

Congress of the United States
Washington, DC 20515

August 14, 2023

The Honorable Michael Regan
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Dear Administrator Regan:

We write today to express our concern that the U.S. Environmental Protection Agency (EPA) did not finalize its recent proposal to amend existing regulations for the generation of renewable identification numbers for electricity produced from renewable biomass and used as transportation fuel (eRINs) under the long-approved renewable electricity pathway of the Renewable Fuel Standard (RFS). It is imperative that EPA fulfill its statutory obligation to allow qualifying renewable electricity from biomass to fully participate in the RFS by authorizing the generation of eRINs beginning no later than January 1, 2024. Should EPA believe its proposed amendments to the RFS are necessary for allowing for eRIN generation, we request EPA finalize those amendments, including relevant renewable volume obligations, by the end of September this year to allow regulated parties time to plan for compliance.

The Energy Independence and Security Act of 2007 (EISA) defines “renewable fuel” as “fuel that is produced from renewable biomass and that is used to replace or reduce the quantity of fossil fuel present in a transportation fuel.” Electricity that is produced from renewable biomass and used as transportation fuel thus constitutes renewable fuel and is eligible to participate in the RFS. EPA recognized this in 2014 when it promulgated RFS rules allowing for the generation of eRINs under pathways for qualifying electricity produced from biogas from landfills and organic waste digesters. Neither Congress nor any other party objected to EPA’s authority to issue those rules at that time.

In multiple appropriation bills since then, Congress has repeatedly provided funding and directed EPA to act on eRIN registration applications submitted under those rules. In each case, EPA accepted the funding provided by the American people but ignored their directions and the directions of Congress by failing to act on eRIN registrations and the Agency’s statutory obligation to include electricity in the RFS.

Furthermore, EPA has now provided stakeholders four separate opportunities to provide public input on the appropriate structure of an eRINs program, including in 2010, 2014, 2016, and 2022. As such, EPA has a clear basis for making any changes it deems necessary to its recently proposed amendments and finalizing those amendments, including the proposed volume obligations attributable to qualifying electricity; EPA finalized the first renewable electricity pathways under the RFS in 2014, and the decade since has provided more than enough time for the Agency to develop rules to implement that pathway.

In EPA's own estimation, the eRINs program would result in meaningful greenhouse gas emissions reductions across the transportation industry by supporting the transition to electric vehicles. It would also incentivize investments in new biogas capture and low carbon electricity production at existing solid waste, wastewater, agricultural, and other organics processing facilities across the country, resulting in a significant reduction in methane emissions. Enabling the participation of all eligible feedstocks in the future could expand these benefits further and support municipal infrastructure investments.

Given all of this, there is simply no discernable reason EPA would not finalize any necessary rules and allow eRIN generation to begin in 2024. EPA staff and leadership have already completed the hard work of developing such rules and preparing to implement the program; despite what some stakeholders have claimed, there is no evidence that an eRINs program will cause consolidation in agriculture or otherwise create perverse incentives with respect to organic waste that negatively impacts disadvantaged communities; and, all of the benefits of the program are paid for by the petroleum industry, which has enjoyed record profits in recent years. There is no downside.

Further delay, on the other hand, introduces unnecessary risk and jeopardizes billions of dollars that could be invested in accelerating electric vehicle adoption and new low carbon electricity production. For these reasons, we insist that EPA finalize an eRINs program before the end of September and begin approving registration applications to allow for eRIN generation in 2024.

Please provide a written response to our offices committing to a plan to complete these steps no later than August 22, 2023. Thank you in advance for your cooperation.

Sincerely,



Chellie Pingree
Member of Congress



John Garamendi
Member of Congress



Paul D. Tonko
Member of Congress



Ann McLane Kuster
Member of Congress



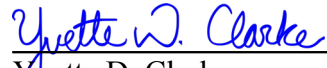
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