Small Retailers COALITION

Bill Douglass
Chairman
Small Retailers Coalition
PO Box 35537
Washington, DC 20033

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Janet McCabe
Acting Assistant Administrator
Office of Air and Radiation
Environmental Protection Agency
Mail Code 6101A
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Dear Assistant Administrator McCabe:

I am the Chairman of the Board and Founder of Douglass Distributing headquartered in Sherman, Texas and Chairman of the newly formed Small Retailers Coalition. For over 35 years, my company has owned and operated retail stores and fuel distribution outside the greater Dallas-Fort Worth area. Currently, we operate 22 convenience stores and supply motor fuels to 177 independent retailers. In addition to my 35 years of experience owning and operating my company, I also had the pleasure of serving in various leadership capacities including as the Chairman of the Board of the National Association of Convenience Stores ("NACS")—the trade association that represents the convenience and petroleum retailing industry. I have also served as the Chairman of the Washington-based Motor Fuel Institute. This allowed me to develop an in-depth understanding of and appreciation for the Renewable Fuel Standard ("RFS"), and its impact on the entire petroleum retail industry.

Despite the fact that small retailers make up over 50% of the retail fuel business, the national trade associations representing retailers and petroleum marketers are not currently representing and protecting the interests of small retailers and small convenience store owners with regard to the renewable fuels issue. Because small retailers around the country and our customers are being negatively impacted by the current point of obligation under the RFS, I am writing to inform you that we have formed a new coalition—the Small Retailers Coalition — to urge EPA to move the point of obligation.

Small retailers regularly compete with much larger retailers that have considerably greater access to infrastructure, capital and other resources. These large retailers account for roughly 20% of the overall market, but they have significantly expanded their market share and are threatening the ability of small retailers to remain profitable and competitive. This recent growth has, in part, been due to the ability of large retailers to expand their fuel purchasing and blending to the fuel terminal rack. Because the current point of obligation is removed from the rack, these retailers are unobligated and able to generate additional revenue from selling renewable fuel trading credits, known as Renewable Identification Numbers ("RINS"). This position at the rack for

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unobligated parties, such as these large retailers, generates enormous windfall profits in the form of RIN sales and allows large retail competitors to have a direct price and other competitive advantages that I and other small retailers cannot match.

There are thousands of smaller retailers feeling the adverse impact from large retailers advantaged by RIN revenue that have joined our coalition that would welcome the opportunity to share their observation on this market failure. As RIN prices are driven upwards and as large retailers gain more advantage from RIN sales, they can gain increasing volumes at the rack and a substantially large price advantage at stores. The end result is that small independent retailers will be driven from the market.

Ours is a business of scale, that is, the larger your purchases the more price leverage you have with your petroleum suppliers. We deal in millions of gallons, our large retail competitors deal in billions of gallons. We are small but not stupid. All that we are asking for is a level-playing field, and a system that that allows all retailers to compete for RIN revenue from enhanced downstream blending.

Currently, the retail fuel market is dominated by large retailers who today negotiate to get an additional 10 cent per gallon discount by obtaining the RINS. The branded suppliers are RIN limited so they choose to keep what RINS are available to them to improve their wholesale margins.

The problem is that these suppliers need the unbranded customers to purchase the fuel they refine which does not go into their branded chains. The unbranded retailers shop the majors and the merchant refiners to get the best price available, which usually includes the transfer of the RIN to them. Now, equipped with at least 10 to 15 cent per gallon market advantage, they discount the retail price enough to roll up huge fuel volumes in their stores.

The negative effect on the small retailers volume is devastating.

The current system needlessly tilts the playing field towards large retailers. By pitting industry segments against one another and creating distinct winners and losers, the current point-of-obligation threatens everyday consumers. RFS-generated market distortions amount to a huge subsidy for some and a lost business opportunity for others. Aside from considerable losses for small businesses, resultant industry consolidation effectively diminishes retail competition that has been the bulwark against increasing prices at the pump.

The correct placement of the point-of-obligation at the point of compliance would correct the competitive disadvantage that small retailers now face due to the RIN-related revenue generation of large retailers. The change would allow all retailers to compete on a level playing field. It would also be the most efficient and effective means of passing through the RIN value to consumers.

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Accordingly, we respectfully request that EPA reconsider the current point of obligation under the RFS and place it at the point of compliance – the blending point at the rack. This change would be consistent with the mandates and the spirit of the Clean Air Act ("CAA"). The CAA and other laws require, among other economic analysis, that EPA carefully analyze the effects of the RFS program on competition with respect to small business and the effects of the standard or regulation on consumer costs. Continuing to give short shrift to this analysis portends dire consequences for the nations' smaller petroleum retailers.

For all small petroleum retailers across the nation, the RFS as implemented by EPA amounts to a massive industry-wide transfer of wealth and allows the large retailers a substantial competitive advantage that is simply not available to small retailers. The RFS was not conceived of by Congress as an anti-competitive policy and, in the view of small retailers across the U.S., EPA should consider changing the point-of-obligation to reflect the needs of all market participants. Therefore, on behalf of the Small Retailers Coalition, I urge you to consider these critical issues and I look forward to working with you and your staff to find an equitable solution. Should you have any questions, please do not hesitate to contact me at ((903) 271-1030 - or our counsel Suzanne Murray with the Small Retailers Coalition at suzanne.murray@haynesboone.com or (214) 651-5697.

Very truly yours,

Bill

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Chairman of the Board, Douglass Distributing
Chairman, Small Retailers Coalition