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February 10, 2023

The Honorable Michael Regan
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460
ATTN: Docket ID No. EPA-HQ-OAR-2021-0427

Re: EPA Renewable Fuel Standard (RFS) Program: Standards for 2023–2025 and Other Changes, Proposed Rule, 87 Fed. Reg. 80582 (Dec. 30, 2022)

Dear Administrator Regan,

The American Gas Association (“AGA”) appreciates the opportunity to comment on the United States Environmental Protection Agency’s (EPAs or “Agency’s”) Proposed Rule regarding the 2023, 2024 and 2025 Standards for the Renewable Fuel Standard Program (“RFS”), published in the Federal Register on December 30, 2022. AGA strongly supports the safe production and use of renewable natural gas to the benefit of consumers, infrastructure, and the environment. We believe that the EPA’s RFS Program is a critical driver of innovation and industry growth and offer the comments below to assist the Agency in further refining its proposal.

I. Introduction:

AGA, founded in 1918, represents more than 200 local energy companies that deliver clean natural gas throughout the United States. There are more than 76 million residential, commercial, and industrial natural gas customers in the U.S., of which 95 percent — more than 72 million customers — receive their gas from AGA members. AGA is an advocate for natural gas utility companies and their customers and provides a broad range of programs and services for member natural gas pipelines, marketers, gatherers, international natural gas companies, and industry associates. Today, natural gas meets more than thirty percent of the United States’ energy needs.

AGA is committed to reducing greenhouse gas emissions through smart innovation, new and modernized infrastructure, and advanced technologies that maintain reliable, resilient, and affordable energy service choices for consumers.¹

¹ AGA Climate Change Position Statement, https://www.aga.org/globalassets/aga_climate-change-document_final.pdf.

Pioneering pipeline infrastructure’s conveyance of different energy sources is just one of the many ways AGA members promote emissions reductions in the interest of safe, affordable, and reliable energy delivery. As indicated in the 2021 “Net-Zero Emissions Opportunities for Gas Utilities” study (see Appendix A), prepared for AGA by ICF International, meeting net-zero targets critically relies on the expansion of renewable gas efforts and infrastructure. Ambitious emissions reduction plans should consider the crucial and complementary role of natural gas pipelines. The EPA’s RFS Program could further advance the development of low-carbon gas resources.

The biogas industry has grown significantly since 2014, when compressed natural gas (“CNG”) and liquefied natural gas (“LNG”) derived from biogas first qualified as cellulosic fuels under the RFS. Since that time, biogas-derived CNG and LNG have grown to comprise the majority of all cellulosic biofuel gallons produced—over 95% of the annual volume standards set by the Agency. Enabled by the RFS, the market supported the development of biogas systems that serve as organic waste recycling infrastructure. Now, anaerobic digesters and landfills convert byproducts from wastewater treatment facilities, farms, and industrial food facilities into renewable energy. Today, the U.S. has over 2,300 sites producing biogas in all 50 states. Nearly 300 of these sites produce Renewable Natural Gas (RNG) that has been processed to meet pipeline gas quality standards. That represents a 47% increase in 2021. We anticipate the eRIN pathway in this proposed rule, along with other Inflation Reduction Act incentives, will spur even greater growth for the biogas industry.

II. Comments:

We support the following points made in comments filed in this docket by NGV America, the American Biogas Council (ABC), and the Coalition for Renewable Natural Gas for the reasons stated therein.

- **Biogas/RNG and Electricity Producers Should be the RIN Generators – not OEMs:** Contrary to EPA’s assertion, the electric vehicle OEM will not be in the best position to comply with the program’s regulatory requirements. These requirements, the compliance infrastructure, and the experience needed to respond will all be new to OEMs. In contrast, biogas and electricity producers have operated under considerable RFS regulatory requirements since 2014 and possess the experience, expertise, and capacity to comply with the requirements of being a RIN generator. AGA urges EPA to make the biogas, RNG, and electricity producers the RIN generators, not the OEMs.
- **Biogas Should be Recognized as Key to Cellulosic Biofuel:** We agree with EPA’s estimate that the overwhelming majority of cellulosic biofuel standards being proposed—over 95% of the 719 million gallons of the proposed standard for 2023, 1,419 million for 2024, and 2,131 for 2025—will be primarily derived from biogas. We appreciate EPA’s recognition of biogas’ critical role in this program.
- **Food Waste Should be Allowed as Feedstock for Biogas Production:** AGA supports creating a proposed regulatory framework to add food waste to manure and wastewater biogas systems. This methodology should help remove one of the largest barriers to food waste recycling in the United States.

- **AGA Commends EPA’s Recognition of Additional Fuels Derived from Biogas:** We applaud EPA’s recognition of biogas as a cellulosic feedstock of the future. The proposed rule points to additional fuels that can be made with biogas as the feedstock, and we are very supportive of these additional uses for biogas.
- **EPA’s Definition of “Produced from Renewable Biomass” Should Include Both Energy and Mass:** EPA asked for comment on two proposed alternative definitions for “Energy from Renewable Biomass” and “Mass from Renewable Biomass.” We agree with ABC that the language in the proposal are unclear, so our comments reflect that ambiguity. AGA urges EPA to allow both definitions to apply to the term “produced from renewable biomass.” If the agency includes only energy and not mass, it would inadvertently exclude, for example, synthetic methane produced using clean hydrogen plus biogenic waste CO₂ and thereby miss an opportunity to further reduce GHG emissions. The source of energy (or mass) for the finished fuel should be the criterion for determining whether that fuel was produced from qualifying renewable biomass. If EPA means it will only include one or the other, the agency at a bare minimum should include energy from renewable biomass. However, it would advance the agency’s goals far better if it includes both energy and mass from renewable biomass. EPA’s table that defines “produced from renewable biomass” should be revised to include both energy and mass from renewable biomass, as this will allow far more fuels produced from biogas to qualify at a higher value.
- **AGA Supports a Three Year RVO, With Appropriate Flexibility:** The EPA has asked for comment on its issuance of a three-year rule as well as the possibility of issuing 2026 RVOs as well. We support the issuance of a three-year RVO as it will allow the Agency to finalize all regulatory aspects of the biogas to electricity pathway (with accompanying volumes) as well as biogas reform. This is critical. In addition, we encourage the Agency to allow flexibility and adjustments to the RVOs related to the electric pathway, as needed, after finalizing this rule. We are concerned that the RVOs are too low, and that locking them into future years could diminish the ability for industry to use this program if RIN values drop precipitously. Adding flexibility to adjust would allow the 3- year RVO to be finalized while reducing that risk.
- **EPA Should Recognize Post Pandemic Growth When Calculating RVOs:** We encourage the EPA to recognize the post pandemic growth of the biogas industry when calculating 2023, 2024, and 2025 RVOs. Should the agency need to adjust an overestimate, the Cellulosic Waiver Credit could be utilized to bring the volumes down. But we need regulatory mechanisms that will allow EPA to respond to notable increases in expected fuel supply over the three-year RVO period.
- **EPA Should Include Biogas to Biointermediates and Hydrogen:** In the proposed rule, the EPA strongly acknowledges the role that biogas can play as a feedstock to produce multiple fuels. AGA urges the Agency to finalize biointermediate pathways involving biogas including, for example, hydrogen. Including biogas to biointermediates will truly allow this industry to fully contribute to reducing greenhouse gas emissions in transportation.
- **EPA Should Recognize Post Pandemic Growth in D3 Volumes:** The cellulosic biofuel target volumes do not reflect the significant growth of the biogas industry during 2022, leading us in to 2023 and beyond. The Agency is using historical pandemic years data to

calculate growth rate. All transportation fuel use was greatly reduced during that period, and therefore, the resulting growth rate does not reflect the current expansion of the biogas industry.

- **AGA Supports Allocating RINs for Biogas from a Mixed Waste Digester:** We commend the EPA for including a new regulatory option for allocating RINs from a mixed waste digester. However, we believe that the discount provided on the cellulosic value of the RINs of 50% is too aggressive.
- **EPA Should Allow 80% Correlation for Biomethane Potential:** When comparing ideal laboratory biomethane potential (BMPS) to industrial scale production, scientific literature as well as years of dairy digester data (adjusted to temperature and HRT limits proposed by the EPA) show BMP from industry digesters is approximately 80-100% percent of the calculated laboratory values. Furthermore, the EPA states that it recognizes a 50% discount in the value of cellulosic RINs is significantly less than its own two references which show an 80-90% correlation in value when comparing ideal laboratory BMPS to industrial reality. Therefore, we request that the EPA finalize the proposal to allow for an 80% correlation which would mean a 20% discount in the value of cellulosic RINs.
- **Biogas Reform:** AGA shares the ABC's concern with several aspects of biogas and, in general, questions the needs for such sweeping changes to the RNG regulatory structure. We are concerned that the proposed rule will place new and increased regulatory burdens on entities such as farmers, small business, and municipalities that want to participate in the RNG value chain, especially regarding RNG equipment and fuel storage. The new storage regulations will create discord across various state and federal biofuels programs. Current storage regulations allow RNG projects the ability to not dispense and monetize RNG immediately after production. Many projects need storage for registration purposes in various state programs. For example, under the California Low Carbon Fuel Standard (LCFS), storage is needed until a Provisional Pathway is approved by the California Air Resources Board. Dispensing gas prior to receiving this approval is a sub-optimal decision and potentially creates a timing mismatch between RFS and LCFS programs.
- **EPA Should Postpone Regulatory Reform Until 2025 to Allow the Agency Time to Rethink Impractical Provisions That Could Limit Competition and Growth:** EPA will be operating under a heavy administrative burden as the Agency is implementing both the electricity pathway as well as biogas reform simultaneously. As a result, we are concerned that the Agency provide sufficient time for both the industry as well as the Agency to transition to this new paradigm. We agree with NGV America and others that EPA should postpone regulatory reforms until 2025 to allow time for the agency to seriously rethink portions of its proposed regulatory reform that would add complexity and undermine a program that has been working for RNG producers and RNG users. As NGV America notes, many of the proposed provisions are not practical, and several would likely limit growth and competition.

- **EPA Should Allow Flexibility Where Needed:**

- EPA should incorporate a mechanism in the final rule that will allow for upward adjustments in the case of new fuels or underestimates in projections.
- EPA should retain the current flexibility allowed for RIN generation and regulatory reforms until at least January 1, 2025, to allow continued discussions with the industry.

III. Conclusion:

AGA acknowledges that the biogas industry has grown significantly and requires a regulatory framework that increases U.S energy independence and security by promoting growth and development of next generation biofuels. AGA urges the EPA to adopt the recommendations provided above to better enable the safe production and use of renewable natural gas and advance its critical role as part of a growing portfolio of energy products to meet the needs of our customers, our pipeline infrastructure, and the environment.

AGA appreciates the opportunity to comment. If you or your staff have any questions, please do not hesitate to contact me or Timothy Parr, AGA Deputy General Counsel, tparr@aga.org.

Respectfully Submitted,

Pamela A. Lacey
Chief Regulatory Counsel, Environment
American Gas Association
400 N. Capitol St., NW
Washington, DC 20001
placey@aga.org
202-824-7340