

**Opening Statement of the Honorable Cliff Stearns**  
**Subcommittee on Oversight and Investigations**  
**Hearing on "RIN Fraud: EPA's Efforts to Ensure Market Integrity in**  
**the Renewable Fuels Program"**

**July 11, 2012**

*(As Prepared for Delivery)*

Today we will examine the Environmental Protection Agency's handling of fraud in its program to implement the Renewable Fuel Standard. Specifically, we will look at the impacts on the biodiesel marketplace from the fraudulent production and trade in renewable fuel credits, or Renewable Identification Numbers (RINs), and the impacts from EPA's efforts to address this problem.

This hearing is part of the subcommittee's ongoing investigation into RIN fraud and should spotlight potential solutions to the most urgent problems confronting the biodiesel market. This hearing should also serve to identify additional challenges from fraud within the renewable fuels program in general.

EPA is responsible for developing and implementing regulations to ensure that the U.S. national transportation fuel supply, during a given year, contain certain mandated volumes of renewable fuel. The RIN credit trading program is designed to add flexibility to the system and facilitate compliance by petroleum refiners and importers – known as "obligated parties" – with renewable fuel standards that were created under the Energy Policy Act of 2005 and expanded under the Energy Independence and Security Act of 2007 to cover gasoline and diesel transportation fuels.

In recent years a sizable market for biomass-based diesel has developed. This market is second only to corn ethanol in size, producing more than 1 billion gallons of biodiesel last year. As we will hear in testimony this morning, unlike ethanol fuels, the price for RINs is critical to making ends meet for small biodiesel producers, the marketers who collect and distribute the fuel, and small blenders of the fuel, especially travel centers and truck stops. RIN prices have ranged from \$1 to \$1.50 per gallon of biodiesel, compared to about two pennies per gallon for ethanol.

Unfortunately, when the price for RINs is relatively high, so is incentive to game the system. Since November 2011, EPA has identified some 140 million invalid or fraudulently created biodiesel RINs generated by three producers. Additional EPA investigations could amount to tens of millions of more invalid RINs identified.

Just last month, a federal jury in Maryland found Rodney Hailey, of Clean Green Fuel, guilty of selling \$9 million worth of fraudulent RINs to brokers, oil companies and producers and then using the money to go on a spending spree that included the purchase of luxury cars and high-end jewelry. Hailey had generated 32 million credits for fuel that never existed.

Meanwhile, EPA does not certify or validate the fuel produced and registered in its system that tracks RINs. The agency maintains that obligated parties are responsible for conducting their own due diligence when conducting RINs transactions. This approach makes sense, to a point. However to date, EPA has not indicated what is acceptable for due diligence investigations by the companies.

On top of this uncertainty, EPA effectively penalizes companies that were "victims" of fraud by requiring them to replace invalid RINs for compliance purposes. As we will hear from

witnesses on our first panel this morning, this current approach to fraud has thrown the biodiesel marketplace into turmoil, creating significant uncertainty for smaller players—locking some innocent companies out of the market altogether.

Clearly there is a problem with the current situation. Today we will discuss how to fix the problem, and how to do so with appropriate urgency. As we do so, we must recognize the range of fraud that may occur in the renewable fuels program. Testimony today will indicate other types of fraud and abuse, such as with exports, which we should be sure EPA seeks to address effectively.

We will hear from two panels of witnesses this morning. On the first panel, we will hear from stakeholders with important perspective across the lifecycle of a RIN -- two small biofuel producers, a marketer of biofuel, and a blender of the fuel for a major truck stop chain -- all of whom have first-hand experience with the impacts of fraud. We will also hear from representatives of the obligated parties and the biofuel production industry overall about industry efforts to respond to fraud risks.

On the second panel, we will hear testimony from two EPA officials who have been involved in devising compliance requirements and ensuring those requirements are met. I am pleased to learn that EPA appears to recognize the legitimate concerns of stakeholders and may be amenable to implementing some of their suggestions. That's a positive sign, but much remains to be worked out, and uncertainty continues to reign in this market, putting many small operators at risk.

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