



April 19, 2021

The Honorable Michael Regan
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20469

Docket I.D. No. Docket I.D. No. EPA-HQ-OAR-2020-0448

Sent via Federal eRulemaking Portal www.regulations.gov

RE: E15 Fuel Dispenser Labeling and Compatibility with Underground Storage Tanks

Dear Administrator Regan:

On behalf of the members of the American Coalition for Ethanol (ACE), thank you for the opportunity to comment on EPA's proposed rulemaking related to E15 Fuel Dispenser Labeling and Compatibility with Underground Storage Tanks published January 19, 2021.

ACE supports EPA's proposed changes, which would allow more retailers to offer E15 unleaded gasoline to their customers using the ethanol compatible equipment already in use in most U.S. stations. Greater availability and less confusion from misleading labeling will also reduce confusion and resistance from consumers, leading more to try cleaner, higher octane, lower cost E15, which can be used by more than 95 percent of cars on the road today. As with previous approved ethanol blends, when drivers try E15, they discover that in addition to saving money, it performs as well or better than other grades of unleaded gasoline while reducing greenhouse gas (GHG) emissions, and they become regular E15 customers.

While we support the proposal, we take issue with how EPA has mischaracterized E15 approval history to seemingly justify the current ominous E15 label and intimidating requirements for demonstrating compatibility of underground storage tank (UST) systems, suggesting this was the result of EPA thoroughly testing E15 in small engines, older vehicles, and USTs and seeing damage. To the contrary, EPA did not test small engines or vehicles from model year 2000 and older and thus could not approve them – which is very different from restricting use based on actual scientific studies showing damage.

The proposed rule merely removes unnecessarily harsh restrictions that were put in place as a response to misinformation-based fear created by carefully crafted and heavily promoted anti-ethanol myths, which have been “busted” by more than 10 years of E15 use with retailers reporting no damage claims, and no increase in releases from UST systems. The simplest reason for approving the proposed rule changes is the fact the original rules were based on faulty information and should not have been enforced in the first place.

However, we expect comments will be submitted in opposition to the proposed rule, citing the same disproven concerns used against E15 originally, since those ghost stories have been repeated so often the lies are assumed to be true. For that reason, we encourage EPA to stand its ground, rely on actual science and real-world performance which has exposed those concerns as false, and push forward to adopt the proposed rule changes.

Most importantly, the ethanol industry's original E15 request was based on Underwriters Laboratory (UL) listings for aboveground equipment approving up to 15 percent alcohol and equipment manufacturers who warrantied their equipment for the same. It was also based on the recognition that all fuel tanks in the U.S. were replaced or upgraded by law in the mid-1990's, mostly with steel tanks and lines which are compatible with all blends of ethanol, and fiberglass UST systems UL's listed for gasoline and alcohol blends, which UL defines as "blends of gasoline and alcohol including up to 100 percent of either." ACE has no interest in seeing E15 stored and sold in tanks and through other fueling equipment or used in engines that are not compatible with E15. Consumer fear created by rumor and innuendo have severely limited ethanol use since the fuel came to market in the late 1970's. Actual leaking tanks, lines, dispensers, or damaged engines, would be disastrous for our industry, and we would not support adoption of the proposed rule changes if we believed anything of the sort would happen as a result.

E15 LABEL CHANGES

Mandated alarming labels is a longstanding favorite sales-killing tactic of opponents of ethanol blends. Opponents usually demanded a label citing concerns that consumers know what is in their fuel. Ironically, those proposing the label are often people and companies that go to great efforts to obscure real health and environmental injustice issues caused by the gasoline they manufacture. While many consumers do not read labels, when a special label is required for a particular product, people notice them.

The current orange-and-black E15 dispenser label was required ostensibly to warn consumers against using the fuel in non-approved vehicles, boats, and other gasoline-powered equipment. Again, the warnings were not based on failed tests or any scientific evidence a simple E15 misfuelling – or even multiple misfuelling events - would damage older vehicles and small engines. "Studies" often referenced by E15 doomsayers typically use blends of ethanol even higher than 15 percent, made in a laboratory with "aggressive" ethanol containing water, salt, and acids, and tested over the entire life of the equipment rather than a single or occasional misfuelling. These practices do not reflect real-world fuels or fuels blending.

EPA did not test E15 in the warned-against equipment, and thus could not approve E15 use in them. That is an important difference from doing tests resulting in damaged engines and infrastructure, but the distinction has been ignored by those whose intent is to frighten potential users of E15 with images of E15 stranding boaters at sea and E15 powered chainsaws dismembering their users.

After 10 years of E15 sales and likely thousands of "misfuelings," E15 has caused no issues, yet we can expect the same ethanol opposition that fought for labeling of 10 percent ethanol under the guise of consumer awareness, to continue to demand an E15 label based on fabrication of potential harm, to raise unsubstantiated doubts and frighten drivers from putting it in their tanks.

Modifying the current label to say E15 is "safe for use in" approved engines would be the most accurate statement of what EPA actually learned through scientific testing of E15. We agree the "ATTENTION" stripe is unnecessary, and support color schemes other than orange and black, but would go further to say retailers and/or brands should be allowed to use a color scheme matching other unleaded gasoline sold at their units. We also believe the size of the label should be adjusted to match other Federal Trade Commission (FTC) fuel rating labels, so it can be used in the same place that information is found on other unleaded grades. E15 is unleaded gasoline and should be treated like other unleaded gasoline grades.

As to other "warnings" on the E15 rating label, those statements can easily be misconstrued by the overwhelming majority of consumers who can use E15 in their engines. Manufacturers of the very small

number of vehicles and equipment not built to a sufficient quality to utilize E15 have heavily warned against E15 use in their products and included warnings in owners' manuals and on fuel caps, making the warnings on the E15 rating label unnecessary.

For similar reasons, we would also strongly support the **elimination of the required E15 label**. EPA is correct in saying adopting this option would "encourage the use of E15 by consumers who can lawfully use E15 but who do not do so because they are confused by the label."

As to the question of whether state and local governments could require their own E15 dispenser labels if the EPA-required label is eliminated, ACE strongly opposes that option. It would create confusion and doubt for motorists traveling between states and would do the opposite of what EPA hopes to accomplish. It would discourage the use of E15 by consumers. Since E15 was approved, oil industry lobbyists and lawyers have aggressively pressured state and local regulators to declare E15 illegal and interpret various rules and regulations as prohibiting the sale of E15. Allowing state and local government labels would be seen by those with considerable resources as permission to lobby for anti-ethanol labels at every government level.

UNDERGROUND STORAGE TANK COMPATIBILITY

In 2015, EPA "updated" its UST regulations, also based on anti-ethanol ghost stories, adding new compatibility and recordkeeping requirements for systems storing fuel with more than 10 percent ethanol. This was despite the fact Steel Tank Institute (STI) clearly states steel tanks and piping have always been compatible with 100 percent ethanol, Underwriters Laboratories UL 1316 listing for fiberglass tanks was revised in 1983 and included storage of fuels with up to 100 percent ethanol, and the UL 971 listing for fiberglass piping was also changed to include up to 100 percent ethanol.

ACE has reminded retailers and EPA of these facts frequently since the introduction of E15, and we were pleased to see progress made, based on compatibility paths offered in the proposed rule. We support the logical **Allowance—For Secondary Containment When Unable To Demonstrate Compatibility** which allows site owners to "use secondary containment in lieu of being able to demonstrate compatibility of all UST system equipment and components required by the regulation." In addition to "protect(ing) the environment because secondary containment will contain a leak from the primary containment of the tank and piping, and interstitial monitoring will likely detect a leak before regulated substances reach the environment," given the STI and UL timelines listed above, logic would indicate any double wall tank with interstitial monitoring would be compatible with all gasoline and alcohol blends.

ACE has worked with countless numbers of station owners and have not found documentation of equipment and components compatibility difficult to find. To assist an even greater number of retailers to find out if their infrastructure is E15 compatible, we created the [Flex Check tool](http://flexfuelforward.com) on flexfuelforward.com, which allows station owners and operators to get a preliminary check of the compatibility of their current fueling infrastructure, without having to call an equipment company or contacting EPA. We appreciate EPA's inclusion of a reference to ACE's Flex Check compatibility tool in the rule proposal, and while it sounds redundant, we support EPA's **Allowance—For Already Compatible Tanks and Piping**.

These changes could go a long way to improving availability of E15, because when retailers are asked about their objections to E15, the majority tell us they do not want or cannot afford to buy new equipment they think they need to sell E15. EPA's 2015 rule is frequently cited as "proof" it is not possible to be compatible, or more accurately, marketers and their associations often say it is impossible to prove compatibility with E15, even when equipment is compatible.

With this new rulemaking, EPA appears to acknowledge the previously mentioned realities (perhaps emboldened by 10 years of real-world storage and sale of E15 with zero of the ghost stories coming

true), by offering paths that would make it easier for station owners to demonstrate compatibility with E15 - and possibly higher ethanol blends in the future. It is important also to clarify the fact EPA's compatibility standards have not changed. The proposed rule simply allows station owners and operators simpler, logical methods to show their infrastructure is compatible.

The two changes above are good, logical, reasonable, and safe changes to compatibility rules, and should be supported. And while the third proposed change: **Compatibility Requirements for New Installations and Replacements** which requires all new USTs or replaced UST system parts installed after the effective date of the rule to be compatible with ethanol blends up to 100 percent, may seem unnecessary since virtually every component mentioned already meets the requirement, ACE sees value in EPA having such a rule visible as assurance to station owners and operators of compatibility with higher ethanol blends, including E85.

ACE supports this rule while pointing out new equipment is already compatible, and this "change" makes no difference in cost of new and replaced underground infrastructure components. We agree with EPA's **Overview of Estimated Costs** which states "the marginal cost for any new UST system equipment or components compatible with up to 100 percent ethanol is minimal compared with the overall project costs (i.e., design, construction, installation etc.). EPA estimates the additional costs for purchasing up to 100 percent compatible equipment or components could be significantly less than 5 percent of the overall project cost." We would also caution those who might confuse this regulation to include dispensers and other above-ground equipment, which would add cost if required to be compatible with blends up to 100 percent ethanol. EPA does not regulate above-ground equipment, and this proposed rule only covers UST systems.

Given how many station owners have been discouraged from offering E15 through fictional estimates of up to \$400,000 in costs per site (recent testimony in a Minnesota legislative hearing claimed the cost of adding E15 at \$335,000 for every location in the state) it is incredibly refreshing to see EPA indicate a "rough estimate of replacement cost avoidance from this allowance can be made from informal estimates EPA has gathered from industry and regulators" of between \$301,000 and \$310,000 dollars per site.

Utilizing the same math ethanol opponents often use to convince elected officials and regulators that switching to E15 is prohibitively expensive, and extrapolating EPA's estimate that "24 percent of the 225,000 USTs in... 23 states should be able to use secondary containment with interstitial monitoring" to prove compatibility rather than replacing the entire UST system to the 544,000 underground storage tanks in the U.S., **this proposed rule could save fuel marketers more than \$40 billion dollars.**

Thank you again for the opportunity to comment on the proposed rule. If you have any questions, please feel free to contact me.

Sincerely



Ron Lamberty, Senior Vice President

American Coalition for Ethanol