

February 22, 2017

The Honorable Scott Pruitt
Administrator
Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, D.C. 20460

Re: Docket ID No. EPA-HQ-OAR-2016-0544
Opposition to Petition for Rulemaking to Change the RFS Point of Obligation
Federal Register Vol. 81, No. 225, Nov. 22, 2016, page no. 83776

Dear Administrator Pruitt,

On behalf of the Petroleum Marketers and Convenience Stores of Iowa (PMCI) and RINAlliance, I appreciate the opportunity to submit comments on the “Petitions for Rulemaking to Change the RFS Point of Obligation.”

PMCI strongly opposes the petition for a rulemaking to change the point of obligation under the Renewable Fuel Standard (RFS) program. Changing the point of obligation would inject massive disruption into fuel and renewable fuel markets, undercut investment-backed expectations, and raise prices for consumers all to help a narrow constituency of merchant refiners and a small portion of their branded retailers.

The petitioners in favor of changing the point of obligation rely on falsehoods and misleading data to support their position. According to the petitioners, who have spent the last decade advocating for repeal of the RFS, changing the point of obligation would result in more blending of renewable fuels and do away with so-called disadvantages that small retailers face. This is false. In fact, today the RFS’s structure incentivizes significant renewable fuels blending. PMCI knows this because many of these blenders are based here in the State of Iowa.

Also false is the suggestion that small retailers are “disadvantaged” by the current point of obligation. In fact, as discussed below, through entities like RINAlliance small retailers – like their larger counterparts – can harness the incentives that the RFS creates to their advantage precisely the way Congress intended.

I. PMCI opposes the petition for a rulemaking to change the point of obligation under the Renewable Fuels Standard (RFS) program and supports EPA’s proposal to deny such petitions.

The RFS is working successfully. It creates a strong financial incentive for downstream fuel marketers to blend renewable fuels into the fuel supply while lowering prices at the pump for consumers and yet, it still ultimately allows consumers a choice. Retailers have an obligation to consumers. Incentives help drive consumer demand toward this federal policy deemed to be beneficial to all. It becomes a win-win. Changing the point of obligation would be detrimental to the success of this federal policy and detrimental to those stakeholders invested in its success.

Stakeholders include most of PMCI's members: distributors and retailers of renewable fuels, who are benefitting from the RFS because they invested early on to adjust their business practices to comport with the RFS. They have learned to compete successfully within the program requirements. They have invested in the infrastructure to store and dispense renewable fuels and they have the option to buy fuel with and without RINs.

Some retailers have chosen to limit their buying options to a single supplier and now regret this decision. Changing the point of obligation will not serve to "level the playing field" as some retailers, squeezed by the petitioners, have stated. In the Midwest, branded refiners understand they must be competitive in their branded customer agreements. The retail environment is extremely competitive and transparency of RINs is evident. Fuel wholesalers have negotiated with their branded refiners to achieve a competitive price even if the RIN is not passed down, which is quite common in the case of E10, gasoline blended with 10% ethanol. It would behoove all refiners to take care of their customers to keep them competitive and in business. Some refiners have chosen not to do this, and instead hope that the EPA will bail them out. PMCI urges EPA not to commit the government to another industry bailout.

This "point of obligation" for the RFS program was established through a notice-and-comment rulemaking in 2010 based on the statutory direction in Section 211(o)(3)(B)(ii)(I) and (C) of the Clean Air Act (CAA) to impose the renewable fuel obligation on "refineries, blenders and importers, as appropriate," while also "prevent[ing] the imposition of redundant obligations." The obligation has been in place for several years. Businesses that have chosen other paths since the RFS was implemented should not rely on the EPA to change the rules after the game has started. Moving the point of obligation downstream would discourage fuel marketers from blending renewable fuels, which contradicts Congress' original intent when passing the RFS. We believe the expense and complications of new rulemaking and inevitable legal action would serve to delay the RFS, lower renewable fuels consumption and put an unnecessary hold on the success the RFS has achieved thus far.

The RFS was designed for one set of circumstances, one that involved a manageable number of obligated parties to work with the EPA. To change the point of obligation now, simply because certain businesses chose a path (after the RFS implementation) without consideration to the regulation, would be devastating to the wholesalers and retailers who have invested heavily in supporting the RFS and everything it stands for. Moving the point of obligation would pull thousands of companies into this requirement ultimately impacting consumers negatively.

PMCI estimates that more than 100 companies in Iowa would be directly and negatively impacted by being drawn into a rule change imposing the obligation downstream. Many Iowans would lose their jobs. A change in the rule would add significant burdens to small business owners who are not equipped to comply with EPA's regulations. It would serve no role in "leveling the playing field". In Iowa, most of the fuel blended is done so by "breaking bulk at the rack" where sources of ethanol and gasoline or diesel and biodiesel vary. We have not seen changes in this activity due to the RFS. Under the petitioner's request, the position holder / blender of record would be pulled into the definition of obligated party as proposed and we believe this would ultimately result in less blending or only purchasing pre-blended product as a

means of avoiding the RFS obligation and those requirements. If “below the rack” purchases become the norm, the cost of fuel acquired “above the rack” would increase. Less competition results in higher prices to consumers. Blenders purchasing “above the rack” would have an obligation under the RFS. If they traditionally only market gasoline or ethanol-blended gasoline, they would be forced into an obligation on biodiesel, meaning they would have to purchase biodiesel RINs to meet their obligation. It doesn’t make sense because the retailer doesn’t sell diesel therefore the mandate is not pushing them to sell more biodiesel. It becomes a shell game with no meaning. This scenario simply does not exist with the current point of obligation. Small retail renewable fuel blenders will throw their hands up in despair, challenged by yet one more regulatory burden after working hard to understand and adjust to the original regulation.

As outlined above, PMCI respectfully requests that EPA maintain its opposition to and deny the petition seeking a change in the RFS point of obligation. We commend the EPA for development of the intricate details of the program and their efforts to eliminate fraud in the program. Adding thousands of new users as obligated parties would create another set of circumstances to ensure users were well-educated and informed on proper interaction with the program and fraud deterrence standards.

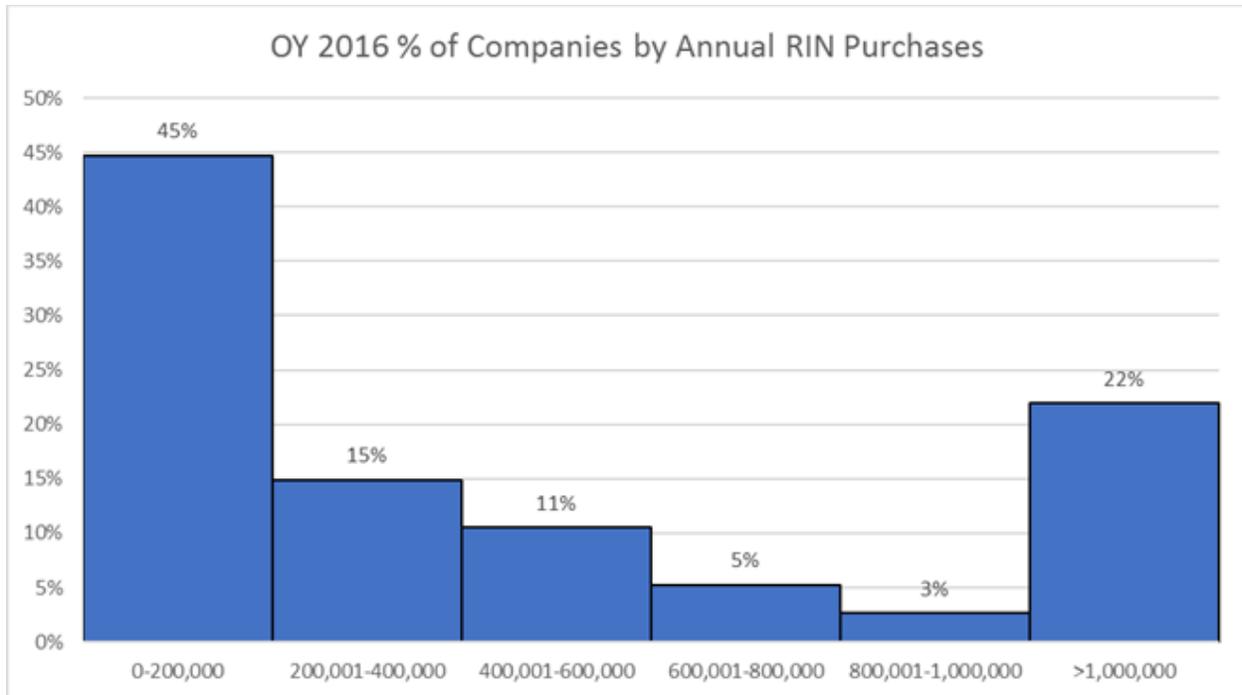
II. Introduction to PMCI

PMCI is a not-for-profit trade association representing fuel and convenience marketers in the state of Iowa. Founded in 1937, the association has, over the years, represented all operational sizes of retailers and distributors of fuel from single site convenience stores, service stations or tank wagon fuel delivery businesses to co-ops, trucks stops, and large multi-state privately and publicly held corporations that retail fuel and convenience. PMCI represents companies that hold title to the gasoline or diesel fuel immediately prior to the sale of these fuels at the terminal (these parties are commonly called the position holders), or “blenders and distributors”. PMCI prides itself on being a “business partner” of the “mom and pop” blenders and distributors of the industry. It is through this role, PMCI identified a critical business need when the RFS rules were first released in 2007. Understanding that marketers in Iowa have been blending gasoline and ethanol for nearly 40 years, PMCI needed to develop a means of helping marketers comply with the RFS reporting and attest engagement requirements so they could continue blending with biofuels. Biofuels includes biodiesel, which has been an integral part of diesel marketing for a decade or more in the Midwest. PMCI developed a compliance program to help marketers manage RINs, the currency of the RFS, and maintain compliance with the EPA program. PMCI developed RINAlliance and today it is a fully incorporated business owned by the not-for-profit, PMCI.

III. About RINAlliance – Understanding how small retailers can access the RIN marketplace

RINAlliance serves the needs of renewable fuel blenders across the United States. It provides a unique transactional software application that manages Renewable Fuel Identification Numbers (RINs) while it interfaces with EMTS, completes all EPA required reporting and provides third party oversight by independent CPA firms. To simplify, protect and promote renewable fuel blending, such a tool was necessary for marketers facing difficult compliance and regulatory

hurdles which threatened the marketer’s ability to continue blending. The RINAlliance application helps companies of all sizes take advantage of the options the RFS provides marketers and seamlessly maintain compliance with program’s regulations. RINAlliance helps companies of all sizes participate in RIN markets and maximize profits in RIN trading.¹



When we look at the RIN activity of our client base, we see the largest proportion of companies falling into the smallest volume of activity. This is a function of supplier agreements not a function of where the RFS point of obligation lies. Small retailers can benefit from renewable fuel blending and RIN marketing equally as do larger retailers. Our smallest clients sell less than 500,000 total gallons of fuel annually. They are blending because they have a supply of renewable fuel with RINs that are priced competitive with traditional petroleum-based fuels. The RFS and RINAlliance enable fuel marketers to lower the price of fuel at the pump while making more money, all while adding more renewable fuels to the nation’s fuel supply. In other words, the RFS provides an incentive for private actors to behave in a way that Congress has determined is beneficial for society at large. This is what success looks like.

RINAlliance is dedicated to the intelligent marketing of low carbon alternative fuels. It is understood that marketing most alternative fuels comes with a myriad of state and federal compliance requirements and that compliance burdens are a cost of doing business. RINAlliance clients are coast-to-coast, providing low carbon fuels in 39 states. They operate inside pipeline fuel terminals, renewable fuel production facilities, rural bulk fuel sites, methane capture / reprocessing facilities, and fuel retail sites across the country. Their businesses are as varied as the definition of “fuel” and “energy”. These clients are industry leaders that do more than talk;

¹ When businesses can access and harness the RFS structure via the RIN marketplace, it ensures that they have money to invest in renewable fuels infrastructure and lower the cost of renewable products, further the goals of the RFS.

they implement solutions and new business models that work by responsibly providing fuel and energy to the public which is essential to the fabric of our lives. RINAlliance is proud to play a role in this ever-expanding industry.

As RINAlliance looks at the current structure of the RFS program, it sees it working to incentivize the production, distribution, and use of renewable transportation fuels, while also providing obligated parties a number of options for acquiring the RINs they need to comply with the RFS standards. RINAlliance sells RINs to obligated parties on behalf of the renewable fuel blender clients it serves. If the point of obligation were to change, it would not address the real challenges that are impeding growth of higher blends of ethanol, such as infrastructure challenges and the lag of cellulosic biofuel development. It would however, likely change the driving forces behind cellulosic development and E15 infrastructure, for example, by slowing investments. It could delay achievement of the program goals by creating confusion and concern in the marketplace.

IV. PMCI urges the Agency to oppose efforts to change the point of obligation.

In conclusion, PMCI respectfully requests that EPA deny the petitions submitted by Valero and the American Fuel & Petrochemical Manufacturers to change the point of obligation under the RFS. We would like to point out the letter sent November 30, 2016 from several national associations representing a significant majority of RFS participants across the United States' transportation fuels value chain – from refiners to marketers to renewable fuels producers. It was unprecedented to see these associations with a common position, when they so often find themselves at odds. Each signed onto one letter expressing a unified position in opposition to efforts by petitioners to move the point of obligation for RFS compliance. Those entities: Advanced Biofuels Association, API, Renewable Fuels Association, Society of Independent Gasoline Marketers of America, Petroleum Marketers Association of America, National Association of Convenience Stores, Growth Energy and NATSO, Representing America's Travel Centers and Truckstops, communicated strong support for the EPA's proposed denial of petitions for a rulemaking to change the point of obligation under the RFS. Without sound public policy rationale for moving the point of obligation and with the likelihood that a change would add complexity and uncertainty to the current RFS program, they wrote to urge EPA to finalize its conclusion and deny the petitions to move the point of obligation.

PMCI and RINAlliance wholeheartedly agree.

PMCI, representing renewable fuel blenders and distributors, retailers small and large, appreciates the opportunity to submit comments supporting the denial of this petition and stands ready to assist EPA as it considers this issue further.

Respectfully,



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President & CEO, RINAlliance, Inc.