



December 7, 2022

The Honorable Charles Schumer  
Majority Leader  
U.S. Senate  
322 Hart Senate Office Building  
Washington, DC 20510

The Honorable Nancy Pelosi  
Speaker of the House  
U.S. House of Representatives  
1236 Longworth House Office Building  
Washington, DC 20515

The Honorable Mitch McConnell  
Minority Leader  
U.S. Senate  
317 Russell Senate Office Building  
Washington, DC 20510

The Honorable Kevin McCarthy  
Minority Leader  
U.S. House of Representatives  
2468 Rayburn House Office Building  
Washington, DC 20515

Dear Majority Leader Schumer, Minority Leader McConnell, Speaker Pelosi and Minority Leader McCarthy:

On behalf of the Energy Marketers of America (EMA), I write to you regarding the “Consumer and Fuel Retailer Choice Act of 2022,” (S. 5145) that would allow the sale of gasoline containing 15 percent ethanol (E15) to be sold throughout the year. EMA fully supports renewable fuels that are compatible with existing underground storage tank systems (USTs). Unfortunately, most fuel marketers are unable to sell E15 because it is not compatible with many UST system components. EMA is willing to support S. 5145 on the condition that Congress supports small businesses by providing sufficient funding for UST system compatibility upgrades.

The Energy Marketers of America is a federation of 47 state and regional trade associations representing family-owned and operated small business energy marketers throughout the United States. Energy marketers represent a vital link in the motor and heating fuels distribution chain. EMA members supply 80 percent of all finished motor and heating fuel products sold nationwide including renewable hydrocarbon biofuels, gasoline, diesel fuel, biofuels, heating fuel, jet fuel, kerosene, racing fuel and lubricating oils. Moreover, energy marketers represented by EMA own and operate approximately 60,000 retail motor fuel stations nationwide, supply motor fuels to an additional 40,000 gas stations and heating fuel to more than 5 million homes and businesses.

The U.S. EPA shares EMA’s concern about E15 UST system compatibility in an EPA guidance document titled “*E15’s Compatibility with UST Systems*” which states, “[m]ost older and even some newer existing UST systems (which includes but is not limited to tanks, pumps, ancillary equipment, lines, gaskets, and sealants) are not fully compatible with E15 and require modification before storing E15. For example, the actual tank is often compatible with E15, but some of the connectors and pump components may not be.”<sup>1</sup>

Unfortunately, the current 50/50 cost sharing formula for the United States Department of Agriculture’s (USDA) Higher Blends Infrastructure Incentive Program (HBIIP) does not provide a strong enough incentive for small business energy marketers to make compatibility upgrades. UST system retrofits or replacement can cost more than \$100,000 per site in capital expenditures. These expenditures are far beyond the ability of small business fuel retailers with multiple sites to pay.

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<sup>1</sup> “E15 Compatibility with UST Systems Statement,” January 2020  
<https://www.epa.gov/sites/default/files/2020-01/documents/e15-ust-compatibility-statement-1-23-20.pdf>

Therefore, we ask Congress to appropriate sufficient funding for USDA's HBIIP with the federal government covering 80 percent of the capital expenditures associated with UST system upgrades to entice small businesses to make necessary upgrades. Additionally, we request that 50 percent of the grant program funding be set aside for small, independent fuel marketing businesses with less than 500 employees. This funding is vital to ensure the continuity of the energy distribution chain nationwide.

As an organization representing small business marketers in 47 states, we stand ready to work with you to ensure E15 can safely and legally be sold nationwide.

Sincerely,

A handwritten signature in black ink, appearing to read "Rob Underwood". The signature is fluid and cursive, with a long horizontal stroke at the end.

Rob Underwood  
Energy Marketers of America  
President

CC: Sen. Tom Carper, Chair – Senate Environment and Public Works Committee  
Sen. Shelley Moore Capito, Ranking Member – Senate Environment and Public Works Committee  
Rep. Frank Pallone, Chair – House Energy and Commerce Committee  
Rep. Cathy McMorris Rogers, Ranking Member – House Energy and Commerce Committee  
Sen. Deb Fischer (R-NE)  
Sen. Amy Klobuchar (D-MN)  
Rep. Adrian Smith (R-NE)  
Rep. Angie Craig (D-MN)