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United States Senate

COMMITTEE ON
ENERGY AND NATURAL RESOURCES

WASHINGTON, DC 20510-6150

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March 22, 2013

The Honorable Robert Perciasepe
Acting Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue NW
Washington, DC 20460

Dear Acting Administrator Perciasepe:

American consumers saw gasoline prices climb over the last six months to their highest-ever autumn- and wintertime levels. This unprecedented price increase left many consumers confounded, occurring at a time when United States oil production reached a two-decade high and consumption declined due in part to greater automobile efficiency. The Senate Committee on Energy and Natural Resources has begun a review of these gasoline price increases and the effects they have on the American consumer.¹

During the course of this review, the Committee has become aware of unprecedented price spikes in the market for Renewable Identification Numbers.² Also known as RINs, these certificates are used by fuel blenders and gasoline suppliers to comply with the Renewable Fuel Standard (RFS)³ administered by the Environmental Protection Agency (EPA). The RFS sets minimum national requirements for the volume of ethanol which must be blended with gasoline; it also sets volume requirements for advanced biofuels, biomass-based diesel (biodiesel) and cellulosic ethanol that must enter the market. By some estimates, over 96 percent of gasoline sold in the United States now contains ethanol, often at a 10 percent blend known as E10. Last year, EPA completed approval of a 15 percent ethanol blend for cars and light-duty trucks manufactured for the 2001 model year or later. As such, the cost of blending ethanol has become a material factor in the cost of fuel at the pump. Because the RFS annually increases the minimum volume requirement for each type of biofuel through 2022, this impact is expected to grow.

When a gallon of biofuel is produced, it is assigned a RIN that indicates which of the RFS fuel requirements the biofuel will fulfill. Blenders and refiners must submit a certain amount of RINs to meet their individual share of the RFS, which is known as a renewable volume obligation (RVO). RINs can be separated from the underlying gallon of biofuels and become a tradable commodity. Blenders and refiners can acquire RINs either by blending ethanol with gasoline, through the production of other biofuels, or through buying and selling RINs with other market participants.

¹ See letter from Chairman Ron Wyden to Energy Information Administration Administrator Adam Sieminski, March 11, 2013. (see enclosure)

² Mario Parker, *Ethanol Strengthens Against Gasoline on Near Record RINs Value*, Bloomberg, March 11, 2013, <http://www.bloomberg.com/news/2013-03-11/ethanol-strengthens-against-gasoline-as-rins-advance-to-record.html>

³ The Renewable Fuel Standard was created under the Energy Policy Act of 2005 (P.L. 109-58) and expanded under Energy Independence and Security Act of 2007 (P.L. 110-140) in an effort to reduce dependence on foreign oil, promote biofuel use, and stabilize transportation fuel prices.

The RINs for corn-based ethanol, known as D6, or conventional RINs, have experienced a ten-fold price increase since the beginning of the year. The reasons for this increase are unclear, as are the effects. Some industry analysts have blamed the increase on a glut of ethanol, while others have blamed it on a shortage. What is abundantly clear is that this level of market volatility is unprecedented. The price for conventional RINs has long been below \$0.10, however, since the beginning of the year, conventional RINs prices have soared from \$0.07 on January 7 to intraday highs of \$1.10 on both March 8 and March 11.⁴

Given that ethanol is an increasingly important factor in the cost and supply of motor fuel in the U.S., it is critical that the Committee have a better understanding of the causes and effects of RIN market volatility and developments.

Given these concerns, please answer the following questions:

- 1.) Market volatility and irregular trading: In a particularly volatile three-week period beginning February 19, the price of conventional RINs nearly quadrupled from \$0.28 before falling precipitously. Prices hit \$1.10 on both March 8 and March 11, and then fell to intraday lows of \$0.60 and \$0.67 on March 12 and March 14, respectively.⁵ These price spikes appear to be most pronounced in West Coast and East Coast markets. One industry report indicated that conventional ethanol with a RIN in the Midwest market actually had a negative value of 4.6 cents compared to ethanol without a RIN at the same time that ethanol with RINs in the West Coast market had a value of \$1.325 compared to ethanol without a RIN.⁶
 - a. Please detail the trading activity that occurred during the period of February 19 to March 14, with particular attention paid to the trading days of March 1, March 7, March 8, March 12 and March 14, when market data shows that intraday price ranges exceeded \$0.10. Please identify any unusually large trades, high-volume trading, bids or offers that were markedly higher or lower than others in the market, and trades involving market participants that have not been active in conventional RIN markets. Please identify the traders involved in these trades.
 - b. Please provide the names and volume holding of the 10 largest non-physical holders of conventional RINs – for example, traders and brokers, hedge funds, banks or other financial institutions. Please provide this information for January 1, February 19, March 14 and the date of this letter.
 - c. Market data indicates that there were wide price spreads for conventional RINs that are attached to ethanol sold in the West Coast region compared to ethanol sold in other regions of the country. Please detail the trading activity in the West Coast market that occurred during the period of February 19 to March 14. Please identify any unusually large trades, high-volume trading, bids or offers that were markedly higher or lower than others in the market, and trades involving market participants that have not previously been active in conventional RIN markets. Please identify the traders involved in these trades.

⁴ Ethanol & Gasoline Component Spot Market Prices, *OPIS Ethanol & Biodiesel Information Service*, volume 10, issues 9 (March 4, 2013), 10 (March 11, 2013) and 11 (March 18, 2013).

⁵ *Ibid.*

⁶ *Ibid.*

- d. Have these dramatic regional differences in the price of RINs previously existed? If so, when did they occur? Please provide possible reasons for these significant regional differences.
- 2.) RINs deficits among market participants: The RFS requires fuel blenders, suppliers and refiners to submit a certain number of RINs for each type of biofuel to meet their RVO for a given marketing year. However, if a fuel blender or refiner ends the marketing year with a deficit of RINs in relation to its RVO, the deficit can be carried over and met in the next marketing year. If such deficits were widespread in the conventional RINs market, they could induce additional demand that would push up the price of RINs:
 - a. Were there any fuel blenders, suppliers, refiners or other RINs market participants that failed to meet their RVO for the 2012 marketing year, thus entering 2013 with deficit in conventional RINs?
 - b. If so, please provide the name for each of these market participants and the volume of RINs in deficit as of December 31, 2012.
 - c. EPA is well aware of cases where fraudulent RINs entered the market.⁷ The EPA recently issued a proposed rule to prevent similar fraudulent acts from occurring in the future.⁸ What is the total volume of fraudulent RINs? What impact have they had on supply of RINs created and available to the market? What impact have they had on obligated parties' willingness to purchase RINs?
- 3.) RINs surpluses and carryover among market participants: The RFS allows up to 20 percent of RINs generated in the prior year to be "rolled over" and applied against the subsequent year's RVO. These rollover RINs allow blenders and refiners to take advantage of surplus RINs and have effectively helped smooth out costs amid fluctuations in the price or availability of biofuels from year to year.
 - a. Please detail how many conventional RINs were generated and used during the 2012 marketing year, and how many of those RINs were rolled over into the 2013 compliance year.
 - b. How do the rollovers for 2012-13 conventional RINs compare to the previous two years?
 - c. To what extent have 2012 rollover conventional RINs been used to fulfill blender and refiner RVOs during the first 10 weeks of 2013 compared to the same period for each of the previous two years?
 - d. Based on the current rate of ethanol production and blending, will the 2013 supply of rollover conventional RINs be expected to be depleted before year's end?
 - e. In previous years, have market participants with RVO obligations used all of the rollover RINs that were available to them for the given year (that is, if a blender entered 2012 with 100 rollover RINs from 2011, did they use all 100 of the rollover RINs)? If not, how many have typically expired?
- 4.) Market development and use of biofuels in the United States: There is substantial evidence of declining U.S. consumption of gasoline at the same time as the Renewable Fuel Standard is increasing the volume of ethanol/biofuel that must be blended into the national gasoline supply. One approach to meeting the increasing demands of the Renewable Fuel Standard is to increase the consumption and use of gasoline with a 15 percent biofuels/ethanol blend

⁷ Ed Crooks, *Jail Term for Fuel Credit Fraudster*, Financial Times, February 23, 2012, <http://www.ft.com/intl/cms/s/0/56d5b76a-7d3e-11e2-8bd7-00144feabdc0.html#axzz2NzfWyhUY>

⁸ 78 Fed. Reg. 35, 12158 (February 21, 2013)

(E15) and gasoline with 85 percent ethanol (E-85). Each gallon of the aforementioned fuels will use more biofuel than gasoline with the standard 10 percent blend (E10), which would increase consumption of and demand for biofuels.

- a. How much gasoline was produced and consumed in the United States during the first 10 weeks of 2013 and is projected to be consumed for the full year? How does that compare to each of the last two years?
- b. How much of each type of biofuel under the RFS was produced and consumed in the United States during the first 10 weeks of 2013 and is projected to be produced for the full year? How much ethanol was blended into gasoline during the first 10 weeks of 2013 and how much is projected to be blended for the full year? How do those volumes correspond with EPA's minimum volume mandates for 2013?
- c. How much of the ethanol being blended in 2013 is expected to come from domestic sources and how much is expected to be imported?
- d. How much E10 has been consumed through the first 10 weeks of 2013 and how much is projected to be used for the full-year 2013 and 2014?
- e. How much E15 has been consumed through the first 10 weeks of 2013 and how much E15 is projected to be used for full-year 2013 and 2014?
- f. How much E85 has been consumed through the first 10 weeks of 2013 and how much E85 is projected to be used for full-year 2013 and 2014?
- g. Please identify the extent to which EPA has determined that existing retail infrastructure, including regulatory requirements and physical features, would need to be modified to accommodate E15 and E85, and how much capacity would be available for 2013 and 2014.
- h. Please describe any other factors that must be overcome to enable the wider use of E15 and E85.

The information that you provide in response to these questions will be important for the committee as it prepares for its hearing. Please respond in full to each of the above questions no later than April 19, 2013.

Please contact Peter Gartrell or Todd Wooten on the committee staff with any questions at (202) 224-4971.

Thank you for your attention to this matter.

Sincerely,



Ron Wyden
Chairman



Lisa Murkowski
Ranking Member

Enclosure: Letter from Chairman Ron Wyden to Energy Information Administration Administrator Adam Sieminski, March 11, 2013