

June 12, 2017

The Honorable John Barrasso, Chairman
Committee on Environment and Public Works
410 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Tom Carper, Ranking Member
Committee on Environment and Public Works
456 Dirksen Senate Office Building
Washington, DC 20510

Dear Chairman Barrasso and Ranking Member Carper:

On behalf of the National Marine Manufacturers Association (NMMA), the American Sportfishing Association (ASA), BoatU.S., the Center for Sportfishing Policy (CSP), the Marine Retailers Association of the Americas (MRAA), and the Theodore Roosevelt Conservation Partnership (TRCP), we wish to submit this letter for the record regarding the June 14, 2017 hearing on S. 517, the Consumer and Fuel Retailer Choice Act.

By way of background, NMMA is the leading recreational marine industry trade association in North America, representing 1,400 boat, engine, and accessory manufacturers. NMMA members collectively produce more than 80 percent of the recreational marine products sold in the United States with a total economic impact of \$121.5 billion annually. The U.S. marine manufacturing industry is comprised of nearly 35,000 businesses that provide over 650,000 jobs.

ASA is the sportfishing industry's trade association, representing more than 800 manufacturers and retailers of sportfishing equipment across the country. ASA also gives America's 46 million anglers a voice in policy decisions that affect their ability to sustainably fish on our nation's waterways through Keep America Fishing[®], a national angler advocacy campaign. America's anglers generate more than \$48 billion in retail sales with a \$115 billion impact on the nation's economy creating employment for more than 828,000 people. Since fishing is the #1 activity people engage in while boating, ASA and its membership are acutely aware of the damage E15 causes boat engines and are active in policy surrounding the issue.

BoatU.S., Boat Owners Association of The United States, is the largest organization of recreational boat owners in the country with more than 570,000 members. For more than 50 years, BoatU.S. has worked to ensure that their members, who own a wide array of types and sizes of boats, can continue to enjoy this healthy outdoor family recreation.

CSP is a coalition of angling, boating, conservation, and outdoor businesses that are dedicated to maximizing opportunities for saltwater recreational anglers.

MRAA is the trade association of small businesses in North America that sell and service new and pre-owned recreational boats, provide access to the waters through marinas, access ramps, and boat yards, and sell boat accessory products and parts.

TRCP is a partnership of 54 hunting, angling, outdoor recreation and conservation organizations, working on federal public policy that conserves fish and wildlife habitat and expands quality accesses to that habitat for America's hunters and anglers.

Our organizations stand united in opposition to S. 517, the Consumer and Fuel Retailer Choice Act. This legislation is misguided, and we urge the Committee to reject it.

While the title of S. 517 contains the word "choice", passage of this legislation would effectively deny consumers choice at the pump, while also endangering their safety on the water. There are 12 million recreational vessels registered in the United States. Ninety-five percent of these vessels are fueled at retail automotive service stations, and are dependent on a safe and legal fuel supply to operate. Ensuring all consumers have access to approved fuels is absolutely critical to recreational boaters and anglers.

S. 517 would arbitrarily amend the Clean Air Act, and effectively allow for the national year-round sale of E15. This is particularly concerning for the boating and angling industry because it would mean E15 would infiltrate the marketplace during the peak summer boating season, placing more Americans at risk. Out on the water, boaters depend on their boat to be reliable. Oftentimes weather and boating conditions change quickly and dramatically, and the ability for boaters to be able to return safely to shore is of the utmost importance. Unfortunately, S. 517 would put boaters in greater jeopardy.

Due to the very nature of marine engines—the infrequency of use, start and stop running conditions, and interaction with surrounding water—they are severely impacted by ethanol blends containing greater than 10 percent ethanol by volume (E10). Marine engines, and millions of other engine products including motorcycles, outdoor power equipment and certain car makes and models, require E10 or lower blends to be universally available at every retail service station across the country. S. 517 would push E10 and lower blends out of the marketplace, limiting consumer choice.

The chemical properties of ethanol cause it to attract and absorb water. When ethanol-enhanced gasoline sits for long periods, the ethanol separates from the gasoline, forming two separate solutions. This is known as phase separation and it can wreak havoc on marine engines. A marine engine won't run on a water-soaked ethanol solution, which sinks to the bottom of the tank and is highly corrosive. Higher ethanol blends, such as those that contain 15 percent ethanol by volume (E15), only make this problem worse.

Marine engines and fuel systems are designed, calibrated, and certified to be compatible only with E10 and lower fuel blends, and are federally prohibited from using any blends higher than E10. Additionally, NMMA members, through the U.S. Department of Energy's Renewable Energy Laboratory, have extensively studied the effects of E15 on marine engines. The results unequivocally show safety problems caused by significant engine damage, poor engine runnability, performance and difficulty starting.

Emissions and durability testing have compared E15 fuel and fuel containing zero percent ethanol (E0) and examined exhaust emissions, exhaust gas temperature, torque, power, barometric pressure, air temperature, and fuel flow. Specifically, the testing showed degraded emissions performance outside of engine certification limits as well as increased fuel consumption. In separate testing on engine durability, each tested engine showed deterioration, including two of the three outboard engines, with damages severe enough to prevent them from completing the test cycle. The E0 test engines did not exhibit any fuel related issues.

The higher oxygen levels found in E15 makes the fuel burn hotter, and the higher temperatures can reduce the strength of metallic components contained in the engine. Higher ethanol blends like E15 can cause compatibility issues with other materials in the fuel system because of the chemical reaction. Government certified testing has proven that utilizing high ethanol blends can lead to significant issues for consumers and can result in premature engine failure. EPA concurred with these findings, as evidence by its prohibition against the use of E15 (and higher blends) in marine engines.

Aside from the scientific, mechanical, and safety reasons that drive our opposition to more E15 in the marketplace, we also have concerns regarding public awareness and consumer education. EPA has failed to properly educate and warn the public on the effects of E15 and higher blends of fuel. Consumers remain woefully unaware of the existence of higher ethanol-blended fuels, let alone the effects these fuels can have on their marine engines. Despite the industry's best efforts to educate consumers, more needs to be done by the EPA to ensure that misfueling is never a possibility.

Beginning in 2011, EPA instructed stakeholders to “develop a broad public education and outreach campaign that provides both consumers and retailers with the information they need to avoid misfueling.” The recreational boating industry has heeded this request, working with other stakeholder groups to develop and promote educational outreach efforts. Notably the “Look Before You Pump” campaign, conducted in partnership with the Outdoor Power Equipment Institute, and through distribution of “No E15” labels to manufacturers. The recreational boating community has worked to educate companies and industry partners, including safety/certification organizations, state boating associations and national groups raise consumer awareness.

According to a recent Harris Poll, conducted on behalf of Outdoor Power Equipment Institute, only 23 percent of Americans notice ethanol content when fueling; 63 percent choose the least expensive grade of gas regardless of ethanol content; and worse, 75 percent are unaware of the prohibition of using E15 in non-approved engines. It is clear that the government's approach has failed to educate consumers.

The recreational boating industry will continue to fight against efforts, like S. 517, that would expand E15 into the marketplace. However with E15 already on the market, we urge the Committee to require EPA to increase its efforts to educate consumers.

Specifically, EPA must act to strengthen its Misfueling Mitigation Plan (MMP). EPA acknowledged this concern in the November 2015 final rulemaking, and stated the agency's willingness to work with “industry, other private stakeholders, and our government partners.” However, to date, EPA has not

reached out to our respective organizations on such a project, nor has it reached out to other stakeholder group with similar concerns. Further, the current proposal fails to discuss any such concern—there is no mention of misfueling, engine damage or any mitigation plans.

The MMP is lacking and ineffective. Fuel pump labeling should not be the sole consumer outreach method. The current 3 inch by 3 inch label affixed to a gas pump is too small and not distinguishable amongst the signage, advertisements, and other labels common at a modern pump. Additionally, the text of the label could be more descriptive and straightforward; the prohibited uses are buried in smaller typeface at the bottom of the label, which is counterintuitive and ineffective. Additionally, the label is currently only required at E15 specific pumps, not blender pumps that dispense E15. This means that consumers at a blender pump do not even see a warning.

Even when conscientious consumers at the pump select the correct fuel, up to four gallons of fuel can be left in the dispenser hose from the previous customer. This means that if the prior customer at a pump dispensed E15, and the next customer wants to dispense E10, they could get up to four gallons of E15 that has been left in the hose. This is especially concerning for those with smaller boats or personal watercraft that do not have large fuel tanks.

At a minimum, fuel pump labeling should be held in conjunction with broader outreach campaigns, as was the original intent of the EPA. Our organizations would also support the implementation of physical applications that prevent misfueling, such as nozzle size differentials. Physical applications would significantly reduce the risk of misfueling, and reduce retailer liability as discussed by the Society of Independent Gasoline Marketers of America (SIGMA) and the National Association of Convenience Stores (NACS).

Nozzle size differentials and other physical applications are important because research has proven that labels alone are not an effective method to warn the public. According to the Association for Consumer Research, warning labels do not influence consumers' perceptions of hazards and risks, and the research went on to find that this lack of influence is exasperated when such warning labels are applied to commonly-used products—such as a gas pump. This is reaffirmed by recent a recent Harris Poll that showed while 92 percent of consumers notice the price at a pump, only 50 percent notice warning labels and just 24 percent notice ethanol content.

We would like to remind the Committee that an enhanced, government-led public awareness campaign is not unprecedented. In the 1970s, the EPA transitioned the country to unleaded fuels through a combination of educational initiatives that greatly went beyond a pump label. The boating and angling community believes that the introduction of E15 is akin to the introduction of unleaded gasoline and thus merits a greater government-led public awareness effort.

A prolonged lack of public awareness will continue to result in consumers accidentally misfueling with E15. This leads to unintended consequences, such as performance failures and engine damage, higher repair bills, and the voiding of warranties. Engine failures will not only harm marine businesses and disincentivize consumers and potential consumers, it will also put the boating public at risk.

In summary, we urge the Committee to reject S. 517. With federal law currently prohibiting the public from using E15 in marine engines, boaters need to have a readily available supply of E10 and lower blends. We also urge the Committee to require EPA to increase its efforts to educate consumers.

Thank you for considering our views. If the Committee has any questions or would like more information, please do not hesitate to contact Nicole Vasilaros at nvasilaros@nmma.org or 202-737-9763. Thank you.

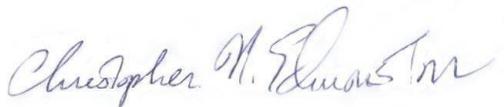
Sincerely,



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