



VIA ELECTRONIC FILING
January 17, 2025

U.S. Environmental Protection Agency
1200 Pennsylvania Avenue NW
Washington, DC 20460

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

Re: Comments of Clean Fuels Alliance America on the Proposed Rule: Renewable Fuel Standard (RFS) Program: Partial Waiver of 2024 Cellulosic Biofuel Volume Requirement and Extension of 2024 Compliance Deadline¹

Dear Mr. Burkholder,

Clean Fuels Alliance America (Clean Fuels) is the U.S. trade association representing the entire biodiesel, renewable diesel, and sustainable aviation fuel supply chain, including producers, feedstock suppliers and fuel distributors. Made from an increasingly diverse mix of resources such as recycled cooking oil, soybean oil, and animal fats, the clean fuels industry is a proven, integral part of America's clean energy future. We serve as the clean fuel industry's primary organization for technical, environmental, and quality assurance programs and are the strongest voice for its advocacy, communications, and market development.

Clean Fuels appreciates the opportunity to comment on Proposed Partial Waiver of 2024 Cellulosic Biofuel Volume Requirement and Extension of 2024 Compliance Deadline. We ask that EPA pause the rulemaking process until the agency can provide an actual accounting of D3 RINs available for 2024 and consider whether refiners will receive relief through other mechanisms, including court ordered reconsideration of small refinery exemptions or congressional action.

There are additional unknowns that impede our ability to support this action to waive the cellulosic volume requirement for 2024. Through recent court *decisions*², dozens of previously denied small refinery exemptions have been returned to EPA for reconsideration. Additionally, refiners may receive relief through other mechanisms including additional court ordered reconsideration of small refinery exemptions or congressional actions. As a result of these uncertainties, we cannot accurately evaluate EPA's calculation of an inadequate supply of cellulosic RINs for 2024 without

¹ U.S. Environmental Protection Agency. Renewable Fuel Standard (RFS) Program: Partial Waiver of 2024 Cellulosic Biofuel Volume Requirement and Extension of 2024 Compliance Deadline, EPA-HQ-OAR-2024-0411, 89 FR 100442, (December 12, 2024), available at <https://www.federalregister.gov/d/2024-28978>

² *Sinclair v. EPA*, No. 22-1073 (D.C. Cir. Aug. 14, 2024); *Calumet Shreveport v. EPA*, No. 22-60266 (5th Cir. Nov. 22, 2023); *Calumet v. EPA*; *Calumet Montana v. Regan*, No. 4:24-cv-000622023 (D. Mont. Dec 3, 2024); and *Wynnewood v. Regan*, No. 24-cv-02554 (S.D. Tex. Dec. 12, 2024)

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first knowing the number of RINs that might be returned to the market through small refinery exemptions.

If and when this information becomes available and EPA is able to conclude it necessary to propose to waive the 2024 cellulosic volumes, Clean Fuels does agree that EPA should not utilize the cellulosic waiver authority. The cellulosic waiver applies to EPA's adjustments of the statutory volumes selected by Congress and based on estimates of fuel availability supplied by the DOE's Energy Information Administration. EPA has reset the congressionally set statutory volumes since 2020. Further, EPA has stated in the set rule that it is no longer required to obtain estimates from EIA. Therefore, the cellulosic waiver cannot be applied to volumes that EPA itself set.

If EPA gathers sufficient data and determines it is necessary to waive the 2024 cellulosic volumes, Clean Fuels agrees that EPA should at minimum maintain the advanced and overall RVOs based on its assessment of an oversupply of advanced biofuel RINs for 2024. As EPA has stated in the proposed rule, there is a clear availability of RINs, and it would be unnecessary to make reductions to the advanced biofuel and total renewable fuel volume requirements. It is clear the market has already provided volumes of advanced RINs in significant excess of the requirement established in the Set Rule.

EPA notes in the current proposal that total advanced biofuel RIN generation for 2024 will exceed the set RVO volumes by more than 2.6 billion RINs. If those RINs are banked for 2025, they will represent more than 35% of the 2025 advanced biofuel RVO. Since the use of prior-year RINs to meet the annual RVO is limited to 20%, many 2024 BBD and advanced biofuel RINs will essentially be rendered valueless. If small refinery exemptions return more RINs to the market, that oversupply will grow and further erode the RFS program's efficacy. Investments that the biodiesel, renewable diesel, and SAF industry made to expand production of RFS qualifying fuels in 2024 will be undercut.

If EPA determines it necessary to waive the 2024 cellulosic volumes, EPA can also use this rulemaking to address the significant underestimation of BBD, advanced and overall volumes made in Set 1. We ask that EPA course correct and adjust upward the BBD and Advanced volumes for 2024 and 2025 beyond the allocation created by partially waiving the cellulosic biofuel volume requirement. We ask that EPA finalize a step-change in 2024 advanced RVOs to EPA's own projected advanced RIN generation, which is currently expected to exceed the required volumes by at least 2.6 billion RINs. Clean Fuels appreciates EPA's acknowledging a more-than-adequate supply of advanced and renewable RINs, but this alone is not enough. EPA should take this opportunity instead to address Clean Fuels' petition and reconsider the 2024 and 2025 BBD and Advanced Biofuel RVOs.³

In response to the proposed compliance deadlines, it is unnecessary to delay the 2024 compliance deadline; and it is a bad precedent to establish an automatic delay mechanism. An automatic delay mechanism would encourage refiners to continually file waiver petitions simply to delay compliance. As with today's situation, the deadline extension could be rendered unnecessary by subsequent events – like Congressional action to reverse prior years' compliance. Staying on track with compliance deadlines is imperative to keep the RFS program lawful and changes to compliance deadlines should remain on a case-by-case basis and not occur until a rule is finalized.

³ <https://www.epa.gov/system/files/documents/2024-07/rfs-clean-fuels-alliance-petition-2024-06-24.pdf>

Lastly, Clean Fuels does support the proposed update to the definition of “biodiesel,” from ASTM D651-20a to reference the most recent industry standard of ASTM D6751-24. This update is in line with the Agency’s fuels regulatory streamlining proposal. Additionally, adopting the updated ASTM standards more frequently is the key to increasing biodiesel volumes, as it has been vital to ensure customer confidence and OEM support as we work towards use of up to B100 in all markets.

Once again, Clean Fuels requests that EPA hold on finalizing the cellulosic waiver until the Agency can provide a full and accurate accounting of RIN availability for 2024 after considering the potential impacts of granting small refinery exemptions, potential for E15 approval, as well as annual compliance options for obligated parties. Thank you for the opportunity to provide information on getting the RFS back on track.

Sincerely,

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

Kate Shenk
Director of Regulatory Affairs
Clean Fuels Alliance America