

Legislation Text

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Urging President Obama and the United States Congress to require the United States Department of Environmental Protection to change the “obligated party” mechanism in the Renewable Fuel Standard program, from refiners and importers of gasoline and diesel to the companies who blend renewable fuels in order to avoid adverse economic impacts caused by the Renewable Identification Numbers compliance mechanism.

WHEREAS, The Renewable Fuel Standard (“RFS”) program was promulgated by Congress under the Energy Policy Act of 2005 and was later amended by the Energy Independence and Security Act of 2007 to expand the nation’s renewable fuels sector while reducing reliance on imported oil; and

WHEREAS, Congress included a statutory annual volume requirement of the amount of renewable fuels that must be blended into gasoline and diesel (*See* 42 U.S.C. §7545, *et seq.*); and

WHEREAS, The City Council agrees with the goals of the statute and the expansion of renewable fuel use in the United States; and

WHEREAS, The Environmental Protection Agency’s (“EPA”) regulations established a compliance method for achieving the annual volume requirements under the statute which requires that each gallon of renewable fuel is assigned a unique identification number that is separated and delivered to EPA once the renewable fuel is blended with gasoline or diesel fuel to demonstrate compliance with the RFS (*See* 42 U.S.C. § 7545(o)(3) (B)(ii)(I); 40 C.F.R. § 80.1405, *et seq.*); and

WHEREAS, EPA’s regulations place the obligation for collecting and retiring the renewable fuel identification numbers on refiners and importers of gasoline and diesel fuel; and

WHEREAS, The entities that physically control and own the gasoline and diesel fuel at the point of blending (typically a bulk terminal facility or a truck loading terminal known as a “rack”) effectively control the blending of the renewable fuels into gasoline and diesel and, through the Renewable Identification Numbers (“RINs”) compliance mechanism, become the owners of record of the RINs and can then sell back to the independent merchant refiners and importers who need them for compliance at a significant profit, but have no obligation to sell these RINs (the “Rack Sellers”); and

WHEREAS, From 2012 through January 2013 RINs traded for less than ten cents and then rapidly rose to over \$1.00 per RIN and continue to trade at approximately ninety cents per RIN creating a windfall profit for the Rack Sellers and exorbitant costs for those independent merchant refiners and importers that must buy the RINs from them in order to comply with the Renewable Fuel Standard program; and

WHEREAS, The volumes of renewable fuels to be blended on an annual basis originally set by Congress in the RFS was based on anticipated market conditions such as increased consumer demand for transportation fuels and the construction of new blending and distribution infrastructure to support higher volumes of renewable fuel use; and

WHEREAS, In the 2014-2016 rule EPA, for the first time, acknowledged that it's regulation of refiners and importers as the only obligated parties under the RFS program could not "ensure" that transportation fuel would contain the volume required under the statute and regulations and therefore EPA exercised its waiver authority provided by Congress to reduce the annual volume requirements (*See* 80 Fed. Reg. 77,422-23 (December 14, 2015)); and

WHEREAS, In May of 2016, EPA proposed that 14.8 billion gallons of renewable fuel be blended into transportation fuels in 2017, a level significantly higher than in prior years and well above the practical limit of 10% (the "10% Blend Wall"); and

WHEREAS, Shortly after EPA proposed the 14.8 billion gallons RFS requirement for 2017, the price of RINs increased by more than 29% percent to ninety cents; and

WHEREAS, Numerous political officials, including Pennsylvania Senator Robert Casey in his June 17, 2016 letter to EPA, have spoken out in support of the petitions pending before EPA to reevaluate and make changes to the RIN compliance mechanism established by the EPA under the RFS; and

WHEREAS, The operations of independent merchant refiners are now threatened by the cost of the RINs compliance mechanism; and

WHEREAS, The cost of these RIN purchases has placed a financial burden on independent merchant refiners that is unsustainable in the long term and resulted in recent job cuts and the reduction of retirement and health benefits for many Philadelphia workers; now, therefore, be it

RESOLVED, BY THE COUNCIL OF THE CITY OF PHILADELPHIA, That we hereby urge President Obama and the United States Congress to require the United States Department of Environmental Protection to change the "obligated party" mechanism in the Renewable Fuel Standard program, from refiners and importers of gasoline and diesel to the companies who blend renewable fuels in order to avoid adverse economic impacts caused by the Renewable Identification Numbers compliance mechanism.