

## Underground Storage Tank (UST) System Compatibility Upgrades and RVP Summertime Fuel “Opt-Out”

### Background

EMA and its members fully support the sale and distribution of all liquid motor and heating fuels including renewable fuel blends mandated under the Renewable Fuel Standard’s (RFS) and urge Congress to appropriate at least \$1 billion for small to medium sized companies to make upgrades, as required, to ensure underground storage tank (UST) systems and dispensers are compatible to support E-15 sales.

Since 1988, U.S. Environmental Protection Agency (EPA) UST system regulations have required fuel to be stored in systems compatible with the type of fuel being stored. Underground storage tanks are one of the many components in a UST system for which gas station owners must ensure compatibility. In addition to UST systems, fire codes require motor fuel dispensing systems (including hoses, nozzles, swivels, and break-aways) to be compatible with the type of fuel dispensed. Surveys have shown that the cost of inspecting and making necessary upgrades to bring existing UST systems into compliance with the National Fire Protection Association (NFPA) and UL specifications can cost \$250,000 or more per UST system. Unfortunately, the costs to upgrade UST systems and dispensers that support E-15 sales create significant economic burdens for these small business owners. Additional funding is needed to ensure safe and efficient UST systems are in place to allow all fuel marketers to offer and sell E15.

### EPA UST Statement and State Specific UST Upgrade Costs

This reality is supported by EPA’s January 2020 opinion entitled *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 many piping joints and connectors and pump, dispenser, and release detection components may not be.” Fuel compatibility is essential not only for supplying fuel to end users through existing petroleum storage and distribution infrastructure, but also to meet customer expectations for quality, performance and operability.

Minnesota<sup>1</sup>, Iowa<sup>2</sup> and North Dakota’s<sup>3</sup> data include the entire UST system components: tanks, product lines, release detection components, submersible pumps, probes, drop tubes, spill buckets, dispenser hanging hardware, piping, glues, seals, gaskets and dispensers. In Minnesota alone, the estimated cost to upgrade UST systems is over \$1 billion. The Nebraska<sup>4</sup> fire marshal’s data includes only the tank (most tanks are E100 compatible but 381 tanks in Nebraska still need to be replaced). UST replacement costs can exceed \$250,000 per UST system which is an extremely high cost for small businesses to provide consumers with the option to purchase E10 plus blends.

### USDA’s Higher Blend Infrastructure Incentive Program (HBIIP)

The Inflation Reduction Act (IRA) included \$500 million for United States Department of Agriculture’s (USDA) Higher Blend Infrastructure Incentive Program (HBIIP) to increase the availability of higher blends of ethanol, such as E15 plus blends. HBIIP grants support transportation fueling, fuel distribution, and home heating oil distribution facilities, lowering out-of-pocket costs for businesses to install or upgrade fuel dispensers, storage

<sup>1</sup> MPCA E-15 Underground Storage Tank System Upgrade Estimates (2023) available [here](#).

<sup>2</sup> Fuel Iowa UST System Upgrade Estimates (2023), available [here](#).

<sup>3</sup> NDPMA UST Compatibility and Upgrade Assessment (2023) available [here](#).

<sup>4</sup> Nebraska State Fire Marshal, Number of tanks compatible and not compatible with ethanol blends (2023) available [here](#).

tanks and systems, and other related equipment. Unfortunately, the current \$500 million HBIIP program is not enough for small business energy marketers to make upgrades if needed to ensure compatibility. EMA encourages Congress to appropriate at least \$1 billion for HBIIP and include language ensuring that small to medium sized companies are given the fair opportunity to make necessary upgrades to ensure underground storage tank (UST) system compatibility. The cost to hire a grant writer ranges from \$5,000 - \$10,000 with no guarantee of receiving an HBIIP award. In addition to the cost of the grant writer, applicants are spending an average of 80+ man hours of their own on these applications. Those hours are coming from well-paid employees at a significant cost. For the smallest businesses, they simply do not have the time or resources to navigate USDA's application process.

### **RVP Summertime Fuel “Opt-Out”**

The EPA granted the petition of 8 state governors (Illinois, Iowa, Minnesota, Missouri, Nebraska, Ohio, South Dakota and Wisconsin) to remove the 1 pounds per square inch (psi) Reid vapor pressure (RVP) volatility waiver for E10 blends in their states. The decision stems from a petition by a group of Midwest governors to permit the summertime sale of E15 in their states, which was authorized under a provision in the Clean Air Act to permit an exclusion from the 1 psi waiver for E10 upon notification by a governor that the higher RVP limit will increase air emissions in that state. In short, the EPA decision will require a lower-volatility conventional gasoline before oxygenate blending (CBOB) in the 8 petitioning states resulting in a lower-volatility E10 blend. The removal of the 1-psi waiver does not apply to the 42 non-petitioning states. In these states, the sale of E15 is still prohibited between June 1 and September 15 and E10 blends remain subject to the 1-psi RVP waiver.

EMA is concerned that the 1 psi exclusion waiver will require the creation of a boutique fuel exclusive to the petitioning states, thus limiting gasoline supply to the region. The ability to adapt to the 9.0 psi standard depends on refiner willingness to invest in infrastructure necessary to produce low-RVP E10 to the 8-state region. Site specific limitations such as space to add extra storage capacity and the variety of crude oil types processed will also determine whether a refinery can switch to low-RVP E10 production. To avoid supply disruptions, pipeline operators will need to adjust delivery operations and provide additional breakout stations to ensure sufficient supply of RVP compliant E10 reaches the petitioning states. Another option available to avoid supply disruptions would be for one or more of the petitioning states to opt into the federal RFG program through amendment of State Implementation Plans. In the most unlikely scenario, refiners could simply switch to E15 blends for distribution downstream to ensure supply. Such a move would raise substantial UST compatibility concerns for retail marketers. A study conducted by Baker & O'Brien found that eliminating the RVP waiver for summertime E10 and introducing a new gasoline blend to just the petitioning states would likely cost \$500-\$800 million.<sup>5</sup> EPA determined the request would result in a shortage of gasoline in the petitioning states for summer 2024, therefore, deciding to delay implementation until summer 2025 for the petitioning states.

**“The Ask”** (*Committees: House & Senate Appropriations, House Energy and Commerce; Senate Environment and Public Works; All lawmakers*)

- Urge Congress to appropriate over \$1 billion for small to medium sized companies to make necessary upgrades to ensure underground storage tank (UST) system compatibility.

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**EMA Staff Contacts:** Rob Underwood, [runderwood@emamerica.org](mailto:runderwood@emamerica.org); Austin Harrison, [austin.harrison@squirepb.com](mailto:austin.harrison@squirepb.com)

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<sup>5</sup> Bloomberg Business, Midwest US Ethanol Push Seen Lifting Gasoline Costs by 12 Cents a Gallon, (Feb. 15, 2020, online) available [here](#).