

Congress of the United States
Washington, DC 20515

July 12, 2018

The Honorable Andrew Wheeler
Acting Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue NW
Washington, D.C. 20460

Dear Acting Administrator Wheeler,

To begin, we congratulate you on your recent appointment to Acting Administrator of U.S. Environmental Protection Agency and wish you all the best. We write to make you aware of a small but important part of the Renewable Fuel Standard called the “electric pathway” and commitments your predecessor, Administrator Pruitt, made to our constituents.

Along with a bipartisan group of our colleagues, we sent two letters to Administrator Pruitt (attached for reference), which explain how the electric pathway could provide needed support to American dairy and livestock farmers and request the Agency approve pending applications under the pathway in 2018. Since those letters were sent, both the House and Senate Interior Appropriations Committees have provided further direction to the Agency by adopting the language copied below in their respective fiscal year 2019 Interior Appropriations bill reports, showing strong bipartisan and bicameral interest in the program.

“Electric Pathway – The Committee notes the backlog of applications under the Renewable Fuels Pathway II rule finalized in 2014. No applications for the electric pathway – which could help support rural agricultural communities – have been approved since the rule went into effect. The Committee strongly encourages the Agency to take action on the existing applications within 90 days of the enactment of this Act.”

We also understand that our constituents – family farmers and business owners – and their partner, RFS applicant BTR Energy, have had continued contact with EPA over the last 18 months, culminating in a meeting with Administrator Pruitt on June 21, 2018. In the meeting, Administrator Pruitt committed to activating the pathway as quickly as possible, recognizing that the dairy industry in particular needs immediate support.

For better or worse, that commitment has circulated in the agricultural communities we represent and our constituents began making business decisions on that basis, having interpreted Administrator Pruitt’s promise as providing certainty for the program. These are small family businesses that, as you know, would be disproportionately affected by further delays at a time when they can least afford it.

We applauded Administrator Pruitt's decision, and in light of that, we would like to express our hope for continuity and immediate action.

Thank you for your consideration on this matter. Please do not hesitate to reach out to our offices for additional information as you settle in.

Sincerely,



Chris Collins
Member of Congress



Marcy Kaptur
Member of Congress



Mike Gallagher
Member of Congress

Congress of the United States
Washington, DC 20515

January 17, 2018

The Honorable E. Scott Pruitt
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue NW
Washington, D.C. 20460

Dear Administrator Pruitt,

We write to support and follow-up a letter sent to you by fifteen of our colleagues urging decisive action on an opportunity for the Environmental Protection Agency (EPA) to help accelerate investment in anaerobic digestion technology at agricultural sites across the country. By implementing the previously approved “electric pathway” within the Renewable Fuel Standard (RFS), the Agency would encourage broader adoption of anaerobic digesters (AD) at dairy, swine, and other livestock farms, as well as municipal wastewater treatment and food processing facilities. The program would therefore make those farms and local businesses more competitive, create reliable jobs for the rural workforce, and help prevent nutrient runoff from agricultural waste.

Farmers nationwide are environmental stewards that recognize the potential value of the nutrients and manure they produce. AD technology enables farms to use manure productively and mitigate runoff, and could therefore be a powerful tool in the fight to reduce the incidence of fish kills, harmful algal blooms and dead zones in critical watersheds across the country. In many cases, an AD can generate significant cost savings and even additional revenue for farmers.

Unfortunately, the cost of adoption remains prohibitive for many farms. Hundreds of farms already use ADs but thousands more could—a significant opportunity for innovation and investment in rural communities. In the states we represent, more than 1000 agricultural sites could use AD technology, according to USDA projections, and those ADs would support 1500 permanent jobs. Access to the RFS via the electric pathway would make the economics of those projects much more compelling, thereby attracting institutional investors and lowering the cost of capital, which in turn would accelerate adoption. In that way, the program would help our states realize the economic and environmental benefits of the technology.

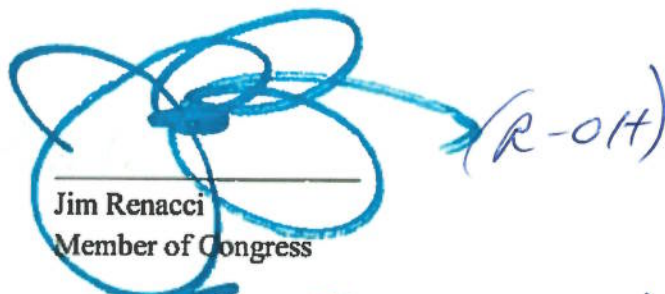
Much as our colleagues expressed in their previous letter, we have a range of opinions about the RFS, generally, but for the reasons described herein, we support the immediate implementation of the electric pathway under existing RFS regulations finalized in 2014. We believe EPA should prioritize approval of applications that would give small, farm-based AD facilities the option to access the program through a third party aggregator, and utilize data provided by vehicle manufacturers—the most robust data available—as the primary way to account for the consumption of electricity by electric vehicles. Combined, these two characteristics create the largest opportunity for farms to participate while still protecting the integrity of the RFS.

Please act decisively to ensure that dairy, swine, and other livestock farmers can begin participating in the RFS electric pathway in 2018. Thank you for your consideration of our request. Please do not hesitate to contact us for additional information.

Sincerely,



Marcy Kaptur
Member of Congress



Jim Renacci
Member of Congress



Bob Gibbs
Member of Congress



Tim Ryan
Member of Congress



Steve Stivers
Member of Congress



Chris Collins
Member of Congress



Chellie Pingree
Member of Congress



David P. Joyce
Member of Congress

Marcia L. Fudge (D-OH)

Marcia L. Fudge
Member of Congress

Louise M. Slaughter (D-NY)

Louise M. Slaughter
Member of Congress

Congress of the United States
Washington, DC 20515

October 5, 2017

The Honorable E. Scott Pruitt
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue NW
Washington, D.C. 20460

Dear Administrator Pruitt:

We write regarding an existing opportunity for the Environmental Protection Agency (EPA) to help rural agricultural communities by including dairy, swine and other farms in the Renewable Fuel Standard (RFS) via its previously approved RFS "electric pathway." While we have varying views of the RFS overall, particularly the corn ethanol mandate, we agree that the "electric pathway" program can be beneficial to both the agriculture industry and the EPA's mission of environmental stewardship. We also urge the Agency to allow farm-based electricity producers to access the program through a third-party "aggregator".

Under the Energy Independence and Security Act (EISA) of 2007, Congress directed the EPA to determine how renewable electricity might qualify as a renewable fuel under the RFS. EPA, recognizing electricity as a valid transportation fuel, subsequently created the electric pathway through a final rule published in 2014. The pathway qualified biogas-based electricity that is used to charge electric vehicles as RFS cellulosic and advanced biofuel. In the ensuing years, however, EPA has not approved any of the pending applications it has received under the pathway.

Many dairy farms currently process manure and food wastes in anaerobic digesters (AD) to produce domestic, baseload electricity and other co-products like fertilizer and animal bedding. AD technology helps these operations, small and large, manage manure and prevent nutrient runoff, and in many cases, AD can generate significant cost savings and even additional revenue for the farm. Furthermore, ADs support an average of between two and four technical jobs, an exciting opportunity to improve our rural economy and quality of life.

Electricity sales are the principle source of revenue from farm-based AD facilities, but in some states the price farms receive for their electricity has plummeted. Participation in the electric pathway would allow dairy and other farmers to earn meaningful additional revenues from the electricity produced through AD, thereby supporting and accelerating the adoption of an agricultural best practice and mobilizing institutional investors to help further develop the industry. In that way, the electric pathway supports jobs and investments in our country's rural communities, while further enabling farmers to continue to be good stewards of their land for future generations. Programs like this are of particular importance today, and in the immediate future, as the farm economy continues to struggle after four years of difficulty.

We also ask that the EPA consider the application of "third-party aggregators". Without access to third-party aggregators, the regulatory and commercial costs of participating in the program could be prohibitive for smaller farm-based power producers that may be pushed out by larger producers. For these reasons, we urge EPA to implement the program under its existing rules and in such a way that farm-based AD facilities may participate and begin benefiting in 2018.

The electric pathway program can support economic development and the creation of reliable jobs within our rural and agricultural communities. The participation of dairy and other farms with anaerobic digesters will help the agriculture community in their environmental stewardship, while aiding the EPA's mission.

Thank you for your consideration of our request. Please do not hesitate to contact my office for additional information.

Sincerely,



CHRIS COLLINS
Member of Congress



PETER WELCH
Member of Congress



SEAN DUFFY
Member of Congress



BRIAN HIGGINS
Member of Congress



JOHN KATKO
Member of Congress



JOE COURTNEY
Member of Congress



DAVID G. VALADAO
Member of Congress



RON KIND
Member of Congress


MIKE GALLAGHER (R-WI)
Member of Congress


GLENN 'GT' THOMPSON (R-PA)
Member of Congress


DAN NEWHOUSE (R-WA)
Member of Congress


LLOYD SMUCKER (R-PA)
Member of Congress


ELISE STEFANIK (R-NY)
Member of Congress


MARK POCAN (D-WI)
Member of Congress


GLENN GROTHMAN (R-WI)
Member of Congress