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May 15, 2017

**VIA ELECTRONIC FILING – www.regulations.gov**

Samantha K. Dravis  
Associate Administrator for Policy  
Office of Policy, United States Environmental Protection Agency  
1200 Pennsylvania Avenue, NW,  
Room 3513A,  
Washington, D.C. 20460

**RE: Evaluation of Existing Regulations (EPA-HQ-OA-2017-0190)**

Dear Associate Administrator Dravis,

On behalf of the National Association of Convenience Stores (“NACS”) and the Society of Independent Gasoline Marketers of America (“SIGMA”), I write to offer input to the Environmental Protection Agency’s (“EPA” or “Agency”) Regulatory Reform Task Force (“Task Force”) on regulations appropriate for repeal, replacement, or modification.<sup>1</sup>

NACS and SIGMA appreciate the opportunity to proffer these comments and are supportive of the Agency and its overall mission to protect the environment. Some regulations are appropriate while others impose costs that exceed their benefits, and are generally unnecessary and ineffective. Specifically, NACS and SIGMA believe that EPA has appropriately placed the point of obligation under the Renewable Fuels Standard on refiners, importers, and manufacturers of motor fuels. On the other hand, the associations call on the Agency to modify its 2015 updates to the underground storage tank (“UST”) regulations.<sup>2</sup> With approximately 561,000 USTs nationwide storing petroleum or hazardous substances, UST regulations are absolutely necessary to ensure fair market participation, but must be written so that they can be practically and efficiently implemented.

More detailed comments can be found below.

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<sup>1</sup> Environmental Protection Agency, Comment Request, *Evaluation of Existing Regulations*, 82 Fed. Reg. 17793 (Apr. 13, 2017), available at <https://www.gpo.gov/fdsys/pkg/FR-2017-04-13/pdf/2017-07500.pdf>.

<sup>2</sup> Environmental Protection Agency, Final Rule, *Revising Underground Storage Tank Regulations—Revisions to Existing Requirements and New Requirements for Secondary Containment and Operator Training*, 80 Fed. Reg. 41566 (July 15, 2015), available at <https://www.gpo.gov/fdsys/pkg/FR-2015-07-15/pdf/2015-15914.pdf>.

## I. INTRODUCTION TO NACS AND SIGMA

Collectively, SIGMA and NACS represent approximately 80 percent of retail fuel sales in the United States. NACS is an international trade association representing the convenience store industry with more than 2,100 retail and 1,600 supplier companies as members, the majority of whom are based in the United States. SIGMA represents a diverse membership of approximately 260 independent chain retailers and marketers of motor fuel.

In 2015, the fuel wholesaling and convenience industry employed more than 2.7 million workers and generated \$574.8 billion in total sales, representing approximately 3.2 percent of the U.S. Gross Domestic Product. Of those sales, approximately \$349 billion came from fuel sales alone. Because of the number of fuel and other transactions in which the industry engages, fuel retailers and marketers handle approximately one of every 30 dollars spent in the United States. Fuel retailers serve about 160 million people per day—around half of the U.S. population—and the industry processes over 73 billion payment transactions per year.

Nevertheless, the convenience store and fuel retail industry is truly an industry of small businesses. Approximately 63 percent of convenience store owners operate a single store. In addition, fewer than 4 percent of the nation's retail fuel locations are owned or operated by the integrated oil companies.

The fuel wholesaling and convenience store market is one of the most competitive in the United States. SIGMA's and NACS' members operate on tiny margins (around 2 percent or less) and are unable to absorb incremental cost increases without passing them on to consumers.

## II. COMMENTS

### A. The Renewable Fuel Standard - Point of Obligation

Presently, the Agency is reviewing comments on whether to formally deny petitions to change the point of obligation under the Renewable Fuel Standard ("RFS") program.<sup>3</sup> NACS, SIGMA, and many of the associations' members have filed comments with EPA opposing efforts to change the point of obligation and supporting EPA's proposal to deny such petitions.<sup>4</sup> Today, the point of obligation is appropriately placed on refiners, manufacturers, and importers of motor fuels. EPA has already considered this issue twice and, on both occasions, has determined that the point of obligation should be placed on those entities. It would be irrational for the Agency to alter its course when the data shows that the RFS has been working as intended

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<sup>3</sup> Environmental Protection Agency, Petition for Rulemaking, Notice of Opportunity to Comment on Proposed Denial of Petitions for Rulemaking To Change the RFS Point of Obligation, 81 Fed. Reg. 83766 (Nov. 22, 2016).

<sup>4</sup> See e.g., Letter from R. Timothy Columbus to Administrator Pruitt (Feb. 22, 107), Docket Filing Identification Number: EPA-HQ-OAR-2016-0544-0269, *available at* <https://www.regulations.gov/document?D=EPA-HQ-OAR-2016-0544-0269>; Letter from R. Timothy Columbus to Administrator McCarthy (Aug. 15, 2016), Docket Filing Identification Number: EPA-HQ-OAR-2016-0544-0015, *available at* <https://www.regulations.gov/document?D=EPA-HQ-OAR-2016-0544-0015>.

for over a decade and when changing the point of obligation would inject massive disruptions into the fuels marketplace. EPA should retain the current point of obligation.

## **B. Underground Storage Tank Regulations**

On July 15, 2015, EPA published its final rule updating its underground storage tank (“UST”) regulations.<sup>5</sup> The revisions focus on spill prevention and proper operation and maintenance, imposing new requirements for secondary containment and operator training. Although the final rule contained numerous improvements from the proposed rule, which had been released in 2011, since publication of the final rule, technological developments have rendered certain provisions in the rules unnecessary and overly burdensome. Specifically, alternative technology-based solutions for spill prevention and secondary containment, which have developed since 2015, are at least as effective as some of the requirements contained in the final rule—and substantially less burdensome to operators. As such, NACS and SIGMA call upon the Agency’s Office of Underground Storage Tanks, to review the existing regulations and update and modify them to lessen the burden on regulated entities.

Outlined below are some UST regulations where modifications would greatly improve the UST regulatory scheme, and more efficiently work to increase protection of human health and the environment.

### **1. Walkthrough Inspections Every 30 Days**<sup>6</sup>

The regulations require periodic walkthrough inspections to prevent and quickly detect releases, as well as additional requirements for periodic spill, overflow, and secondary containment. In almost all instances, sensors are more effective than people in detecting spills and leaks. As such, scheduling walkthrough inspections every thirty days is a costly administrative burden that is not reasonable in light of the effective technology that is currently available for UST monitoring.<sup>7</sup> EPA should review and modify this regulation to allow UST owners or operators to be exempt from 30-day walkthrough inspections provided that the owner or operator has sufficient technological monitoring devices operating in their systems. Thirty day inspections are just too frequent—if an UST owner or operator can demonstrate compliance through more efficient technological methods, s/he should be allowed to do so, rather than being forced to comply through a visual observation method.

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<sup>5</sup> Environmental Protection Agency, Final Rule, Revising Underground Storage Tank Regulations—Revisions to Existing Requirements and New Requirements for Secondary Containment and Operator Training, 80 Fed. Reg. 41566 (July 15, 2015).

<sup>6</sup> 40 C.F.R. § 280.36 (Periodic operation and maintenance walkthrough inspections).

<sup>7</sup> At the state level, UST owner and operators are required to have these inspections performed by a third party—a significant cost over time.

## 2. Spill Prevention Equipment and Monitoring<sup>8</sup>

NACS and SIGMA encourage the Office of Underground Storage Tanks to review and revise requirements for spill prevention equipment and monitoring. For example, spill bucket requirements, including 30-day inspection requirements, are excessively onerous because of the difficulty of putting sensors into spill buckets. Similarly, current requirements for manual hydrostatic testing are onerous and may in fact lead to negative environmental outcomes.<sup>9</sup> EPA should consider providing UST owners and operators with alternative, technologically advanced testing options, which could be used in place of manual testing. In other words, there should be more cost-efficient options available to UST owners and operators who have sophisticated systems.

## 3. Overfill Prevention - Elimination of Ball Floats to Prevent Spills<sup>10</sup>

EPA has eliminated flow restrictors, or ball float valves, in vent lines as an option for owners and operators to meet the overfill prevention equipment requirements for newly installed UST systems and when flow restrictors in vent lines are replaced. Since the imposition of this new restriction, several of NACS' and SIGMA's members have noted that ball float valves are much better at preventing overfill than other drop tube insertion methods. EPA should review the overfill prevention requirements and consider retaining ball float valves as a viable legal method for overfill prevention.

Thank you for the opportunity to provide these comments, NACS and SIGMA stand ready to assist the Agency as it moves forward.

Respectfully,



R. Timothy Columbus  
Eva V. Rigamonti  
Counsel to NACS and SIGMA

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<sup>8</sup> 40 C.F.R. § 280.35 (Periodic testing of spill prevention equipment and containment sumps used for interstitial monitoring of piping and periodic inspection of overfill prevention equipment).

<sup>9</sup> If an UST owner or operator is using a conventional dispenser sump, which holds a significant amount of water, performing hydrostatic testing (which involves adding water) will lead to the creation of hazardous waste.

<sup>10</sup> 40 C.F.R. §§ 280.20(c)(1)(ii) (Performance standards for new UST systems); 280.35(a)(2).