

Congress of the United States

Washington, DC 20515

December 14, 2023

The Honorable Shalanda D. Young
Director Office of Management and Budget
725 17th Street N.W.
Washington, D.C. 20503

Dear Director Young:

We write today to follow up on our February 9, 2023, letter to you concerning the swift implementation of outstanding regulatory action to remove the 1-psi volatility waiver for gasoline-ethanol blends in Midwest states.

On April 28, 2022, several Midwest governors formally notified the Environmental Protection Agency (EPA) of their request to permanently remove the 1-psi volatility waiver to allow their states to sell gasoline containing 15% ethanol (E15) year-round, without restriction.¹ Since then, additional states have joined this effort.

As Section 211(h)(5)(B) of the Clean Air Act states, the Administrator “shall promulgate regulation” effectuating this action “... not later than 90-days after the date of receipt of a notification from a Governor.” Therefore, this rulemaking should have been completed in July 2022 and unfortunately, we still have no regulatory certainty for our fuel retailers, fuel blenders, or biofuel producers more than 16 months later.

On December 7, 2022, the draft rule from EPA, which would approve the Governors’ request, appeared on the Office of Management and Budget (OMB) docket. EPA finally released the proposal for public comment on March 6, 2023, with a deadline for comments of April 20, 2023. According to OMB’s own website, publication of a final rule was expected in June 2023 – but that never occurred. Additionally, on August 7, 2023, the Attorneys General (AGs) for the States of Iowa and Nebraska filed a lawsuit (State of Iowa, Attorney General, et al v. EPA, 4:23-cv-00284) intended to compel EPA to publish a final rule.

Furthermore, on November 24, 2023, it was reported that action on our Midwest governors’ request has been stalled at the White House due to unfounded oil industry claims that implementation would cause supply disruptions and increased prices at the pump.² However, refiners are already required to produce fuel in this manner for specialized markets in non-

¹ Office of the Governor of Iowa. “Governors Letter to EPA on RVP Waiver” (4.28.22)

https://governor.iowa.gov/sites/default/files/documents/Governors%20Letter%20to%20EPA%20on%20RVP%20Waiver%204.28.22.pdf?utm_medium=email&utm_source=govdelivery

² Jarett Renshaw and Stephanie Kelly, “White House stalls ethanol expansion in Midwest amid price concerns”. Reuters. (11.24.23)

[https://www.reuters.com/business/energy/white-house-stalls-ethanol-expansion-midwest-amid-price-concerns-2023-11-24/#:~:text=Nov%2024%20\(Reuters\)%20%2D%20The.sources%20familiar%20with%20the%20matter.](https://www.reuters.com/business/energy/white-house-stalls-ethanol-expansion-midwest-amid-price-concerns-2023-11-24/#:~:text=Nov%2024%20(Reuters)%20%2D%20The.sources%20familiar%20with%20the%20matter.)

attainment areas. Analyses from MathPro³ and ICF⁴ suggest the cost to refiners and fuel suppliers associated with lower-RVP fuel would be minimal (0-3 cents), and the existing infrastructure in the Midwest is equipped to accommodate such a switch. Moreover, EPA itself has stated that E15 is about 25 cents a gallon cheaper than E10, allowing families to keep more of their hard-earned dollars.⁵

Homegrown, American-produced ethanol strengthens our national security and ensures lower vehicle emissions to achieve the Administration's climate goals. As we approach the 2024 summer driving season, it is critical that the Biden Administration works swiftly to finalize the Governors' requests, bringing much-needed certainty to our corn growers, fuel retailers, and consumers to enjoy the clean-burning, lower cost benefits of year-round E15.

Sincerely,



Brad Finstad
Member of Congress



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U.S. Senator



Nikki Budzinski
Member of Congress



Tammy Baldwin
U.S. Senator



Mike Flood
Member of Congress



Pete Ricketts
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³ MathPro. 2021. "Assessment of a 1 PSI Reduction in the RVP of Conventional Gasoline Blendstock (CBOB) in the Summer Gasoline Season." <https://d35t1syewk4d42.cloudfront.net/upload/files/Policy/Documents/Assessment%20of%20Reducing%20RVP%20Of%20Gasoline%20in%20Summer%20Season%20Dec%202021.pdf>.

⁴ ICF. 2022. "Impact of Potential 8-State RVP Waiver Exclusion on Midwest Gasoline Markets." <https://www.regulations.gov/document/EPA-HQ-OAR-2022-0513-0033>

⁵ EPA Press Office. "EPA Issues Emergency Fuel Waiver for E15 Sales" (4.28.23) <https://www.epa.gov/newsreleases/epa-issues-emergency-fuel-waiver-e15-sales#:~:text=The%20waiver%20will%20help%20protect.a%20gallon%20cheaper%20than%20E10>

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CC:

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