

June 9, 2016

**Re: PMAA Testimony before EPA Public Hearing, Kansas City, Missouri**

Thank you for the opportunity to submit comments today on behalf of the Petroleum Marketers Association of America (PMAA) which is a federation of 47 state and regional associations representing approximately 8,000 independent petroleum marketers nationwide. For the record, my name is Matt Bjornson, I am a third generation partner in a North Dakota based family owned petroleum business as well as the former Chairman of PMAA. Our business has been a long time retailer of ethanol blends. Our commitment to the sale of higher blends has included significant investments in excess of one hundred thousand dollars to legally store and dispense blends over E10. Most of my closest friends are farmers, and I fully support agriculture and recognize its importance to the rural communities in which some of us are so fortunate to live.

PMAA agrees with the EPA decision to adjust downward the statutory volumetric blending obligations established by Congress under the RFS standard. The 2007 law amending the RFS program contains a general waiver authority that allows the EPA to waive the RFS volumes mandated by Congress, in whole or in part, based on a determination that implementation of the program would cause severe economic or environmental harm, or is based on inadequate domestic supply. PMAA appreciates the EPA exercising its statutory authority to adjust the renewable volumetric blending targets originally set by Congress.

PMAA believes there is no doubt severe economic harm and supply disruption would occur if retailers are forced to sell blends of ethanol greater than E10 just to satisfy arbitrary volumetric blending obligations established by Congress almost 10 years ago. The vast majority of the nation's retail outlets, 95 percent of which are owned by independent petroleum marketing businesses, cannot legally store and dispense blends of gasoline over 10 percent ethanol. Existing equipment is certified for a maximum E10 blend and no more. Currently, there is no viable way for-UST system operators to demonstrate that existing equipment is compatible with gasoline blends over E10. The EPA Office of Underground Storage Tanks (OUST) put forth their best efforts to expand compatibility demonstrations beyond UL certification. Unfortunately, none of the three options for certifying compatibility of existing equipment; certification by a national standard setting authority, manufacturer certification, or through state certification programs are viable. The preeminent national standard setting authority, Underwriters Laboratory, has refused to recertify existing E10 equipment for blends higher than 10 percent ethanol. Manufacturers of UST E10 equipment have recertified very few system components other than storage tanks themselves, just one component of a UST dispensing system. Finally, state underground storage tank programs do not have the resources needed to develop an alternative method of demonstrating compliance that would satisfy federal and state fire code compatibility requirements.

To deliver adequate supply in the marketplace requires retail outlets that can legally dispense the fuels desired by the consumer. It's important to note that a retail location built today **will not** be compatible to dispense higher blends unless it is specifically built to be compatible. The Chairman of the Board of the North Dakota Petroleum Marketers is a manager for a farmer owned cooperative. They recently built a new travel plaza and asked for two bids on fuels infrastructure, one legal for everything up to E10 and one legal for anything up to E85. They invested in the fully legal for higher blends infrastructure to the tune of an additional \$178,260. The return on that very large infrastructure investment has been dismal to say the least. They are averaging only a total of 92 gallons a day of gasoline blends over E10, just 1.5 percent of total gasoline gallons sold each day.

As I previously mentioned, our family business also has invested in legal infrastructure for higher blends. At that location where we spent over \$100,000 to do so we averaged 58 gallons a day of blends over E10 in 2015. A few years ago, the North Dakota Department of Commerce had a Blender Pump Program. A follow up survey was conducted by the North Dakota Petroleum Marketers Association which found that after the "commitment to offer higher blends" conditions were met, that 64 percent of respondents had discontinued or planned on discontinuing the sale of E85 and other higher blends.

The fallacy of the claim that new installations of blender pumps equates huge numbers of higher blend gallons sold is pretty plain to see.

Meanwhile, the USDA asserts that in North Dakota, \$1.2 million dollars were spoken for in the grant process. However, when I talked to the administrator of the ND Biofuel Infrastructure Partnership (BIP), not a single grant application has been received in the office at this point. The office has had some inquiries, but no actual grant applications have arrived. So, zero dollars have been spoken for or handed out in ND, contrary to what the USDA has reported.

We are in the business to sell consumers what they demand. Any consumer demand has to be met in a way that is legal, safe, and without undue threat to the environment. When it comes to the sale of motor fuels our companies are regulated by federal and state UST regulations, state fire codes, IFC and NFPA Flammable and Combustible Liquids Code, and U.S. Department of Labor OSHA regulations. Violating any of these regulations puts insurance coverage for pollution and liability claims at risk and potentially violates loan covenants. Let's face it, we are not talking about selling apple juice here, people can get hurt when equipment fails and you sure don't want petroleum blended with ethanol in your drinking water.

The infrastructure obstacles we keep bringing forth are widely studied by EPA OUST, The Association of State and Territorial Solid Waste Management Officials, The Department of Energy, GAO, The National Renewable Energy Laboratory, and UL. NREL and UL found a reduced level of safety from using equipment certified for E10 for higher blends. In fact, one of their studies found 70 percent of the in-use equipment and 40 percent of new equipment failed compatibility tests.

Our critics don't believe there is an E15 compatibility problem for retailers. They claim that more than 90 percent of existing USTs are certified by manufacturers to store E15 blends. That may be true with regard to *tanks*. But tanks are only one piece of equipment in a multi component gasoline storage and dispensing system. Most other UST system components, from piping to fuel dispensers currently in service, are not certified for E15 use and never will be under existing equipment compatibility requirements. The truth is that the only alternative left for retailers, should the EPA move to higher ethanol blends to meet the requirements of the RFS program would be to replace existing equipment with new E15 certified systems. Unfortunately, there is not enough money, time, available equipment or installers to complete such an enormous undertaking. Without a legal way to demonstrate UST equipment compatibility short of installing all new equipment, E15 cannot be mandated through the RFS program without throwing the nations fuel distribution chain into long term chaos.

In conclusion, PMAA believes that the proposed volume of 14.8 billion gallons for 2017 is too high. Judging from estimates on total consumption from EIA, we believe EPA is being overly optimistic on sales estimates of higher blends. The Oil Price Information Service (OPIS) just reported that Citibank® research indicates 2016 RIN generation could miss the proposed RFS mandate by 600 million. Therefore, PMAA recommends that EPA set the 2017 ethanol blending requirement at a safe and reasonable number of 13.5 billion gallons. PMAA thinks this is a more accurate estimate of future gasoline market demand given greatly improved MPG standards and slower than expected economic recovery.

We appreciate the efforts of EPA in trying to handle a very difficult situation.

Sincerely,

Matt Bjornson  
Former PMAA Chairman