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Opening Statement of Rep. Henry A. Waxman
Ranking Member, Committee on Energy and Commerce
Hearing on “RIN Fraud: EPA’s Efforts to Ensure Market Integrity
in the Renewable Fuels Program”
Subcommittee on Oversight and Investigations
July 11, 2012

Mr. Chairman, Congress established the renewable fuels program to reduce the country’s dependence on petroleum-based fuels and cut greenhouse gas emissions from the transportation sector. These are laudable goals. Unfortunately, a few bad actors selling fraudulent biodiesel fuel credits have created a crisis of confidence in the biodiesel fuels market that risks undermining the whole program.

The reported cases of fraud have left petroleum refiners understandably skittish about purchasing biodiesel credits from small and unfamiliar biodiesel producers. As a result, through no fault of their own, many small, legitimate biodiesel producers are struggling to sell their products and make a profit. Others along the fuel chain—such as the distributors of biodiesel and credit brokers—are feeling the pinch as well.

We will receive testimony from a few of these affected parties today, and I look forward to hearing their suggestions for how to restore certainty and integrity to the market.

We also will hear from the American Fuel & Petrochemical Manufacturers. To hear them tell it, they were helpless victims of this fraud. This is revisionist history.

The statutory renewable fuels provisions allow petroleum refiners to meet their renewable fuel obligations by purchasing renewable fuel credits. In 2007, the Bush EPA set up the required credit trading program. EPA had two basic options when designing this program. EPA could have required that each credit be verified by EPA prior to its sale. This approach is more burdensome, but would make the government, not industry, responsible if a credit turned out to be fraudulent. Or EPA could allow the industry itself to generate and verify the credits, which is how most markets operate.

EPA consulted extensively with industry stakeholders and chose the approach with less government involvement. The petroleum refiners’ trade association endorsed this approach.

But that flexibility for industry carried with it an important and clear responsibility: the oil refiners and other obligated parties had to ensure that they were using valid credits to comply with the law.

They didn't. As we now know, several of the country's largest oil companies purchased millions of fraudulent renewable energy credits. This happened because they didn't do the basic due diligence they would do in purchasing any other product. With any due diligence, they would have quickly discovered that the accused biofuel producers weren't producing any biofuel at all.

EPA plays a crucial role in establishing clear rules and obligations for the credit trading system, and EPA has carried out this responsibility. But recent events show that the system as currently operated by industry and EPA needs to be improved. EPA has been meeting extensively with stakeholders to identify solutions for problems in the renewable fuels credit market.

But it's not just up to EPA. Buyers and sellers must be active and vigilant participants in the marketplace. And if things go wrong, the industry can't demand that government bail them out by waiving the law.

Market-based approaches to meeting environmental requirements are often preferable because they are less costly and less burdensome than traditional regulation. But market-based approaches are only acceptable if they produce at least equivalent environmental results. Waiving the requirement for industry to replace fraudulent credits basically says that if something goes wrong, the public, not industry, must pay the price. That kind of response gives market-based approaches a bad name and is not acceptable.

I hope that today's hearing helps all the affected parties continue their work toward real solutions that protect the functioning and integrity of the renewable fuels program.