

January 30, 2023

The Honorable Michael Regan  
Administrator, US Environmental Protection Agency  
1200 Pennsylvania Ave., NW  
Washington, DC 20460

Dear Administrator Regan,

On behalf of the City of Long Beach, I write to comment on the proposed Renewable Fuel Standard (RFS) rules implementing the Electric RIN (e-RIN) program. The City owns the Southeast Resource Recovery Facility (SERRF) waste-to-energy (WTE) facility, which not only provides 36 megawatts of renewable power to the grid but also manages the waste remaining after our aggressive recycling efforts, preventing one ton of greenhouse gas emissions for every ton of waste we prevent from being landfilled.

SERRF is critical municipal infrastructure for the City, and we are working collaboratively with our vendor to ensure the long-term viability of this facility. An important element of that will be to ensure biomass, including biogenic municipal solid waste processed into electricity at our WTE facility, is included in the e-RIN program. It will also help us meet our climate-related goals to divert waste from landfills and decrease greenhouse gas emissions.

The Environmental Protection Agency's (EPA) newly proposed RFS e-RIN program has created an uneven playing field for local governments who have invested in solid waste management options more sustainable climate friendly than landfills. Since the enactment of the Energy Independence and Security Act of 2007, the biogenic portion of municipal solid waste (MSW) has been eligible for generating credits under the program. However, the rule creates the e-RIN program only for *biogas* (almost exclusively landfills) while excluding solid renewable *biomass*, including the biogenic portion of MSW. In short, the MSW sent to landfills will qualify as a RIN generator while that same MSW managed at our facility in Long Beach will not. This is both inconsistent with the law passed by Congress and unnecessarily creates two regulatory schemes for the same material.

The EPA can bring equity to the program for the use of the biogenic resources in MSW by making the following changes:

**1. Modify the proposed rule to clearly provide for the use of solid biomass.**

Congress wrote the program to apply to renewable *biomass*, not just biogas. The EPA has already interpreted the law to include the biogenic portion of municipal solid waste as well as other solid biomass like wood waste within the definition of renewable biomass and eligible to generate credits under an approved pathway. However, the draft framework is



unnecessarily limited to renewable *biogas*, not renewable *biomass*. It is critical that EPA apply the same value to the e-RIN regardless of whether generated by biomass or biogas.

**2. Provide an equitable approach to approving pathways for the biogenic portion of MSW.**

Both landfills and WTE facilities share the exact same entry point into the RFS program under the law. Through past rulemaking, the EPA has concluded that renewable biomass includes separated MSW. However, the EPA applies the term differently to landfills than to other technologies using MSW. For our WTE facility to have an approved pathway, we must submit an EPA-approved “separation” (recycling) plan. This is in addition to the recycling program we already run and the recycling infrastructure we have already invested in. Landfills, on the other hand—despite using the exact same feedstock—are *not* subject to this provision and are not required to demonstrate any recycling as a condition of their pathway approval or program eligibility.

We are not requesting EPA remove the separation plan requirement; we think it is prudent to ensure that this program applies to waste remaining after recyclables have been removed. Instead, we ask EPA to reasonably interpret the extent of recycling required when it considers pathway applications and recognize the community programs we have established and funded over the past decades, and not allow it to become an arbitrary obstacle to participation.

Thank you for your consideration of our requested modifications to the rule.

Sincerely,



THOMAS B. MODICA  
City Manager

