



March 18, 2022

The Honorable Joseph R. Biden
President of the United States
1600 Pennsylvania Avenue, N.W.
Washington, D.C. 20510

Dear Mr. President:

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 we represent. Russia's acts of aggression are unacceptable. We stand with the people of Ukraine and commend their resilience in defending against Russia's unprovoked invasion.

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 question of how to reduce prices at the pump is not an easy one to answer. There are numerous factors, including crude oil and refinery costs, inflation, supply chain disruptions, transportation costs, speculative bets in the futures markets, credit card interchange fees, boutique fuel costs, federal/state taxes and global uncertainty. Members of Congress and Governors from the Midwest as well as the ethanol industry suggest a nationwide relaxation of the summer-blend requirements for gasoline as one method to lower pump prices. These include using authorities under Sections 211(c)(3)(C)(ii) or 211(h)(5) of the Clean Air Act as well as EPA exercising enforcement discretion that would allow the sale of gasoline containing up to 15 percent ethanol (E15). While EMA understands that such relaxation is under active consideration, we urge the Administration to use caution when analyzing these options for at least three reasons:

- First, the Administration must assess whether allowing fuel marketers to sell E15 this summer will have a corresponding effect of decreasing motor fuel prices. Most fuel marketers do not hold positions at the terminal rack which means they are unable to generate credits for blending ethanol into gasoline. The few marketers who hold positions at the rack can generate credits and sell them to refiners (obligated parties) for compliance with the RFS. Branded marketers, who sell the majority of all gasoline consumed nationwide, are unlikely to receive similar price subsidies because refiners are buying credits, not selling them. So when analyzed in conjunction with the RFS, we believe that increasing the amount of allowable ethanol in a gallon of gasoline will result in minimal cost savings for the consumer. Please note that the energy content of ethanol is about 33 percent less than pure gasoline. In other words, ethanol needs to be priced lower than gasoline to make up for the reduced energy content.
- Second, 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 plain text of 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 needs to carefully consider the dangerous precedent it would create and the potential, corresponding legal challenges.

- Third, there are considerable complications with EPA unilaterally deciding not to enforce the summer blend restrictions. Most refiners and 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 and are a critical part of the fueling system for our constituents."¹ For this reason, state and federal laws prohibit the sale of E15 from these UST systems. From a practical standpoint, non-enforcement would likely create supply imbalances in different parts of the country, resulting in localized price spikes at the pump, particularly affecting rural and lower-income communities.

As an organization representing small business marketers in 47 states, we support efforts to decrease the price Americans pay at the pump. However, we urge the Administration to engage a robust group of stakeholders to assess whether allowing E15 to be sold this summer will have the desired result for consumers and their pocketbooks. EMA stands ready to assist and participate in those discussions.

Sincerely,



Rob Underwood
Energy Marketers of America
President

cc: Hon. Michael S. Regan, Environmental Protection Agency
Hon. Jennifer Granholm, Department of Energy

¹ "E15's Compatibility With UST Systems," EPA Office of Underground Storage Tanks, January 2020, <https://www.epa.gov/sites/default/files/2020-01/documents/e15-ust-compatibility-statement-1-23-20.pdf>