

United States Senate

WASHINGTON, DC 20510

September 18, 2023

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

Dear Administrator Regan,

We write to express our disappointment that the Environmental Protection Agency (EPA) has not yet finalized its proposed framework for an “Electric Pathway” under the Renewable Fuel Standard (RFS) Program. We urge you to act by the end of September to finalize and implement the proposed rule and allow for the generation of renewable identification numbers (RIN) for electricity produced from currently qualifying renewable biomass feedstocks and used as transportation fuel (eRINs) under the RFS beginning in 2024. Once finalized, we also encourage you to work to approve other eligible feedstocks immediately.

The Energy Independence and Security Act of 2007 (EISA) defines “renewable fuel” as “fuel that is produced from renewable biomass and used to replace or reduce the quantity of fossil fuel present in a transportation fuel.” Accordingly, electricity that is produced from renewable biomass and used as transportation fuel 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.

Since that time, Congress has directed EPA to act on eRIN registration applications submitted under those rules, and has appropriated funds for EPA to do so. We urge the EPA to act expeditiously to fulfill its statutory obligation to include electricity in the RFS and approve eligible feedstocks to participate.

In response to EPA’s proposed rule in December of last year, some stakeholders argued that EPA does not have the authority to designate a specific eRIN generator. Since the inception of the RFS regulations implementing EISA in 2010, EPA has provided that producers of liquid renewable fuels generate RINs and that producers, marketers, *or end users* of gaseous and electric renewable fuels may generate RINs. In its 2014 rule, EPA reinforced this position by providing that producers, marketers, and end-users of electricity could generate eRINs. Neither Congress nor any other party objected to EPA’s authority to issue these rules at that time. To the contrary, the recent introduction of bills designed to amend the RFS statute to prevent the designation of a specific eRIN generator indicates that Congress is aware that to do so is fully within EPA’s existing authority.

EPA has provided stakeholders distinct opportunities—including in 2010, 2014, 2016 and 2022—to provide public input on the appropriate structure of an eRINs program. Accordingly, EPA

has a clear basis for making any changes it deems necessary and finalizing its recently proposed framework to expeditiously integrate eRINs into the broader RFS program.

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 electricity production at existing solid waste, agricultural, and other organics processing facilities across the United States, resulting in a significant reduction of methane emissions. By extension, an eRINs program will also support jobs at such facilities while contributing to the strengthening of the economy and energy independence. Facilitating the inclusion of other biomass feedstocks in the near future would expand these benefits further, supporting the forest economy and municipal infrastructure investments.

Any further delay 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 urge EPA to act expeditiously to finalize its proposed eRINs program before the end of September, and begin approving registration applications to allow for eRIN generation in 2024.

We respectfully request a written response to our offices providing a plan to complete these steps. Thank you for your attention to this important issue.

Sincerely,



Jeanne Shaheen
United States Senator



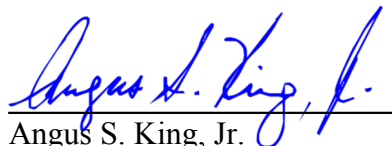
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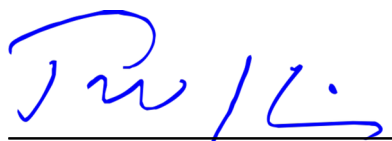
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