



June 23, 2021

The Honorable Michael S. Regan
Administrator
Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Mr. Brian Deese
Director
National Economic Council
1650 Pennsylvania Avenue, N.W.
Washington, D.C. 20502

Dear Administrator Regan and Director Deese:

As you meet to discuss a reasonable path forward on the Renewable Fuel Standard (RFS), the Energy Marketers of America (EMA)¹, formerly known as the Petroleum Marketers Association of America (PMAA), requests that you consider the consequences the RFS places on small business energy marketers. EMA fully believes in renewable fuels and their importance in the liquid fuels market, and we are currently working with Congress to ensure that future federal grant funds be available for small business energy marketers to upgrade their underground storage tank system equipment to safely and legally sell E10 plus blends. However, if the RFS continues to go unchecked, the majority of retail sites across the country will be unable to legally sell the new product due to non-compatible underground storage tank (UST) system equipment.

EMA believes the solution to the current E15 crisis 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 were far too high. As the blending obligations of the RFS have increased and gasoline consumption has decreased, we have now hit the “ethanol blend wall” meaning if every gallon of gasoline in the nation was blended with 10 percent ethanol, we could not meet the RFS goals. This has raised the value of renewable identification numbers (RINs) which continues to erode obligated parties’ bottom lines, and therefore, grows increasingly likely that obligated parties may turn to large scale introduction of E15 blends nationwide to shore up sagging margins and/or go out of business. Both scenarios will result in higher prices at the pump. 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.

The Energy Marketers of America believes the inability of marketers to legally certify their equipment to be E15 compatible would cause severe economic harm through significant disruption of the gasoline supply and distribution network below the terminal rack. The EPA, the Occupational Safety and Health Administration (OSHA) and state fire regulations have essentially drawn a line in the sand by requiring all facilities storing and

¹ The Energy Marketers of America (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.

dispensing gasoline blends greater than E10 to prove UST system compatibility with higher ethanol content fuels². The often-impossible task of demonstrating compatibility with E15 for UST equipment currently in the ground has put the clear majority of EMA's members, the consuming public and the nation's gasoline supply and distribution chain in a precarious situation. The number of UST systems that are unable to meet legal compatibility certification is significant. For those sites, the only option is to upgrade components or potentially the entire system to those that are of known compatibility.

Furthermore, EPA's proposed UST compatibility rule³ currently under consideration is not a viable solution. Even if the proposed rule is finalized, proof of compatibility would still be required by state fire marshals, OSHA regulations and insurance carriers. Moreover, the compatibility rule would not apply to all state UST programs and would jeopardize the solvency of state tank funds due to a marked increase in E15 related releases from E10 certified UST systems.

Small business energy marketers play an integral role in the distribution of liquid fuels and 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 energy storage and distribution infrastructure already in place, but also to meet customer expectations for quality, performance and operability.

To point out the facts of infrastructure compatibility issues is not being anti-ethanol. To the contrary, we must ensure that ethanol continues to be sold in a safe and legal manner for it to have a promising future.

Please feel free to reach out if you have any questions.

Sincerely,

Rob Underwood
President
Energy Marketers of America (EMA)

² E15's Compatibility with UST Systems; <https://www.epa.gov/sites/production/files/2020-01/documents/e15-ust-compatibility-statement-1-23-20.pdf>

³ Proposed Rule for E15 Fuel Dispenser Labeling and Compatibility with Underground Storage Tanks; 40 CFR Parts 80, 280, and 281. [EPA-HQ-OAR-2020-0448; FRL-10015-80-OAR] RIN 2060-AU92; January 19, 2021