



February 16, 2022

The Honorable Thomas Carper  
Chairman  
Environment and Public Works Committee  
U.S. Senate  
Washington, DC 20510

The Honorable Shelley Moore Capito  
Ranking Member  
Environment and Public Works Committee  
U.S. Senate  
Washington, DC 20510

Dear Chairman Carper and Ranking Member Capito:

The undersigned Associations represent approximately 90 percent of retail sales of motor fuel in the United States. The Associations' members have demonstrated that they promptly bring to market lower carbon alternatives to gasoline and diesel fuel when they can do so lawfully and those fuels' incentives align consumer adoption with price. The Renewable Fuel Standard (RFS), when implemented as Congress intended, provides those incentives in a way that makes these renewable (and cleaner) fuels less expensive and therefore more desirable for American consumers.

The implementation of the RFS in the coming years represents an opportunity to prompt tangible, immediate carbon reductions in transportation energy. Every gallon of biodiesel and renewable diesel consumed reduces diesel fuel's greenhouse gas emissions by at least 50 percent, often higher than 70 percent. Virtually every gallon of ethanol reduces gasoline's greenhouse gas emissions by at least 20 percent. The Committee should be focused on those positive opportunities for the program.

Unfortunately, there is more attention on ways to attack the RFS than on the potential benefits it could bring. As the Committee examines this question, however, the Associations encourage the consideration of policy changes that could alleviate the perceived challenges associated with the RFS today, but urge you to avoid taking ill-considered steps that would harm American consumers without providing the type of solutions that the RFS needs. With that in mind, we present below options the Committee should, and should not, consider to reform and enhance the Program.

- 1) Maintain the Point of Obligation:** We urge you to resist pressure from a small segment of the oil refining industry to abdicate their biofuel blending obligations. Changing the so-called "point of obligation" under the Renewable Fuel Standard from refiners to terminal "position holders" would inject massive disruption into the retail fuels market, increasing the prices consumers pay for gasoline and diesel all while diminishing any incentive for the market to use renewable fuels. It would hurt consumers in order to help a small number of oil companies.

The current policy creates a strong incentive for fuel marketers to blend renewable fuels while lowering prices at the pump. Parties involved with fuel production, distribution, and sales have had more than a decade to plan for their environmental obligations. Many entities, including dozens of fuel retailers, have made significant business decisions based on the RFS as currently structured. These companies have assembled complex supply chains involving commercial arrangements that are designed to improve motor fuels' emissions characteristics. Changing the point of obligation would undermine all of this, taking a huge step backward by discouraging fuel marketers from integrating renewable fuels into the fuel supply while simultaneously raising prices at the pump and crippling the operations of others that use these fuels such as railroads and trucking companies. Ultimately, this change is a quick path to the destruction of the RFS while putting the pain of the policy directly onto American consumers.

- 2) **Address Outdated Compatibility and Liability Concerns:** Liability and compatibility concerns are the most significant impediment to greater E15 penetration. Federal and state laws, as well as banking and insurance covenants, fire codes, and other mandates require retailers to store and dispense renewable fuel blends in equipment that has been listed by a nationally recognized testing laboratory as compatible with the fuel. Many of these requirements are unnecessarily complex and expensive to comply with, without any underlying policy justification. EPA does not provide flexible or site-specific guidance on compatibility demonstration practices. States have their own patchwork of compatibility requirements, while the National Institute of Standards and Technology ("NIST") has requirements that are often at odds with federal or state requirements. As long as these obstacles are in place, they will function as a headwind to more widespread sales of higher ethanol blends.

In January 2021, EPA proposed a rule that would have mitigated some of these compatibility concerns and facilitated additional sales of E15. Either through administrative or legislative action, addressing liability concerns would advance the sale of higher blends of ethanol so long as the RFS is implemented as intended.

- 3) **Allow for Year-Round Sales of E15:** An arcane provision of the Clean Air Act prevents fuel retailers from selling higher ethanol blends during the summer months in many parts of the country. Allowing these blends to be sold year-round would lower prices at the pump and improve gasoline's emissions characteristics.

Over the last year, the economic opportunities associated with selling higher biofuel blends such as E15 have grown. As oil prices rise, these incentives only increase as retailers gravitate toward lower-priced alternatives such as ethanol in order to remain price-competitive. When retailers have market-based options, it only serves to lower the prices that consumers pay at the pump. Current law prohibits fuel retailers from selling E15 as a gasoline during the summer months in many parts of the country, however. This arcane statutory provision is absolutely indefensible from either a cost or an environmental standpoint. Eliminating it would lower fuel prices and help the environment. We urge you to support changing the law to allow for year-round sales of E15 as soon as possible.

- 4) Small Refinery Exemptions (SRE):** The Associations have long maintained that the cost of the RIN is part of the cost of refined products that refiners sell. We were pleased to see that the current EPA agrees with this assessment. Nevertheless, small refiners' have serious concerns regarding their RFS obligations. These concerns have demonstrable political resonance, and therefore threaten to continue injecting uncertainty and volatility into the RFS. This could ultimately be counter-productive to the Program's objectives. We believe there is a way to alleviate certain, truly small refiners' compliance obligations without disrupting the goals of making lower-carbon biofuels more economically attractive to our members and their customers (e.g., exempting all refineries that produce fewer than 40,000 bbl/day while eliminating any exemption opportunities for refiners that produce more than that amount).

The Associations recognize that the Agency has made improvements to the small refinery exemption process, but we continue to urge EPA to be transparent in how they administer exemptions, i.e., articulating the specific standards and criteria by which it determines whether a particular refinery qualifies for a waiver.

Thank you for your continued leadership. We would be happy to discuss these issues with you at any time.

Sincerely,

NATSO, Representing America's Travel Plazas and Truckstops  
National Association of Convenience Stores  
SIGMA: America's Leading Fuel Marketers