



May 1, 2015

The Honorable Fred Upton  
Chairman  
Committee on Energy and Commerce  
House of Representatives  
2125 Rayburn House Office Building  
Washington, DC 20515

The Honorable Frank Pallone  
Ranking Member  
Committee on Energy and Commerce  
House of Representatives  
2125 Rayburn House Office Building  
Washington, DC 20515

Dear Chairman Upton and Ranking Member Pallone:

A letter dated March 31, 2015 from the Renewable Fuels Association (RFA) claims the Petroleum Marketers Association of America (PMAA) provided misleading and erroneous statements in written comments to the Committee regarding the economic competitiveness of ethanol, E10 plus blends' compatibility with existing underground storage tank (UST) equipment at retail gasoline stations, the cost of installing infrastructure to distribute blends of gasoline containing more than E10 and the retail sectors' acceptance of E85 ethanol blends. RFA's letter demonstrates a fundamental misunderstanding of the retail gasoline market and the role ethanol plays in it. PMAA would like to set the record straight.

PMAA is a leading national trade association in the petroleum industry representing 8,000 independent petroleum marketing companies. Organized as a national federation of 47 state and regional trade associations that represent wholesalers and retailers of gasoline, diesel, heating oil, lubricants and renewable fuels, PMAA companies own 60,000 retail fuel outlets, such as gas stations, convenience stores and truck stops. Additionally, these companies supply motor fuels to 40,000 independently owned retail outlets and heating oil to over eight million homes and businesses. Over the last decade, major oil companies have largely exited the retail motor fuels marketplace. The vast majority of PMAA companies qualify as small businesses under U.S. Small Business Administration size categories. Approximately 96 percent of U.S. gas stations are owned by independent retailers.

First, PMAA stands by its comment that low oil prices impact the competitiveness of ethanol blended fuel. This was clearly demonstrated during last November, December and January when ethanol prices were at par or greater than the price of gasoline. On this point, PMAA and RFA agree. PMAA's broader point is that price comparisons between ethanol and gasoline must be based on energy content rather than on price-per-gallon. This is because ethanol has significantly less energy content than gasoline. The U.S. Energy Information Administration (EIA) reports that "the energy content of ethanol is about 33 percent less than conventional gasoline, although this varies depending on the amount of denaturant that is added to the ethanol."<sup>1</sup> According to the EIA, this means fuel economy may decrease by up to 3.3 percent when using E10. Moreover, the Department of Energy reports the fuel economy of flex fuel vehicles using E85 decreases by 27 percent than when operating on conventional gasoline.<sup>2</sup> The DOE concludes that while E85 is typically cheaper per-gallon than gasoline, it is often more expensive on a cost-per-mile basis.<sup>3</sup> The data from the EIA and DOE clearly supports PMAA's statement that ethanol must be priced 30 percent lower than gasoline for motorists to achieve similar energy content. PMAA would also like to point out that we agree with RFA on the value of ethanol as a fuel oxygenate. However, RFA's criticism of PMAA on this issue misses the point. PMAA's comments were not about ethanol used at less than 10 volume percent, but ethanol used as *fuel* in volumes greater than 10 percent.

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<sup>1</sup> Source: <http://www.eia.gov/tools/faqs/faq.cfm?id=27&t=10>

<sup>2</sup> Source: [http://www.afdc.energy.gov/fuels/ethanol\\_benefits.html](http://www.afdc.energy.gov/fuels/ethanol_benefits.html)

<sup>3</sup> Source: <https://www.fueleconomy.gov/feg/ethanol.shtml>

Second, PMAA continues to maintain that E85 fueling pumps are unlikely to achieve meaningful growth without billions of dollars in government subsidies for installation of legally compatible underground storage tank systems and dispensers capable of handling higher content ethanol blends. Politically, such subsidies are unrealistic. In fact, PMAA expects a decline in E85 pumps as evidenced by the data PMAA shared from North Dakota and Minnesota included in our original comments to the Committee which was to illustrate what has happened in mature real world markets. Once all initial subsidies have ceased to artificially promote offering the product, (whether by infrastructure grants or marketing/pricing subsidies), E85 pumps in these states – some of the earliest installations in the nation – are declining in number. The decline was not caused by any conspiracy on the part of “the oil companies and their downstream partners” to do away with E85 as the RFA often contends. Instead, E85 pumps are declining because FFV owners are choosing to fill up with gasoline due to its 27 percent higher energy content and superior fuel economy. Given the slim margins on retail fuel sales, retailers are forced to convert slow moving E85 tanks back to gasoline in order to increase volume and maintain profitability. Consumer choice is the real reason E85 pumps are on the decline.

Third, PMAA flatly rejects the RFA’s assertions that current UST systems are compatible with higher blends of ethanol. The issue of UST system compatibility is first and foremost a legal question that the RFA completely ignores. EPA requires that all USTs must be “compatible” with the product they hold. Specifically, 40 CFR 280.32 states, “Owners and operators must use an UST system made of or lined with materials that are compatible with the substance stored in the UST system.” The EPA requires UST operators to demonstrate of the following equipment with higher ethanol blends: Tank or internal tank lining, piping, line leak detector, flexible connectors, drop tube, spill and overfill prevention equipment, submersible turbine pump and components, sealants (including pipe dope and thread sealant), fittings, gaskets, o-rings, bushings, couplings, boots, containment sumps (including submersible turbine sumps and under dispenser containment), release detection floats, sensors, and probes, fill and riser caps, and product shear valves.<sup>4</sup> The problem for underground tank owners is 99 percent of existing equipment currently in the ground is not *legally* certified as compatible with ethanol blends higher than 10 percent.

Moreover, there is no way UST owners can legally certify UST Systems as E15 compatible without an independent testing organization actually conducting tests. The traditional method for certifying compatibility is the Underwriters Laboratories’ (UL) stamp of approval. Manufacturers submit their equipment to UL and pay UL for testing and certification. Most UST components currently in the ground went through the UL testing and certification process before being installed. The vast majority of the current dispensing systems in use are all certified by UL for E10 service. Unfortunately, UL has refused to recertify equipment already in the ground for E15 use. Equipment manufacturers have no incentive to pay UL to conduct further testing on equipment that they have already sold especially on components that they may know were never manufactured for exposure to higher blends of ethanol.

To address this problem, EPA created additional methods tank owners could use to demonstrate E15 compatibility of existing equipment.<sup>5</sup> However, none of these methods have proved successful and have led to few instances of recertification. Without any means of legally certifying equipment compatibility, retailers are barred from using E15 under federal/state UST regulations,<sup>6</sup> NFPA 30 Flammable and Combustible Liquids Code,<sup>7</sup> and U.S. Department of Labor OSHA regulations<sup>8</sup>. Whether UST system components are *actually* compatible with E15 blends is still being debated. It is likely that some components are compatible while others are not. **Simply stating that UST system equipment is compatible without any legal means to prove it, as RFA does in its rebuttal letter, has no basis in law and is intended solely to distort the issue.** Actual compatibility does not rise to the level of legal compatibility under the regulations and standards that tank owners must follow to remain in compliance. Compatibility is a legal standard that RFA attempts to paper over with incomplete data, false accusations and wishful thinking.

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<sup>4</sup> U.S EPA Guidance: Guidance On Compatibility Of UST Systems With Ethanol Blends Greater Than 10 Percent And Biodiesel Blends Greater Than 20 Percent. <http://www.epa.gov/oust/compend/biofuels-compat-guidance.pdf>

<sup>5</sup> Ibid

<sup>6</sup> Ibid

<sup>7</sup> NFPA 30 2015 Edition Section (2.2.2)

<sup>8</sup> 29 CFR 1926.152

Finally, PMAA is standing by its \$200,000 cost estimate for UST equipment replacement necessary to demonstrate legal compatibility with E15 blends. RFA's statement that "some retailers will find the barrier to entry may be as low as \$1,100" is a distortion of the real costs associated with compatibility. RFA referenced a Petroleum Equipment Institute (PEI) report as the source for this cost. What RFA failed to disclose is the \$1,100 cost was for signs and labels at a site already fully E15 compatible from the tanks to the dispenser nozzle. Fewer than two percent of the UST systems nationwide are similarly equipped, and therefore, are not an indication of true cost to demonstrate compatibility. In the same PEI report, the nine other hypothetical tank systems examined estimated compatibility costs ranging from \$6,961 to \$310,000 which PMAA believes is a more realistic estimate on the higher end of the scale.

I want to thank you for this opportunity to correct the record. We would be happy to discuss this letter and our previous written comments submitted to the Committee should you have any questions or require additional information.

Sincerely,

A handwritten signature in dark ink, appearing to read "Dan Gilligan", with a stylized, flowing script.

Dan Gilligan  
PMAA President