Testimony of

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On behalf of the

National Association of Truckstop Operators (NATSO)

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SUMMARY OF TESTIMONY

- As the vice president and part owner of The Greater Chicago I-55 Truck Plaza in Bolingbrook, Illinois, I have been incorporating advanced biofuels into my diesel fuel supply for more than ten years. My testimony today is on behalf of the National Association of Truckstop Operators ("NATSO" or the "Association"). As the premier national trade association representing the truckstop and travel center industry, NATSO represents a substantial majority of retail sales of diesel fuel in the United States. Many of the Association's most successful members incorporate biodiesel into their fuel supply as a means of lowering prices for consumers.

- The retail fuels market is the most transparent, competitive commodities market in the United States. This compels retailers to pass through cost savings to consumers in order to maintain and increase their market share.

- Under the Renewable Fuel Standard ("RFS"), when a retailer blends biodiesel into diesel fuel, the retailer is able to separate and sell compliance credits known as Renewable Identification Numbers or "RINs." The RIN value is then passed along to consumers in the form of less expensive retail diesel fuel. Travel center operators have an incentive to blend biodiesel into our diesel fuel supply under the RFS because blending enables us to separate and sell RINs, which lowers the cost of the goods we sell every day and allows us to better compete for market share.

- My travel center has been incorporating biodiesel into our fuel supply for more than ten years. Once the RFS and similar state incentives became law, it was clear to me that I had to invest in biodiesel in order to remain competitive. In addition to spending more than $500,000 to update my infrastructure, I spend approximately 70 percent of my time today managing this line of supply.

- As my experience demonstrates, the RFS is well-designed to achieve its objectives. Congress recognized in designing the RFS that the only way to get truck drivers to buy more advanced biofuels is to make those fuels *less expensive* than straight diesel fuel. When EPA mandates growth-oriented, yet achievable volumes of biomass-based diesel that must be incorporated into the fuel supply, it rewards companies that blend biodiesel into diesel fuel because the companies can use the value of the RINs associated with biodiesel blends to lower their costs of goods sold.

- Unlike corn-based ethanol, biodiesel and other advanced biofuels cost more than the fuels they are trying to displace. Such biofuels must continue to be subject to robust federal incentives for a period of years if there is any hope for them to be remain competitive. Absent such incentives, advanced biofuels will not displace petroleum-based fuels.

- There are two primary factors affecting the price of and demand for biodiesel in the United States: EPA's Renewable Volume Obligations ("RVOs") and fuel marketers' access to biodiesel that can be incorporated into their diesel fuel supply in a manner that allows them to earn a profit. These two factors have a symbiotic relationship with one another: If EPA implements the RFS obligations in a stable, ambitious, and growth-oriented manner, it will encourage expansion of efficient sources of supply.

- The EPA's policy of liberally granting small refinery hardship exemptions is undercutting demand for advanced biofuels. When these waivers are issued retroactively, as they have been in recent months, they function as *de facto* mandate cuts in the RVOs, dramatically lowering RIN prices and in turn, demand for advanced biofuels. Unless Congress wants the market for advanced biofuels to decline precipitously, it is imperative that the EPA immediately reevaluates its criteria for issuing small refinery waivers.

- When the RFS was enacted, if I didn't invest in biofuel infrastructure and adjust my business practices to accommodate biodiesel, my business would be at a serious disadvantage today relative to my competitors that did adjust. That's why I made the adjustments. It seems unjust that companies that didn't plan ahead like this are being rewarded at my expense.

- If EPA is genuinely looking for a way to act consistent with the spirit of the RFS, the Agency could require that all waiver requests be received a minimum period of days *prior* to finalizing the volumetric obligations for a given compliance year. That way, once the Agency issues waivers, it can upwardly adjust the RVOs applicable to refiners that have not received waivers. This would allow the market to satisfy the entire RVO consistent with Congressional intent, while at the same time alleviating any purported hardship on small refiners.

INTRODUCTION

Chairman Shimkus, Ranking Member Tonko, and members of the Subcommittee, thank you for the opportunity to testify on the current status and future prospects of Advanced Biofuels under the Renewable Fuel Standard ("RFS").

My name is Robin Puthusseril. I am the Vice President and part owner of The Greater Chicago I-55 Truck Plaza in Bolingbrook, Illinois.[1] I am testifying today on behalf of the National Association of Truckstop Operators ("NATSO" or the "Association").[2] NATSO represents both large, multi-billion dollar travel center and convenience store chains, as well as small, single-store operators such as myself. Given the breadth of its membership, NATSO represents a substantial majority of retail sales of diesel fuel in the United States.

Due to the market conditions created by the RFS, many of the Association's most successful members have incorporated biodiesel into their diesel fuel supply as a means of lowering prices for consumers and competing for market share. I myself have been incorporating advanced biofuels into my diesel fuel supply for more than ten years.

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[1] My father John Puthusseril immigrated to the United States in 1968 on a student visa to study engineering. After more than twenty years working as an engineer and entrepreneur in Chicago, he bought the truckstop in 1995. Today our truckstop caters to interstate trucking companies and owner-operators, as well as passenger travelers and local citizens. We are a family-owned and operated independent truckstop employing more than 50 people, with a turnover rate that is more than 5 times lower than industry average.

[2] NATSO is the premier national trade association representing travel plazas, truckstops, and off-highway fuel retailers. It was through my work with NATSO that I first became aware of the financial benefits associated with advanced biofuels. NATSO recently launched a business venture called the "Alternative Fuels Council" that is designed to assist its members and the entire retail fuels industry in understanding alternative fuels markets and incentives, and work with its retailers to profitably incorporate alternative fuels into their supply offerings. Additional information *available at* http://www.natsoaltfuels.com.

My testimony today will focus on how Congress and the Executive Branch can continue to foster a policy environment that benefits the American consumer by incentivizing the displacement of petroleum-based fuels with renewable substitutes. Such policy, when done right, can lower fuel prices for over-the-road truck drivers, which in turns lowers the prices for all goods that are moved via truck.

BACKGROUND ON THE TRAVEL CENTER INDUSTRY

The travel center and truckstop business is a diverse and evolving industry. Every travel center location includes multiple profit centers, from motor fuel sales and auto-repair and supply shops, to hotels, sit-down restaurants, quick-service restaurants, food courts, and convenience stores. Although the industry once was tailored solely to truck drivers, it now caters to the entire traveling public, as well as the local population that lives in close proximity to a travel center location.

NATSO members' sole objective is to sell legal products, in a lawful way, to customers who want to buy them. As new fuels enter the market, retailers want to be able to sell those fuels lawfully and with minimal volatility and risk. We are agnostic as to which liquid fuel we sell to satisfy consumer demand, but we do have a strong bias in that we believe it is best for the American consumer—and America's industrial position in the world marketplace—to have reasonably low- and stable-priced energy.

PRICE FLOW AT RETAIL

The retail fuels market is the most transparent, competitive commodities

market in the United States. As every American knows, customers can see gasoline retailers' price signs from blocks away, or compare prices on apps on their cell phones. These signs represent more than just pricing information; they are value propositions to potential customers, not only with respect to fuel but also food and other convenience items that we sell in our stores.

While the gasoline market is extraordinarily competitive—consumers will often change where they buy gas to save just a few cents per gallon[3]—the retail diesel market is even more competitive and transparent as many travel centers' customers—truck drivers and trucking fleets—are more savvy and price-conscious than typical American motorists. (Fuel generally amounts to 30-40% of a motor carrier's overall costs.) Truck drivers are often aware of retail fuel prices when they are 100 miles away from potential refueling sites, and fleet managers use this information to direct drivers to specific retail locations in order to purchase the lowest-priced fuel available. This imposes strong downward pressure on retail diesel prices.

The competitive nature of the retail diesel market compels retailers to pass through cost savings to consumers in order to maintain and increase their market share. <u>It is in retailers' interests to increase the amount of fuel that we sell to consumers.</u> This is not only because those sales directly drive profit opportunity,

[3] According to a 2017 survey from the National Association of Convenience Stores, 67 percent of consumers say they would drive five minutes out of their way to save 5 cents per gallon and 61percent say that price is the most important factor in determining where they buy gas. See *How Consumers Behave at the Pump,* NACS, http://www.convenience.org/YourBusiness/FuelsCenter/Pages/How-Consumers-Behave-at-the-Pump.aspx#.Ws4QQS7wbb0.

but also because such sales drive in-store traffic, which is a source of profit for the retailer.

Given the structure of the retail fuels market, therefore, all of NATSO's members are "price takers" at retail. This means we must take the price of fuel that the market sets and compete to gain market share as the transparency of the market exerts a constant downward pressure on retail fuel prices. It is important to remember, however, that there is a long chain of supply before fuel is sold to consumers at retail—and any costs that are incurred along the fuel production and supply chain will be passed down to retailers and ultimately absorbed by consumers.[4]

To illustrate, under the RFS, when a retailer blends biodiesel into diesel fuel, the retailer is able to separate and sell compliance credits known as Renewable Identification Numbers or "RINs"; the RIN value is then passed along to consumers in the form of more competitively priced (less expensive) retail fuel to entice the customer to stop for fuel and come into our stores.

In short, travel center operators have an incentive to blend biodiesel into their diesel fuel supply under the RFS because blending enables retailers to separate and sell RINs, which lowers the cost of the goods we sell every day.

[4] Nowhere is this price pass-through phenomenon more visible than in the retail fuel industry. *See* U.S. Energy Information Administration, Michael Burdette and John Zyren, *Gasoline Price Pass-Through* (2003), *available at* http://www.eia.gov/pub/oil_gas/petroleum/feature_articles/2003/gasolinepass/gasolinepass.htm (noting that "any change in price at the refinery, or any intermediate point of sale downstream, should be expected to affect prices at each successive sale").

RETAILERS DO NOT *CREATE* DEMAND, WE *RESPOND TO* DEMAND

Offering a product for sale does not guarantee that consumers will purchase it, as retailers cannot force consumers to buy a particular product. Rather, retailers sell what consumers demand. In fact, the number one trait of any successful retailer is an ability to identify what his or her customers want to buy, and then sell that product at a cost that enables the retailer to earn a profit.

If Congress wants to incentivize increased penetration of advanced biofuels, it must keep in mind this fundamental market reality: motorists and truck drivers do not purchase products because NATSO's members sell them; NATSO's members sell products because our customers purchase them. When they're buying motor fuel, our customers tend to purchase the least expensive product.

MY TRAVEL CENTER'S EXPERIENCE WITH BIODIESEL

My travel center has been incorporating biodiesel into our fuel supply for more than ten years. Prior to that point, there was very little demand for biodiesel because government incentives had not been implemented to make the product price-competitive with diesel. Once the RFS and similar state incentives were enacted into law, it became clear to me that I had to invest in biodiesel in order to remain competitive.

It was not something our industry *asked for*—we had a very successful business long before the RFS was enacted—but once it became law we adjusted our business accordingly.

The tangible investments we have made include new tanks, dispensers, lines, and other infrastructure that would allow us to store, blend, and dispense biodiesel. These investments cost upwards of $500,000. On top of this, the administrative and accounting costs associated with ensuring we comply with the various rules and regulations associated with blending biodiesel are extraordinary. We spend at least $100,000 annually on these types of expenses.

Furthermore, in order to remain competitive with larger truckstop chains that have entire teams of compliance and trading personnel, I spend approximately 70 percent of my time today managing our biodiesel line of supply. This includes identifying reasonable pricing proposals from producers and suppliers (many of whom try to take advantage of my company's small size and lack of buying power by charging me exorbitant prices for product), testing our fuel supply, coordinating deliveries, managing inventory, educating our staff and accountants on biodiesel requirements, recordkeeping, and ongoing administrative and regulatory compliance.

These investments are necessary in order for me to create a margin advantage that largely goes to our customers in the form of a more competitive price landscape.

For these reasons, I am very grateful that NATSO, our industry's national trade association, recently established the Alternative Fuels Council to help small-to-mid-size operators such as myself navigate these various complexities and minimize the costs associated with them. This should ultimately make it easier for more fuel retailers to begin incorporating advanced biofuels into their fuel supply.

THE RFS IS WELL-DESIGNED TO ACHIEVE ITS OBJECTIVES

In my experience, over the past decade, the RFS has successfully incentivized travel center operators to displace petroleum-based fuel with renewable substitutes such as biodiesel. It has succeeded because Congress, in designing the RFS, recognized that the only way to get truck drivers to buy more advanced biofuels was to make biofuel blends *less expensive* than straight diesel fuel. However, while the RFS creates for fuel retailers an *incentive* to blend as much renewable fuel as we can, this incentive only exists as long as our customers view the end product as an attractive value proposition. Of the various mandates contained in the RFS, Congress did **not** include a mandate for consumers to purchase anything.

Fuel retailers blend biofuels into their fuel supply to lower the price of the fuels that we sell. The incentive to blend is especially strong with respect to biodiesel. When the RFS is implemented properly (which it generally has been until recently), EPA mandates growth-oriented, yet achievable volumes of biomass-based diesel that must be incorporated into the fuel supply. These volumetric mandates reward companies that blend biodiesel into diesel fuel because the companies can use the value of the RINs associated with biodiesel blends (which are more valuable than most other RINs because they satisfy more categories of renewable fuel obligations) to lower their costs of goods sold. These incentives apply to both refiners that do their own blending, as well as wholesalers and retailers.

In the past decade, the United States has increased its consumption of biodiesel more than five-fold. This surge in biodiesel consumption, stimulated

largely by the RFS, has not only enabled retailers like me to lower fuel prices, but has also helped domestic biodiesel producers grow and create jobs.

UNLIKE CORN-BASED ETHANOL, BIODIESEL AND OTHER ADVANCED BIOFUELS COST MORE THAN THE FUELS THEY ARE TRYING TO DISPLACE

The only reason any fuel marketer blends biodiesel into their diesel fuel supply is to make the finished product less expensive. Absent government incentives, biodiesel as a commodity is substantially more expensive than diesel fuel. Thus, advanced biofuels such as biodiesel would not be blended into diesel fuel in the absence of the RFS and other government incentives. (Ethanol, by contrast, is an economical source of octane and therefore would be blended with gasoline even if the RFS were repealed.)

The "nesting" feature of the RFS's renewable fuel categories is such that "D4" biodiesel RINs satisfy obligated parties' requirements for not only the biomass-based diesel category, but also the advanced biofuel ("D5" RINs) and total renewable fuel ("D6" RINs) categories. The potential for growth in biodiesel consumption, therefore, amounts to potential for higher Renewable Volume Obligations ("RVOs") in the *other* renewable fuel categories under the RFS. EPA can raise obligations in other renewable fuel categories knowing that biodiesel can be used to satisfy those obligations, if necessary. These higher obligations, however, can provide the requisite certainty necessary to bring other advanced biofuels to market.

Because advanced biofuels cost more money than the fuels they are trying to displace, such biofuels must continue to be subject to robust federal incentives for a

period of years if there is any hope for them to be competitive. Absent such incentives, advanced biofuels will not displace petroleum-based fuels.

THERE IS NO BIODIESEL "BLEND WALL"

If the RFS's volume obligations exceed the volume of renewable fuel that the market can absorb, the market will have hit the so-called "blend wall"—the point at which there is an insufficient supply of RINs to allow obligated parties to satisfy their RVOs under the RFS. This would result in significantly elevated prices for the RINs that are available. For those obligated parties unable to acquire sufficient RINs, they could face fines from the EPA or might make other decisions to lower their obligations under the RFS by reducing or exporting production. Any or all of these situations would add costs to fuel production and, as happens in every industry, these costs would be passed down to retailers and, ultimately, the costs would be absorbed by consumers.

<u>There is no "blendwall" for biodiesel</u>. All diesel fuel infrastructure is certified to store up to 20 percent biodiesel, while EPA's biomass-based diesel RVOs amount to less than five percent of the volume of diesel fuel sold in the United States. What's more, virtually all over-the-road trucks are warrantied to run on biodiesel blends up to 20 percent. Simply put, there is more than sufficient diesel demand to eliminate any concerns about the market's ability to satisfy a very robust advanced biofuels mandate under the RFS.

THERE ARE TWO PRIMARY FACTORS AFFECTING THE PRICE OF—AND DEMAND FOR—BIODIESEL IN THE UNITED STATES

The two primary factors affecting the price of (and thus demand for) biodiesel in the United States are:

(1) The EPA's RVOs in conjunction with the RIN value that participants in the fuel supply chain can realize by incorporating biodiesel into their fuel supply; and

(2) Fuel marketers' access to biodiesel that can be incorporated into their diesel fuel supply in a manner that allows them to profitably sell the final blended product to their customers at a lower price relative to unblended diesel fuel.

These two factors have a symbiotic relationship with one another: If EPA implements the RFS obligations in a stable, ambitious, and growth-oriented manner, it will encourage expansion of efficient sources of supply. If the market is confident that biomass-based diesel and total advanced biofuel obligations will be responsibly implemented over a multi-year time horizon, it will incentivize efficient, vertically integrated producers to further enhance their production capacity.

Today, the global market is "long" on bean oil (from which most biodiesel is derived). Bean oil is in essence a secondary product that is generated when soybeans are crushed in order to generate meal for animals around the world. The global demand for meal is growing, particularly in Chinese markets. As soybeans are crushed, only 80 percent of the resulting product is meal; the other 20 percent is

bean oil. There is a sufficient quantity of bean oil to satisfy global demand for vegetable oil *and* ambitious growth in U.S. biodiesel production and consumption.[5]

Nonetheless, as long as the price of bean oil exceeds the price of diesel fuel, the RIN plays a necessary role in "bridging the gap" to sufficiently incentivize fuel marketers to buy, blend, and sell biodiesel and still earn a profit. The higher RIN prices are (*i.e.*, the more ambitious that EPA is in establishing annual volumetric obligations), the greater the incentive will be for diesel retailers to incorporate biodiesel into their fuel supply.

In addition to "bridging the gap" between bean oil and heating oil prices, the RIN must also compensate for other costs, namely biodiesel production and transporting the finished product from the place of production to the retail outlet. These costs vary by region; as a practical matter, biodiesel blends greater than 5 percent cannot be shipped through a pipeline; they can only move via truck, rail, or barge. There are a number of areas in the U.S. where it is exceedingly expensive to ship product from biodiesel plants (which are predominantly in the Midwest) to retail outlets.[6]

When RIN prices are sufficiently high, it incentivizes marketers in these regions to undertake the expense associated with purchasing, transporting,

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[5] *See generally* https://www.ers.usda.gov/webdocs/DataFiles/52218/AllYearbook%20tables.pdf?v=43189 (indicating that in 2017 the U.S. exported enough bean oil to run eight biodiesel plants at a standard size of 30 million gallons per year, much of these exports going to China).

[6] Successful efforts by domestic biodiesel producers to halt biodiesel and renewable diesel imports from Argentina and Indonesia have exacerbated this problem: Before, product from those countries could be imported to U.S. ports and then efficiently distributed to retail markets where blending economics were favorable; today, the costs of transporting product to these regions from Midwestern plants are so high that most retailers in these regions have chosen to simply sell diesel fuel rather than blend biodiesel.

blending, and selling biodiesel. When RIN prices not sufficiently high, the incentives are not there and marketers will sell traditional diesel fuel rather than biodiesel blends. This result appears to be inconsistent with Congress's objectives in establishing the RFS to, among other things, improve the emissions characteristics of the motor fuels consumed in the United States by encouraging growth in production and consumption of renewable fuels such as biodiesel. It also falls short of the "all-of-the-above" energy policy that is in our national interest.

THE BIODIESEL TAX CREDIT IS AN IMPORTANT FACTOR IN BIODIESEL DEMAND BUT IS SECONDARY TO THE RFS's RENEWABLE VOLUME OBLIGATIONS

The biodiesel blenders' tax credit is an additional value component that serves to lower RIN prices (because RINs need to "do less work" to incentivize blending when there is a $1.00/gallon blenders' credit available), while encouraging additional blending and consumption. In essence, the tax credit functions to shift RFS compliance costs from obligated parties (such as fuel refiners) to the taxpayer.

The biodiesel tax credit was enacted in 2004 and originally scheduled to expire on December 31, 2006. Congress, however, has extended the provision seven times. In some cases, the extensions were enacted just before the scheduled expiration, but the last few extensions were enacted after the provisions have expired. The latest extension, in February, was enacted retroactively more than 13 months after the provision had expired.

During times when the credit is not in place (such as the present time), biodiesel and RIN markets are distorted. This results in a net negative for biodiesel

demand. In essence, the market places a probability on the credit's retroactive reinstatement (based on Congress's past behavior). In these circumstances, RIN prices do not solely reflect market fundamentals (*i.e.*, the relationship between bean oil and diesel prices, transportation and logistical costs, and the EPA's RVOs for the year), but rather they also reflect the market's assessment of Washington, D.C. political dynamics and the prospects for the credit's retroactive reinstatement.

Thus the tax credit's relevance to biodiesel prices (and thus demand) is not simply whether it is currently in place, but rather the level of certainty in the market as to whether the credit will be extended (greater certainty leads to RIN prices that more accurately reflect blending economics and thus enhances the value that can be realized by incorporating biodiesel into one's fuel supply).

At the end of the day, however, it remains the EPA's RVOs and the associated RIN value that drives biodiesel supply and demand.

EPA'S POLICY OF LIBERALLY GRANTING SMALL REFINERY HARDSHIP EXEMPTIONS IS SERIOUSLY UNDERCUTTING DEMAND FOR ADVANCED BIOFUELS

In recent months, EPA has granted small refinery "hardship" exemptions to an unprecedentedly large number of refineries. This has dramatically lowered RIN prices and in turn demand for advanced biofuels. It has also diminished the value of investments that I have made, in response to government incentives, to bring such fuels to market.

EPA has granted these waivers without providing <u>any</u> basic information to market stakeholders. Market participants are not told when waivers are given, the

volume quantity that is waived, or the refineries that receive the waivers. The waivers have undercut Congress's intent when it enacted the RFS. Unless Congress wants the market for advanced biofuels to precipitously decline, it is imperative that EPA immediately reevaluate its criteria for issuing small refinery waivers.

When these waivers are issued retroactively (*i.e.*, for compliance years for which RVOs have already been finalized), as they have been in recent months, they function as *de facto* cuts in the RVO. Refineries that have *not* received waivers continue to have their static obligation, while refineries that *do* receive waivers have their obligations cut by an amount commensurate with the waiver they have received.

This depresses the price of RINs—refineries that have their obligations waived can sell all of their RINs in an open market, and the increased supply of credits diminishes the credits' value.[7] This in turn inhibits marketers' ability to lower their costs of goods sold by blending biodiesel and separating RINs, thereby diminishing overall demand for biodiesel and other advanced biofuels.

EPA officials frequently cite a court case from late 2017[8] as "tying their hands" and requiring them to issue the waivers. This is not true. That case simply stood for the proposition that waivers cannot be withheld in the absence of a demonstration that a refinery would go bankrupt but-for receiving a waiver. It did not stand for the proposition that EPA must hand out waivers to any refinery that

[7] On multiple occasions, EPA has reportedly gone so far as to artificially generate and distribute current year RINs as restitution to refiners that have previously had waiver requests denied under a standard stricter than the one it currently has in place. This exacerbates the price-reducing effect the waivers have had on RINs.

[8] *Sinclair Wyoming Refining Co. v. EPA*, No. 16-9532 (10th Cir. Aug. 15, 2017)

produces less than 75,000 barrels of fuel per day—which is how EPA has apparently chosen to interpret it.[9]

Moreover, EPA's distribution of "hardship" waivers is incoherent because the price of RINs are baked into refiners' so-called "crack spreads."[10] All refiners (large and small) are able to pay for the costs associated with buying RINs by simply charging more money for the fuel that they sell commensurate with RIN costs. Indeed, EPA itself has acknowledged this market fact: "[R]efiners can indeed expend significant funds to purchase RINs needed to demonstrate compliance with the RFS program, but the cost is offset by a corresponding increase in the market price of the fuel they sell that is attributable to the RFS obligations. The market price they receive for the gasoline and diesel fuel they sell reflects the cost of RINs." EPA further added that: "Obligated parties [are] charging more for domestic gasoline and diesel to ensure they recoup the costs associated with RIN prices. So while [an obligated party] is directly paying for RINs they buy on the market, they are passing that cost along in the form of higher wholesale gasoline and diesel prices."[11]

Perhaps most troubling, these waivers are being issued in secret. EPA has not solicited any public comment as to whether its reformulation of the waiver criteria is appropriate, nor does it inform stakeholders when waivers are given. As a

[9] EPA has reportedly even granted "small refinery waivers" to refineries that have the capacity to produce *greater than* the statutory eligibility maximum of 75,000 barrels per day but have intentionally cut back on production in order to fall below the waiver threshold.

[10] Crack spreads are the difference between refiners' cost of *raw* products and the price at which they sell *refined* products.

[11] EPA (November 2017). *Denial of Petitions for Rulemaking to Change the RFS Point of Obligation*. (EPA Report No. EPA-420-R-17-008), https://nepis.epa.gov/Exe/ZyPDF.cgi?Dockey=P100TBGV.pdf. (*See* page 23.)

practical matter, waiver recipients receive an inequitable advantage over other market participants by being permitted to sell RINs based on asymmetrical information with respect to the RINs' value.

To illustrate: If the market today values biodiesel RINs at $.50/RIN, and a refinery receives a waiver at 10:00am, that means that all RINs the refinery was holding in order to demonstrate compliance to EPA will eventually enter the market (since the refinery doesn't need them anymore), thereby diluting RIN values and lowering the cost of RINs (similar to how the value of money decreases when central banks print more of it). Once the refinery receives the waiver and begins selling its RINs to other market participants, the refinery can do so at the higher $.50/RIN price because their counterparties do not know that a waiver has been granted and that the price of RINs should be lower. It is not until after the RINs are sold that stakeholders can analyze market activity and determine that waivers were given and downwardly adjust RIN values accordingly.

Throughout all of this, fuel marketers such as myself that have invested in biodiesel tanks and blending equipment are seeing the value of such investments diminish because biodiesel demand is diminishing as RIN prices go down.

I made these investments because I saw the direction Congress was pushing retail diesel markets when it enacted the RFS and it became clear to me that these investments would be necessary in order to remain competitive. If I didn't invest in biofuel infrastructure and adjust my business practices to accommodate biodiesel, my business would be at a serious disadvantage today relative to my competitors

that did adjust. That's why I made the adjustments. It is wrong for companies that didn't plan ahead like this to be rewarded at my expense.

The EPA is certainly able to accommodate waiver requests in a manner that is consistent with the RFS by simply requiring that all requests be received a minimum period of days (*e.g.*, 60 days) *prior to* finalizing RVOs for a given compliance year. That way, when RVOs are finalized, the market can be confident that those numbers will not be adjusted downward after-the-fact. It would arguably be most consistent with Congress's intent if the Agency upwardly adjusted the RVOs applicable to refiners that have not received waivers; this would allow the market to satisfy the entire RVO while at the same time alleviating any purported hardship on small refiners.

FUTURE PROSPECTS OF ADVANCED BIOFUEL

The future prospects for advanced biofuel are in Congress's hands. As the last decade has shown, if Congress puts in place achievable, growth-oriented, market-based incentives, advanced biofuels can continue to grow. At the same time, if the current volatility and uncertainty surrounding the RFS and the biodiesel tax credit remain, the industry's growth will be stunted.

In examining reform proposals, Congress must recognize that because advanced biofuels cost more money than the fuels they are trying to displace, they must continue to be subject to robust federal incentives in order to penetrate the market. Additionally, although I recognize it is not this committee's jurisdiction, providing long-term certainty with respect to the biodiesel tax credit would also

improve the market environment for advanced biofuels. Finally, refiners seeking waiver requests for a given compliance year should be required to submit those requests *prior* to the RVOs for that year being finalized, and EPA should not be permitted to grant waivers after the RVOs are finalized.

CONCLUSION

Thank you for the opportunity to present testimony before you today. On behalf of NATSO, I look forward to continuing to work with Congress on the issues discussed above, and I am happy to answer any questions you may have.