ENERGY MARKETERS OF AMERICA ISSUE BRIEF

Corn Ethanol Mandate Reform

E15 Summertime Waiver

The Energy Marketers of America (EMA) understands the increasing dismay of American consumers resulting from rising gasoline prices and energy costs. No one likes high motor fuel prices, notably the small business energy marketers EMA represents. The question of how to reduce prices at the pump is not an easy one to answer.

Recently, the Biden Administration announced the EPA will use its emergency powers to temporarily lift the ban on E15 sales during the summer months. Also, members of congress and some state governors are requesting the EPA to lift the E15 ban. The assumption is that lifting the ban will increase supply and reduce the price of gasoline at the pump. However, there are many factors that determine gasoline prices, including the cost of crude oil, inflation, supply chain disruptions, transportation costs, speculation in the commodities futures market, credit card interchange fees, boutique fuel costs, federal/state taxes and global uncertainty. We urge Congress and the Administration to consider the following when considering lifting the summertime E15 ban:

- **E15 Marketing Confusion:** The Administration must assess whether allowing fuel marketers to sell E15 this summer will have a corresponding effect of decreasing motor fuel prices. Unlike the few large multistate retail marketers with upstream blending operations, most retail fuel marketers do not have the ability to generate ethanol blending credits under the RFS which can be sold and the proceeds passed down to reduce prices at the pump. These small energy marketers are branded by the major refiners. Refiners typically do not generate and sell blending credits that can be passed down to small business retailers in order to reduce prices at the pump. Instead, these refiners must purchase credits from blenders in order to meet their annual volumetric blending obligation under the RFS. As a result, increasing the volume of ethanol in gasoline to 15 percent will only result in reduced prices at the pump for a small fraction of all retail gasoline stations operating nationwide. Moreover, any consumer cost savings from the "low cost" E15 at the pump are likely to be wiped out because consumers are purchasing fuel with 33 percent less energy content per gallon than conventional gasoline.
- **Congress and the Courts Clearly Limit Ethanol to 10 Percent During the Summer Months**: While EPA has previously exercised its waiver authority under Clean Air Act Section 211(c)(3)(C)(ii), commonly in the wake of hurricanes near the end of the summer driving season, the statute indicates that the waiver is intentionally limited in terms of time and geographic scope. Unless Congress clearly expands the EPA's statutory waiver authority, the Administration must carefully weigh its impact on the nation's fuel supply and distribution network and the uncertainty resulting from the probable corresponding legal challenges that will follow.
- **UST System Compatibility Issues:** Most fuel marketers cannot offer and sell E15 because it is not compatible with most retail underground storage tank systems currently in operation across the U.S. Look no further than EPA's document from January 2020 entitled *E15's Compatibility with UST Systems* which states, "Most 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. That can lead to leaks. Dispensers are not part of the UST system, by definition, but face the same compatibility concerns." UST system retrofit is not an option because: the $100,000 plus per site capital expenditure is out of reach for most retailers; the downtime for retrofitting retail sites would limit fuel supply and raise prices at the pump; and there are

not enough equipment or vendors available to retrofit the majority of retail fuel stations nationwide. For this reason, state and federal laws prohibit the sale of E15 from these UST systems.

- **RIN Costs:** D6 ethanol RIN price records that had held since 2013 have been broken numerous times in the last two years. On a per-gallon basis, this would indicate RFS compliance adding as much as 23-cents to the cost of fuel production. Bottom line: RFS compliance costs increase prices at the pump.

Corn Ethanol Mandate Reform Efforts

EMA believes the solution to the E15 problem is best met through reform of the RFS itself.

- EMA supports setting the maximum volume of ethanol content in gasoline at 9.7 percent of projected annual gasoline demand as determined by the EIA. The 9.7 percent limit is necessary because the 15-year gasoline demand projections (at E10 levels) used by Congress to determine annual volumetric ethanol blending mandates under the RFS are far too high. Due to the incorrect demand projection, no additional ethanol volume can be blended into the nation's fuel supply without moving to an E15 blend.

EMA Related E15 Positions

Small Refinery Exemptions: EMA does not have a position on whether small refinery exemptions under the RFS should be limited. However, EMA opposes rolling over and reallocating the blending volumes exempted to subsequent annual blending mandates if the total volume would go beyond 9.7 percent of projected demand.

"The Ask" *(Committees: House Energy and Commerce; Senate Environment and Public Works; All lawmakers)*
UST system compatibility issues with E10 plus blends exist and we urge you to support efforts to protect motorists and allow all energy marketers to compete on a level playing field. Support setting the maximum volume of ethanol content in gasoline at 9.7 percent of projected annual gasoline demand as determined by the EIA.

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