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Background

The Energy Marketers of America (EMA), formerly known as the Petroleum Marketers Association of America (PMAA), appreciates the opportunity to provide comments on the Environmental Protection Agency's (EPA's) Proposed Rule for E15 Fuel Dispenser Labeling and Compatibility with Underground Storage Tanks, published in the Federal Register on January 19, 2021. EMA is a federation of 47 state and regional trade associations representing 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 and supply heating fuel to more than 5 million homes and businesses.

The vast majority of energy marketers represented by EMA qualify as small businesses under U.S. Small Business Administration size categories. EMA and its members support the Renewable Fuels Standard (RFS) so long as obligated volumes are based on market demand and do not result in fuel blends that are noncompatible with storage and dispensing equipment at retail fueling stations.

EMA supports the Renewable Fuel Standards' twin goals of moving the United States toward greater energy independence and security while increasing the production of clean renewable fuels. Energy marketers are willing to sell any liquid fuel that is compatible with existing storage and dispensing equipment, as well the equipment it powers. Fuel compatibility is essential not only for supplying fuel to end users through petroleum storage and distribution infrastructure already in place, but also to meet customer expectations for quality, performance and operability.

E15 Compatibility Issues

Enabling E10 certified double walled components with interstitial monitoring deemed compatible with higher ethanol blends does little to reduce risk of release from noncompatible equipment. It is likely that less than 10 percent of UST systems are fully equipped with secondary containment and interstitial monitoring. Retrofitting the remaining systems to prove compatibility with higher blends can be cost prohibitive, especially for smaller marketers. While many underground storage tanks and piping may be compatible with ethanol blends over E10, sealants, gaskets and other materials used to connect piping to tanks and equipment, release detection and other monitoring equipment, as well as dispensing equipment are not. Gasoline blends greater than E10 ethanol can quickly crack, dissolve, or corrode rubber seals, gaskets, plastic sump components, piping and dispenser equipment.

In January 2020, EPA's Office of Underground Storage Tanks (OUST) highlighted a particularly alarming compatibility issue regarding "pipe dope" in an E15 compatibility statement.[1] Pipe dope is the key to preventing leaks at connections in UST system piping. Pipe dope is used to hold together each threaded connection in the underground pipes that carry

[1] https://www.epa.gov/sites/production/files/2020-01/documents/e15-ust-compatibility-statement-1-23-20.pdf

fuel from underground storage tank to pump dispensers on the island where consumer fueling occurs. There are several connections held together by pipe dope in a six- dispenser UST system. In most cases, pipe dope used in UST systems is not compatible with ethanol blends greater than E10.

According to recent EPA OUST UST Guidance; "Higher-ethanol compatible pipe dope was available beginning around 2007. Despite that, UST systems installed then and since to store lower levels of ethanol, such as E0 or E10, probably have pipe dope compatible only with lower levels of ethanol. Storing greater than 10 percent ethanol in those UST systems means the pipe dope is incompatible. Because higher-ethanol compatible pipe dope is more expensive, pipe dope compatible only with lower levels of ethanol to be stored in those UST systems may have been used, rather than higher-ethanol compatible pipe dope. Liquid tight seals at joints in the UST system are essential in preventing releases of regulated substances to the environment. If pipe dope or sealants are incompatible with the fuel stored, they may lose their ability to seal properly and release fuel to the environment. This means an owner or operator considering storing regulated substances containing greater than 10 percent ethanol in a system, which was not explicitly installed with the intent of storing regulated substances with greater than 10 percent ethanol, will presumably need to modify each threaded connection point where pipe dope seals the threads. To avoid violating the compatibility requirements in 40 CFR 280.32, each thread or junction must be re-sealed with compatible pipe dope if owners and operators wish to store ethanol blends greater than 10 percent and they currently have pipe dope incompatible with such blends in their UST system. Otherwise, they may not store those blends. In some UST systems, these joints may be buried beneath the surface and not in contained sump areas; it may be necessary to excavate to access them."[2]

Furthermore, adding an ethanol compatible pipe dope to an existing pipe connection is not as simple as unscrewing a fitting, adding pipe dope, and replacing the fitting. Most UST regulations consider this to be a major modification to the UST system requiring a permit, certified installer, inspection, and a tightness test. All of which add significant expense and time to accomplishing this upgrade.

State Tank Fund Concerns

EMA is also concerned about the impacts that the proposed rule will have on state tank funds which could be at grave risk of insolvency if there are a significant number of new releases attributable to compatibility. Non compatibility with existing equipment would generate a large number of claims that will quickly overwhelm state tank funds. As mentioned previously, UST system compatibility issues with secondarily contained systems, piping, pipe dopes, and sealants could cause new releases that will impact these State funds.

Finally, even if EPA changes compatibility requirements, State Fire Marshals and OSHA requirements for compatibility remain in place. It is unlikely the fire code or OSHA regulations change compatibility requirements. It is even more unlikely that the 38 states with UST program authority would adopt EPA's proposed compatibility requirements.

E15 Compatibility Costs

Removing and replacing UST piping is a prohibitively expensive process. Piping can be buried four or more feet underground depending on the size of the tank and number of dispensers. Asphalt and concrete over piping must be jack-hammered away. Dirt and backfill must be excavated from over and under the piping to provide access. All piping connections including, pipe to pipe connections, pipe to containment sumps connections, pipe to dispenser connections, etc.; must then be disconnected, (if possible), carefully cleaned, fitted and otherwise prepared for reconnection with E15 compliant pipe dope. All this must be done by skilled tank installers. During this process, which can take up to three or more days, retail sites must be closed, resulting in significant lost sales volume. This process alone could cost small business energy marketers hundreds of thousands of dollars in installation expense and lost sales revenue. This cost is far beyond the capabilities of small business energy marketers who operate 94 percent of retail gasoline sites. Moreover, E15 compatibility concerns are not limited to pipe dope alone. It is not hard to imagine the impact a compatibility retrofit of this scope would have on both the price and availability of gasoline nationwide.

EMA Opposes Removal of the E15 Labeling Requirement

EMA opposes the potential removal of the E15 labeling requirement in the proposed rule due to the ongoing risk of

[2] https://www.epa.gov/ust/underground-storage-tank-ust-technical-compendium-about-2015-ust-regulation#compatibility

consumer misfuelling and the liability issues misfuelling raises for retailers. Auto manufacturers extend warranties on existing vehicle fleets up to E10. Most have not been willing to amend their warranties to handle blends above E10 because tests have shown E15 could damage engines, fuel pumps and other system components. This position did not change after EPA approved E15 for 2001 and newer vehicles. Elimination of the labeling could lead to problems for vehicle owners with model year 2000 and older vehicles as well as newer vehicles and increased problems for owners of non-compatible small engines.

EMA supports changing the notification on the current E15 dispenser label to add language alerting consumers to check the manufacturer warranty in their owner's manual for compatibility with E15 fuel. The justification for the change is that while there may be fewer model year 2000 and older cars on the road, manufacturers will void warranties of many makes and models of newer vehicles if E15 is used. In summary, EMA urges EPA to add the following to the current E15 dispenser label, "Check Owner's Manual for Compatibility with E15."

Current E15 Marketing as "Unleaded88"

EMA is also concerned about the current marketing of E15 with terms such as "Unleaded 88." EMA believes consumers are likely confused by alternate names for E15 and the EPA should ban the use of such terms and require that the nozzle dispensing E15 be specifically identified as E15 so that the consumer is aware of the product being purchased.

Thank you for the opportunity to comment on this important issue for small business energy marketers. Please let me know if I can provide any additional information.

Sincerely,

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