



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JAN 19 2012

OFFICE OF
AIR AND RADIATION

The Honorable James M. Inhofe
Ranking Member
Committee on Environment and Public Works
United States Senate
Washington, D.C. 20510

Dear Senator Inhofe:

Thank you for your December 1, 2011 letter to Administrator Lisa P. Jackson, co-signed by Senator Mark Pryor, concerning the U.S. Environmental Protection Agency's oversight of Renewable Identification Number (RIN) transactions under the Renewable Fuels Standard (RFS) program. You explained that your questions are in response to recent press accounts of fraudulent RIN generation activity and the potential consequences for obligated parties who rely on RINs to meet RFS requirements. Administrator Jackson asked that I respond on her behalf, and I welcome the opportunity to address the important issues you raise.

Congress established the RFS program in the Energy Policy Act of 2005 to reduce the nation's reliance on imported petroleum by requiring that transportation fuel sold in the United States contain a minimum volume of renewable fuel. Congress expanded the program in the Energy Independence and Security Act of 2007 to require significantly higher volumes of renewable fuel, lay the foundation for achieving significant reductions in greenhouse gas emissions, and encourage the development and expansion of the nation's renewable fuels sector. The EPA developed the regulations for implementing the RFS program in collaboration with refiners, renewable fuel producers, distributors, and obligated parties (gasoline and diesel producers and importers) to work largely in concert with the fuels market and existing business practices. Consistent with the statutes creating the RFS program and the long history of fuel programs from unleaded gasoline to ultra-low sulfur diesel, the EPA placed the obligation to meet the RFS volume mandates on gasoline and diesel producers and importers.

The EPA also included in the RFS regulations the flexibility sought by obligated parties to demonstrate compliance with renewable fuel volume requirements either by acquiring RINs from the renewable fuel they produce or by purchasing RINs from others. The statutory volume requirements could have been implemented in a simple manner by requiring each obligated party to use a specified amount of renewable fuel. However, to provide flexibility, the EPA instead developed regulations allowing obligated parties to use less than their required amount of renewable fuel as long as others use more. RINs were created to implement that flexibility.

From the beginning, the RFS regulations have made clear that it is the responsibility of obligated parties to ensure that they use valid RINs to demonstrate compliance and that there would be no safe harbor provisions with regard to invalid RINs. When Congress amended the RFS in 2007, it did not indicate

that the EPA should change this approach. The regulations, as revised to implement EISA, restate that an underlying principle of RIN ownership is "buyers beware." As EPA explained in establishing the regulations, the Agency could not and would not validate or certify the actual production of renewable fuel and associated RINs.

At the same time, RFS regulatory requirements and compliance efforts are not focused exclusively on obligated parties. As the Agency stated in the RFS2 preamble, and as has been our practice, we look first at the generators of the invalid RINs in taking enforcement action with respect to invalid RINs. EPA's Office of Enforcement and Compliance Assurance (OECA) and Office of Transportation and Air Quality (OTAQ) are currently working together to identify and pursue fraudulent RIN generators. Since use of fraudulent RINs is a violation of the RFS regulations, Notices of Violation (NOVs) have been issued to companies that relied on invalid RINs to demonstrate compliance. We are now working with obligated parties that received NOVs to come into compliance. The fact that the Agency is pursuing fraudulent RIN generators demonstrates our commitment to an effective RFS program and a level playing field for all RIN producers, owners and users.

In your letter you ask 20 specific questions about RIN transactions and the EPA actions with respect to those transactions. We answer your questions in an enclosure to this letter.

Again, thank you for your letter. If you have further questions, please contact me or your staff may call Patricia Haman in EPA's Office of Congressional and Intergovernmental Relations at (202) 564-2806.

Sincerely,

A handwritten signature in black ink, appearing to read "Gina McCarthy", is written over a circular stamp or seal that is mostly obscured by the signature.

Gina McCarthy
Assistant Administrator

Enclosure