November 29, 2019

U.S. EPA
EPA Docket Center
Office of Air and Remediation Docket
Mail Code: 28221T
1200 Pennsylvania Ave. NW.,
Washington, D.C. 20460.


VIA ELECTRONIC SUBMISSION

BACKGROUND:

PMAA is a national federation of 47 state and regional trade associations collectively representing 8,000 independent petroleum marketing companies nationwide. Approximately 94 percent of U.S. gas stations are owned by small business independent retailers, represented by PMAA. We are not “Big Oil.” The vast majority of petroleum marketers represented by PMAA qualify as small businesses under U.S. Small Business Administration size categories.

Petroleum Marketers store and dispense a variety of finished liquid fuels including gasoline, diesel, biodiesel, E85, jet fuel, racing fuel, marine and locomotive fuel and heating oil. These companies and their customers benefit from the additional volume of liquid fuels that ethanol and biodiesel bring to the marketplace. PMAA and its members support the Renewable Fuels Standard (RFS) so long as obligated volumes are based on market demand and do not result in fuel blends that are noncompatible with storage and dispensing equipment at retail fueling stations.
COMMENTS:

PMAA supports the Renewable Fuel Standards' twin goals of moving the United States toward greater energy independence and security while increasing the production of clean renewable fuels. Petroleum marketers 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 petroleum storage and distribution infrastructure already in place, but also to meet customer expectations for quality, performance and operability.

However, PMAA supports a renewable fuels supply framework tied to market driven forces rather than arbitrary statutory volume mandates created over 15 years ago. Petroleum marketers believe the private market is best able to determine downstream customer demand for renewable fuels. Unfortunately, the current RFS regulatory framework attempts to do the opposite; create downstream customer demand by mandating supply. Consequently, the petroleum marketing industry is expected to sell more renewable fuel than customers want or need. This is the result when the nation’s fuel supply and distribution network is driven by farm policy and political considerations rather than by the law of supply and demand.

Accounting for and Reallocating Projected Displaced Fuel Volumes due to SREs

The supplemental proposed rulemaking seeks to adjust the percentage standard calculation that obligated parties use to determine their annual Renewable Volume Obligations (RVO). Specifically, the EPA wants to amend the definitions of "DE" and "GE" in the RFS standard percentage formula to account for the projected volumes of exempt gasoline and diesel fuel displaced in any given compliance year. The EPA is proposing to do this regardless of whether agency has issued SREs at the time annual RVOs are established. In other words, the projected displaced gallons from SREs would be reallocated to non-exempt obligated parties in the same compliance year.

PMAA has adopted an official policy of neutrality relating to Small Refinery Exemptions (SRE). We have no position on whether SREs are good public policy or not. Similarly, PMAA is not taking a position on the revised formula for reallocating projected displaced volumes. However, PMAA opposes any reallocation of displaced gasoline volumes lost to SREs if it would result in a total corn ethanol RVO greater than 9.7% of projected customer demand as determined by the Energy Information Administration (EIA). Reallocating displaced volumes that create more ethanol blended gasoline than the marketplace demands increases the cost and supply of RINs credits. If RINs become too costly or insufficient in number to offset higher ethanol RVOs, obligated parties will have no choice but to force E15 on downstream consumers who don’t want it, and into billions of dollars-worth of noncompatible gasoline storage and dispensing infrastructure that can’t handle it.

E15 Compatibility Issues

Ethanol blends greater than E10 are not compatible with the vast majority UST storage and dispensing equipment currently in service today. While many underground storage tanks may be compatible with ethanol blends over E10, piping and dispensing equipment running from the tank to the pump nozzle are not. Gasoline blends greater than E10 ethanol can quickly crack, dissolve, or
corrode rubber seals, gaskets, plastic sump components, piping and dispenser equipment. The EPA’s Office of Underground Storage Tanks (OUST) recently highlighted a particularly alarming compatibility issue regarding “pipe dope” in a recent guidance document. Pipe dope is essentially the glue that holds UST system piping together. Pipe dope is used to hold together each threaded connection in the underground pipes that carry fuel from underground storage tank to pump dispensers on the island where consumer fueling occurs. Typically, there are over 100 such connections held together by pipe dope in a six- dispenser UST system. In most cases, pipe dope used in UST systems is not compatible with ethanol blends greater than E10. According to recent EPA OUST UST Guidance:

“Higher-ethanol compatible pipe dope was available beginning around 2007. Despite that, UST systems installed then and since to store lower levels of ethanol, such as E0 or E10, probably have pipe dope compatible only with lower levels of ethanol. Storing greater than 10 percent ethanol in those UST systems means the pipe dope is incompatible. Because higher-ethanol compatible pipe dope is more expensive, pipe dope compatible only with lower levels of ethanol to be stored in those UST systems may have been used, rather than higher-ethanol compatible pipe dope.

Liquid tight seals at joints in the UST system are essential in preventing releases of regulated substances to the environment. If pipe dope or sealants are incompatible with the fuel stored, they may lose their ability to seal properly and release fuel to the environment.

This means an owner or operator considering storing regulated substances containing greater than 10 percent ethanol in a system, which was not explicitly installed with the intent of storing regulated substances with greater than 10 percent ethanol, will presumably need to modify each threaded connection point where pipe dope seals the threads. To avoid violating the compatibility requirements in 40 CFR 280.32, each thread or junction must be re-sealed with compatible pipe dope if owners and operators wish to store ethanol blends greater than 10 percent and they currently have pipe dope incompatible with such blends in their UST system. Otherwise, they may not store those blends. In some UST systems, these joints may be buried beneath the surface and not in contained sump areas; it may be necessary to excavate to access them.”

E15 Compatibility Costs

Removing and replacing UST piping is a prohibitively expensive process. Piping can be buried four or more feet underground depending on the size of the tank and number of dispensers. Asphalt and concrete over piping must be jack-hammered away. Dirt and protective backfill must be excavated from over and under the piping to provide access. All piping connections including, pipe to pipe connections, pipe to containment sumps connections, pipe to dispenser connections, etc; must then be disconnected, (if possible), carefully cleaned, fitted and otherwise prepared for reconnection with E15 compliant pipe dope. All this must be done by skilled tank installers.
which can take up to three or more days, retail sites must be closed, resulting in significant lost sales volume. This process alone could cost small business petroleum marketers hundreds of thousands of dollars in installation expense and lost sales revenue. It would cost billions of dollars to achieve compatibility at the approximately 8,000 existing retail gasoline stations nationwide with E15 noncompatible equipment. This cost is far beyond the capabilities of small business petroleum marketers who operate 80% of retail gasoline sites. Moreover, E15 compatibility concerns are not limited to pipe dope alone. Most UST system components in the ground today, other than tanks, are likely not compatible with E15 gasoline blends. It is not hard to imagine the impact a compatibility retrofit of this scope would have on both the price and availability of gasoline nationwide.

Disruption of the RIN Market

Pushing the corn-ethanol blends past 9.7 percent of gasoline demand by accounting for displaced gallons from SREs will disrupt the RINS credit market. Too many obligated parties chasing too few available credits leads to higher RIN prices. Higher RIN costs from ethanol blending obligations that surpass consumer demand, push up prices at the pump and create a significant competitive advantage for a small class of retailers over all others. Non-obligated position holders at the terminal rack who blend ethanol use the value of their RINs to significantly subsidize gasoline prices at retail fueling facilities they operate. This gives these large, vertically integrated multistate retailers the ability to set retail prices far below their retail competitors.

Most retailers are not vertically integrated in a way that would allow them to effectively compete against such heavily subsidized gasoline prices. The vast majority of retailers must enter into supply agreements with the major refiners. Since these refiners do not blend, they must purchase RINS to meet their RVO, and do so in sufficient numbers to prevent breeching the E10 blend. Non-blending refiners don’t use RIN values to subsidize retail gasoline prices, but instead pass it down as an added cost that the retailer must pay. This results in a highly uneven and unfair playing field for the majority of retailers who are not vertically integrated from the terminal rack down to the retail pump. There are not enough available terminal positions for these retailers to become fully integrated. Even if positions were available, their purchase cost is far beyond the resources of most gasoline retailers. As a result, small business petroleum marketers are placed at a competitive disadvantage due to the potentially significant costs to upgrade or modify the configuration of equipment to sell E15, in addition to increasing liability risk for marketers and expose motorists to confusion and possibly misfuelling at the pump with E15 labeled as “unleaded8." In this way the RFS is picking winners and losers.

This scenario will continue so long as obligated blending volumes do not reflect actual consumer demand and obligated parties are forced to purchase blending credits at artificially inflated prices. The only way to avoid the unfair competitive advantage the RFS provides to vertically integrated retailers is for the EPA keep ethanol RVOs below the E10 blendwall.

CONCLUSION:

PMAA urges EPA to take no action in this rulemaking that would increase corn-based ethanol mandate beyond 9.7 percent projected gasoline demand. To do so will breach the E10 blend wall and result in major disruptions to the gasoline supply and distribution chain and cause prices at the pump to soar. PMAA believes a 9.7% cap will stabilize the RIN market and allow it to operate as intended without undue speculation and disruption to retail markets. The 9.7% cap will also reduce artificially inflated RINs cost and prevent unfair competitive advantage over their smaller non-integrated competitors.
Thank you for the opportunity to comment on this important issue for small business petroleum marketers. Please let me know if I can provide any additional information.

Sincerely,

Mark S. Morgan, Esq.
Mark S. Morgan, Regulatory Counsel
Petroleum Marketers Association of America

mmorgan@pmaa.org
(202) 364-6767