

September 14, 2015

Christopher Grundler
U.S. Environmental Protection Agency
William Jefferson Clinton Building
1200 Pennsylvania Avenue, N. W.
Washington, DC 20460

Dear Mr. Grundler,

On behalf of our ethanol producer members, I am writing to request that the U.S. Environmental Protection Agency (EPA) take immediate action to approve pending registrations for “Efficient Producer” pathways under the RFS so that these producers may generate RINs for ethanol volumes produced in 2015 that are in excess of their grandfathered capacity limits. Time is of the essence, as many producers who received EPA approval of their Efficient Producer pathway petitions expect their output to reach grandfathered limits before the end of the 2015 calendar year.

EPA should be applauded for the fact that the Efficient Producer pathway process has significantly streamlined and accelerated pathway approvals for grain ethanol producers seeking to expand production. However, EPA’s failure to expeditiously process the *registrations* of these new pathways and activate them in the EPA Moderated Transaction System (EMTS) is substantially undermining what has otherwise been a successful and efficient program.

The EPA letters approving Efficient Producer petitions stipulate that the producers must register the new pathways pursuant to 40 CFR 80.1450(b)(1)(ii) and submit a compliance monitoring plan, a process flow diagram, and other documents. A number of our member companies have taken all of the necessary steps to register their EPA-approved efficient producer pathways. However, the companies have notified us that the pathways remain inaccessible in EMTS because the Agency has apparently not yet activated them. Thus, the producers are currently unable to generate RINs for ethanol volumes produced in excess of their grandfathered production limits. EPA officials confirmed to RFA that, as of Aug. 17, 2015, *not a single Efficient Producer pathway had been activated in EMTS*¹, despite the fact that some of the petitions were approved almost a year ago and many producers submitted required registration materials shortly after receiving their approval letters.

Continued delays in the activation of Efficient Producer pathways could cause major market disruptions and financial losses for ethanol producers this fall. Some ethanol plants have expanded their capacities and are producing at rates that, if maintained for the remainder of the calendar year, would result in total output surpassing the limits of their grandfathered capacity. These companies anticipated many months ago that their total 2015 calendar year output could

¹ E-mail correspondence between Geoff Cooper (RFA) and John Weihrauch (EPA), Aug. 17, 2015.

potentially surpass grandfathered capacity limits. For that reason, they proactively applied for (and received approval of) Efficient Producer pathways so they could continue to generate RINs for any ethanol volumes produced in excess of grandfathered limits. However, EPA's failure to expeditiously activate the pathways in EMTS means producers may face significant operational difficulties when their output reaches grandfathered limits before the end of the calendar year.

Specifically, an efficient producer who cannot access its new pathway in EMTS when it reaches grandfathered capacity limits would likely be forced to: 1) attempt to sell "RINless" ethanol (e.g., for export markets); 2) attempt to purchase detached RINs on the open market and re-attach them to non-grandfathered gallons, reducing the available supply of RINs; or 3) cease production until the end of the calendar year. Clearly, none of these options is desirable, and each would likely have severe financial consequences for the producer. Further, any of these outcomes would undermine the intent of the RFS, which is to spur increased production of renewable fuels for use in domestic markets.

We believe EPA has options for immediately addressing this issue and ensuring markets are allowed to continue operating efficiently through the end of the year. The most obvious solution would simply be for EPA to prioritize approval of the pending registrations and ensure activation of the pathways occurs before the fourth quarter begins on Oct. 1, 2015. This would likely provide adequate lead time for producers to plan operations for the remainder of the calendar year. If for some reason this is not possible, EPA could immediately issue guidance that provisionally grandfathers *total actual production* for calendar year 2015 from efficient producer facilities that have received EPA approval letters *and* have initiated the registration process. This would allow those producers to generate RINs for all gallons produced in 2015, including gallons produced in excess of currently stipulated grandfathered limits.

In closing, we urge EPA to expeditiously activate pending Efficient Producer pathways in EMTS, or take alternative actions to ensure plants that have received EPA Efficient Producer approval letters and initiated the registration process are able to continue generating RINs for ethanol volumes produced in excess of grandfathered capacity in 2015. RFA appreciates your consideration of this request and we look forward to working with you to resolve this matter as quickly as possible.

Sincerely,

A handwritten signature in black ink that reads "Bob Dinneen". The signature is written in a cursive, flowing style.

Bob Dinneen
President & CEO

cc:

Byron Bunker
John Weihrauch
Ben Hengst