



**American  
Fuel & Petrochemical  
Manufacturers**

March 4, 2024

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The Honorable Michael Regan, Administrator  
U.S. Environmental Protection Agency  
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Via e-mail: [Regan.Michael@epa.gov](mailto:Regan.Michael@epa.gov)

RE: AFPM's Petition for Partial Waiver of the 2023 Cellulosic Biofuel Volumetric Requirements - Update

Dear Administrator Regan:

On December 22, 2023, the American Fuel & Petrochemical Manufacturers (AFPM) petitioned EPA to waive a portion of the cellulosic biofuel mandate for 2023 (Petition). This letter provides recently released biofuel production information for 2023.<sup>1</sup> The recently released data confirm that EPA must grant the Petition to address a significant shortfall in cellulosic biofuel production.<sup>2</sup>

When AFPM filed its Petition, December 2023 and January 2024 RIN data were not available. On February 15, 2024, EPA released January 2024 RIN generation activity, allowing us to provide EPA with a complete picture of the magnitude of the cellulosic RIN shortfall for 2023. Based on EPA's released data, Turner Mason calculated the 2023 cellulosic biofuel production shortfall and deficit carryover to be 122,925,367 ethanol-equivalent gallons, based on the following data:

865,167,155	Cellulosic Biofuel Calculated Mandate <sup>3</sup>
<u>- 766,967,401</u>	Cellulosic Biofuel 2023 Net Production <sup>4</sup>
( 98,199,754)	Cellulosic Biofuel 2023 Production Shortfall
<u>( 24,725,613)</u>	<u>2022 Cellulosic Biofuel Deficit Carryover</u>
<b>(122,925,367)</b>	<b>Effective Cellulosic Biofuel Shortfall</b>

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<sup>1</sup> See "Public Data for the Renewable Fuel Standard" <https://www.epa.gov/fuels-registration-reporting-and-compliance-help/public-data-renewable-fuel-standard>.

<sup>2</sup> The cellulosic biofuel RIN numbers presented herein include D3 and D7 RINs.

<sup>3</sup> EPA promulgated an 840 million gallon cellulosic mandate for 2023; however, 2023 transportation fuel consumption was higher than EPA's estimate, resulting in a calculated mandate of 865,167,155 RINs based on the most recent EIA Short Term Energy Outlook [Short-Term Energy Outlook - U.S. Energy Information Administration \(EIA\)](#) (February 6, 2024).

<sup>4</sup> This number was updated in EMTS on February 15, 2024. We understand that biogas producers delay reporting their D3 RIN generation until they receive confirmation from the pipeline regarding the volume of biogas uploaded. This lengthy delay at the end of the compliance year complicates EPA's ability to oversee the RIN program. Biogas producers know how much gas they upload to the pipeline. EPA should require timely RIN reporting with subsequent corrections. It would vastly improve the delayed reporting that occurs now.



### *The 2022 Cellulosic Deficit Carryover*

As detailed in our Petition, Clean Air Act (CAA) section 211(o)(7)(D)(i) requires EPA to “reduce the applicable volume under paragraph (2)(B) to the projected volume available during the calendar year....” In determining the number of RINs needed for compliance, EPA must factor in the cellulosic production shortfall of 98,199,754 and the fact that in 2022 several refineries ran deficits that must be carried over to 2023, adding another 24,725,613 cellulosic RINs to the 2023 shortfall, for a total of **122,925,367 cellulosic RIN effective shortfall**.

### *The 2022 Cellulosic RIN Bank Carryover*

According to EPA RIN data, the 2022 cellulosic biofuel RIN carryover (RIN bank) is 72,493,820, an amount insufficient to cover the production shortfall and the 2022 deficit carryover. As such, the failure to waive a portion of the cellulosic mandate could portend compliance problems for certain obligated parties. Moreover, as discussed in the Petition, we strongly urge EPA not to further deplete the RIN bank, which is already below the level needed to address market uncertainties, promote market liquidity, and reduce RIN speculation. Even if EPA chooses to completely deplete the RIN bank, there would still be a greater than 50 million RIN shortfall.<sup>5</sup>

To summarize, AFPM requests that EPA waive the 2023 cellulosic biofuel mandate by an amount equal to the 2023 production shortfall and 2022 deficit carryover (*i.e.*, 122,925,367 RINs) and immediately announce its intent to make the cellulosic waiver credits available. We also urge EPA to reconsider the cellulosic mandates for 2024 and 2025, which are expected to be even more unachievable.<sup>6</sup>

We respectfully remind EPA that time is of the essence, given that obligated parties are subject to a reporting deadline for the 2023 compliance year of March 31, 2024.<sup>7</sup> If you have any questions concerning the issues raised in this letter or the underlying Petition, please contact the undersigned at (202) 457-0480.

Respectfully submitted,

Richard Moskowitz  
General Counsel

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<sup>5</sup> Subtracting the total amount of RINs needed for 2023 compliance (*i.e.*, 889,892,768) from the total amount of cellulosic biofuel RINs produced (*i.e.*, 766,967,401) and the cellulosic carryover RINs (*i.e.*, 72,493,820), would result in a totally depleted cellulosic RIN bank and a remaining shortfall of 50,637,279.

<sup>6</sup> In the July 2023 final RFS rule, EPA set final 2024 and 2025 volume targets for cellulosic biofuel at 1.09 billion and 1.38 billion RINs, respectively. These levels would represent a 42% and 80% increase in cellulosic biofuel production compared with the actual level of RIN generation in 2023. These anticipated production increases have no basis in reality and must be modified.

<sup>7</sup> 40 C.F.R. § 80.1451(f).



cc: Joseph Goffman  
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