

August 1, 2016

The Honorable Timothy G. Massad
Chairman, U.S. Commodity Futures Trading Commission
1155 21st Street, NW
Washington, DC 20581

The Honorable Gina McCarthy
Administrator, U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Re: Request to investigate potential manipulation in RIN market

Dear Chairman Massad and Administrator McCarthy,

I am writing to express our concern about recent irregular activity and volatility in the market for conventional renewable fuel Renewable Identification Number credits (RINs) under the Renewable Fuel Standard (RFS). Consistent with the goals of the March 2016 memorandum of understanding (MOU) between the Commodity Futures Trading Commission (CFTC) and the Environmental Protection Agency (EPA)¹, we encourage your agencies to closely examine recent events in the RIN market to determine whether certain parties may be exerting undue influence on prices or otherwise engaging in manipulative practices. At a time when EPA is reviewing public comments on its proposed rule for 2017 RFS volume requirements and considering whether changes are warranted, it is especially important that the Agency and affected stakeholders have a proper understanding of what is truly driving RIN prices.²

The ethanol industry was encouraged to see the MOU between CFTC and EPA aimed at improving the transparency and integrity of the RFS program's RIN market system. Specifically, we were pleased that EPA agreed to share RIN data and information with CFTC so that the Commission can "advise EPA on techniques that could be employed to minimize fraud, market abuses or other violations, and to conduct appropriate oversight in RIN and renewable fuels markets to aid EPA in successfully fulfilling the EPA's statutory functions..."³

As you will recall, policymakers and other stakeholders first raised concern about inexplicable volatility and potential manipulation in the RIN market three years ago.⁴ RIN prices artificially spiked to record levels in July 2013, providing opponents of the RFS with politically expedient fodder for their campaign

¹ "Memorandum of Understanding Between the Environmental Protection Agency and the Commodity Futures Trading Commission on the Sharing of Information Available to EPA Related to the Functioning of Renewable Fuel Standard and Related Markets." March 16, 2016. Available at: <https://www.epa.gov/sites/production/files/2016-03/documents/epa-cftc-mou-2016-03-16.pdf>

² This letter focuses only on conventional renewable fuel RINs, colloquially known as "D6" or "ethanol" RINs.

³ MOU at 2.

⁴ See, for example, letters from Sen. Charles Grassley (R-IA) to EPA Administrator Gina McCarthy (September 25, 2013); Sen. Debbie Stabenow (D-MI) to CFTC Chairman Gary Gensler (September 24, 2013); Reps. Dave Loebsack (D-IA), Collin Peterson (D-MN) *et al.* to CFTC Chairman Gary Gensler (October 22, 2013).

to repeal or reform the program.⁵ We are concerned that opponents of the RFS are similarly using the recent RIN price spike to bolster efforts to change or eliminate the program. For example, on July 26, the CEO of the nation's largest oil refiner—a longtime proponent of RFS repeal or reform—cited the recent RIN price increase as evidence that the program is “broken” and “infeasible.”⁶ Thus, pursuant to the MOU, we are encouraging CFTC and EPA to conduct “...investigation into potential...market abuse” and take actions to increase “appropriate oversight” and prevent a similar scenario from unfolding this year.⁷

As shown in the attachment, RIN prices have risen nearly 30 percent since May 18 when EPA released its proposed rule for 2017 RFS blending requirements. However, the market's immediate response to the proposal was modest. RIN prices averaged 74 cents on May 17 (the day before the proposal was released) and saw a moderate “psychological bump” to 79 cents following the proposal's release on May 18. But by May 25 (a week after the proposal was released), RIN prices had fallen back to 76 cents. The initial RIN price response suggested that the 2017 volumes proposed by EPA generally matched market expectations. The RIN market's lack of response to the proposal also indicated that participants broadly understood that the proposed volume requirements would not result in a drawdown of RIN stocks.

Curiously, however, RIN values began rapidly escalating in early June, eventually hitting 98 cents on July 13. While various theories have been advanced, the real reasons for this dramatic increase in RIN prices remain unclear. Basic market fundamentals suggest RIN prices should have remained stable—or *fallen*—following the proposal's release. Record ethanol production in 2015 enabled net RIN generation to significantly outpace the 2015 RFS volume obligation, meaning RINs were added to stocks.⁸ Further, RIN generation through the first half of 2016 indicates that more RINs will be generated than are required for 2016 compliance, meaning stocks will grow further.⁹ Finally, the outlook for renewable fuel production and RIN generation strongly suggests that EPA's proposed volume requirements for 2017 can be met without drawing down RIN inventories; in fact, RIN stocks would be generally unaffected even if EPA's final rule raised the proposed 2017 volume to the statutory level (a 1.4% increase over the proposed volume).¹⁰ Accordingly, the CEO of a refining company told investors on July 27 that the “fundamentals don't support RIN prices nearing a dollar.”¹¹ We agree.

Given the evidence of ample RIN supplies, the recent spike in RIN prices appears contrived and driven by something other than basic supply-demand fundamentals. Indeed, the spike raises renewed questions

⁵ Podkul, Cezary. Reuters. “Timeline: Delta Air Lines' and Carlyle's efforts to ease U.S. ethanol rules.” May 12, 2014; and Podkul, C. & Jeff Mason. Reuters. “How ‘Big Corn’ lost the ethanol battle to Philadelphia refiners.” May 12, 2014.

⁶ Barber, Jeff. Oil Price Information Service(OPIS). “Valero to 'Keep Banging' on EPA over RFS Compliance Obligation.” July 26, 2016.

⁷ MOU at 1 and 2.

⁸ EPA's EMTS data show 14.83 billion RINs were generated in 2015, compared to an RFS obligation of 14.05 billion RINs. Even if 500 million RINs were retired for non-compliance purposes such as exports, error correction, etc. (an amount slightly higher than previous years), the number of net RINs available for compliance would be larger than the RIN obligation. Accordingly, RIN stocks would have increased. Independent analyses confirm that 2015 RIN ending stocks were larger than beginning stocks. See, for example, Paulson, N. “2015 Year End RIN Update.” *farmdoc daily* (6):42, Department of Agricultural and Consumer Economics, University of Illinois at Urbana-Champaign, March 3, 2016.

⁹ EPA's EMTS data show generation of 7.45 billion RINs through June. This implies a 2016 annual total of at least 14.9 billion RINs, compared to an RFS obligation of 14.5 billion RINs. However, seasonal trends indicate that RIN generation accelerates in the second half of the calendar year, meaning actual 2016 RIN generation is likely to top 15 billion.

¹⁰ EPA's proposal itself argues that a 2017 requirement of 14.8 billion RINs can be met without affecting RIN stocks.

¹¹ John Lipinski, CEO, CVR Energy. Transcript of 2016 Second Quarter earnings call. July 28, 2016. Available at <http://seekingalpha.com/article/3992922-cvr-energys-cvi-ceo-john-lipinski-q2-2016-results-earnings-call-transcript?page=3>. Lipinski suggests current RIN prices are four to five times higher than justified by market fundamentals.

about potential manipulation of the market by entities who may believe the specter of higher RIN prices supports their political efforts to repeal or reform the RFS.

In closing, consistent with the purpose of the MOU, we are respectfully requesting that CFTC and EPA explore the true causes of recent volatility in the RIN market and work together to identify methods for preventing future manipulation.

Sincerely,

A handwritten signature in black ink, appearing to read "Bob Dinneen", with a long horizontal flourish extending to the right.

Bob Dinneen
President & CEO

Average Daily Ethanol (D6) RIN Price (February-July 2016)

