Geoff Cooper". The signature is written in a cursive, slightly slanted style.

Geoff Cooper
President & CEO