

RFS REFORM

BACKGROUND

In April 2015, the EPA announced that 2014, 2015 and 2016 volumetric RFS blending mandates will be finalized by November 30, 2015. The EPA also set the same deadline for the 2017 volumetric mandate for biomass-based diesel. The new deadline is the result of a proposed consent decree in ongoing litigation against the EPA by the American Petroleum Institute (API) and American Fuel and Petrochemical Manufacturers (AFPM). Under the consent decree, the EPA said that it will propose 2015 RFS volumetric mandates by June 1, 2015 and finalize volumetric requirements for both 2014 and 2015 no later than November 30, 2015. Outside of the decree, the EPA will also propose 2016 RFS volumetric mandates by June 1, 2015 and finalize them by the November 30, 2015 deadline as well.

PMAA supports lowering the corn-based ethanol mandate to approximately 13 billion gallons and maintaining it at this level for the foreseeable future should prevent the U.S. from hitting the blend wall. Moving to higher ethanol blends including E15 is a major obstacle due to incompatibility with existing UST equipment and potential misfueling.

PMAA does not have concerns regarding the 2014 biodiesel blending volume, proposed at 1.28 billion gallons for 2014. PMAA supports the use of biodiesel blended with on-road diesel fuel as well as into heating oil, called **Bioheat®**, which lowers CO2 emissions. Because of biodiesel's high lubricity, it's needed in ULSD since lubricity is lost when removing the sulfur from traditional diesel fuel.

LACK OF UNDERGROUND INFRASTRUCTURE COMPATIBILITY WITH HIGHER ETHANOL BLENDS

Currently, gasoline retail infrastructure is certified by Underwriters Laboratories (UL) to dispense and store up to only 10 percent ethanol. This is a major impediment because federal, state, and local laws and regulations, national and international fire codes, as well as all commercial insurance policies, require the use of UL certified storage and dispensing equipment. Dispensing ethanol blends higher than 10 percent with non-certified equipment is, simply put, illegal. Moreover, E10 plus blends will lead to a significant increase in equipment failure. As a result, releases from UST systems will increase exponentially. Not only is this bad for the environment but would also bankrupt state underground storage tank clean up funds.

Retailers are not the only ones worried about compatibility of existing equipment with E10 plus blends. According to the Larry Gregory Consulting LLC March 2012 report, *A Comprehensive Analysis of Current Research on E15 Dispensing Component Compatibility*, "There may be increased risk from using existing dispensers; OSHA requires that dispensing systems be UL listed. Without this listing, retailers may expose themselves to lawsuits for negligence and invalidate important business agreements, such as tank insurance policies, state tank fund policies and business loan agreements."¹ Meanwhile, the National Renewable Energy Laboratory and UL tested the compatibility of new and used service station equipment. They found 70 percent of equipment currently in use as well as 40 percent of new equipment failed E15 compatibility tests². A brand new location built today would only be compatible if the equipment installed was specifically designed for E10 plus blends.

¹ Source: *A Comprehensive Analysis of Current Research on E15 Dispensing Component Compatibility* <http://www.api.org/~media/files/policy/fuels-and-renewables/e15-infrastructure-comprehensive-analysis.pdf> pg. 11

² Source: *A Comprehensive Analysis of Current Research on E15 Dispensing Component Compatibility* <http://www.api.org/~media/files/policy/fuels-and-renewables/e15-infrastructure-comprehensive-analysis.pdf> pg. 1

The Department of Energy (DOE) also has concerns with incompatible UST infrastructure. In a September 2013 report entitled, *Handbook for Handling, Storing and Dispensing E85 and Other Ethanol-Gasoline Blends*, the DOE notes that it is important for a service station to first determine what type of UST system it has before dispensing E10 plus gasoline blends.³ Unfortunately, nearly all retailers are unable to identify the type of adhesives, gaskets and connectors used in their UST systems in order to make a reliable determination of higher ethanol level compatibility.

Another report by the Association of State and Territorial Solid Waste Management Officials (ASTSWMO), states that compatibility of existing UST facilities is one of the biggest challenges and concerns with biofuel blend storage – “Many UST inspectors have seen the impact ethanol blended fuels starting with E10 can have on the corrosion of equipment with STP sumps, and an increased prevalence of leaks from equipment inside dispenser cabinets. Gaskets, adhesives, glues, and sealants (including the standard ‘pipe dope’ commonly used on older systems) have not always demonstrated compatibility even with E10 fuels. Compatibility issues have also been observed in some of the early generation flexible piping systems manufactured in the early to mid-1990s.”⁴

RETRO-FIT COSTS FOR COMPATIBLE EQUIPMENT

The cost to small business petroleum retailers for UST system retrofit would be enormous. We estimate that the average cost to retrofit a retail gasoline station to sell E10 plus blends to be \$200,000 per site. Replacement of piping alone would cost a minimum \$100,000. Such compliance costs would be staggering for small business retailers and would undoubtedly force many, particularly in those rural areas, to close down.

AUTO MANUFACTURERS AND E15 MISFUELING

Auto manufacturers extend warranties on existing vehicle fleets up to 10 percent ethanol. Most have not been willing to amend their warranties to use blends above 10 percent because tests have shown E15 could damage engines, fuel pumps, emission systems and other components. The auto manufacturers’ position on compatibility did not change after EPA approved E15 for 2001 and newer vehicles. We are also concerned that if an owner of a pre-2001 vehicle fills up with E15 gasoline, the retailer could be held liable for the resulting vehicle damage. The EPA’s remedy for misfueling is to require labels on dispensers warning consumers not to use E15 in non-compatible vehicles. Every retailer knows that this will not prevent misfueling. Studies show that consumers generally do not read dispenser labels and impulsively reach for the nozzle dispensing the product with the lowest price. Even a penny per gallon difference in price will drive consumer choice of fuel. Retailers should not be held liable for motorists who fail to read the labels on dispensers.

DEMAND FOR HIGHER ETHANOL BLENDS NOT MEETING EXPECTATIONS

It is unlikely E85 would satisfy RFS corn-based ethanol blending requirements. E85 is still considered a niche market and many of our member companies have yet to offer E85 since there are not enough E85 compatible vehicles on the road to make a modest return on investment. In some cases, FFV motorists might not even know that their vehicle can run on E85. Furthermore, E85 must be priced at least 30 percent lower than conventional gasoline for motorists to receive similar energy content at a competitive price given that ethanol has a lower BTU energy content compared to conventional gasoline.

In recent years, the ethanol industry has offered retailers lucrative deals to install compatible UST system equipment to facilitate higher ethanol blends to be sold. The objective is to have a few retailers offer higher ethanol blends which would entice more retailers to sell similar blends to remain competitive in the marketplace. The problem is there is not enough money to go around for all retailers to upgrade their UST equipment. Ethanol proponents also believe lucrative RIN values will lure retailers into compatible infrastructure investments. Unfortunately, small retailers do not have the luxury to participate in the RINs market and must buy pre-blended ethanol fuel at the rack. Refiners are unlikely to share RINs profits leaving retailers with hardly any options to invest in renewable fuels infrastructure.

³Source: *Handbook for Handling, Storing and Dispensing E85 and Other Ethanol-Gasoline Blends*
http://www.afdc.energy.gov/uploads/publication/ethanol_handbook.pdf pg. 10

⁴Source: *Compatibility of UST Systems with Biofuels* http://www.astswmo.org/Files/Policies_and_Publications/Tanks/2013.06-Biofuels_Compatibility-Alt_Fuels.pdf
pg. 5

We cannot envision meaningful growth in E85 without significant government subsidies provided to retailers to upgrade underground and aboveground infrastructure. The needed subsidies will be in the billions of dollars and we do not believe those subsidies are politically achievable.

“THE ASK”

Again, PMAA urges lawmakers to pressure EPA to lower the corn-based ethanol mandate to 13 billion gallons and maintain it at this level for the foreseeable future to prevent the U.S. from hitting the ethanol blend wall. If EPA doesn't maintain the corn-based mandate at or near the 13 billion gallon level, higher levels of ethanol will be required which will negatively impact petroleum marketers, motorists and the environment.

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