

Testimony of Tim Hogan
American Fuel & Petrochemical Manufacturers
EPA Public Hearing on the E15 RVP
and RFS RIN Market Reform Proposal
Ypsilanti, MI
March 29, 2019

Good morning. I am Tim Hogan, Director, Motor Fuels at the American Fuel & Petrochemical Manufacturers.

AFPM is a trade association representing high-tech American manufacturers of virtually the entire U.S. supply of gasoline, diesel, jet fuel, home heating oil, and other fuels as well as the petrochemicals used as building blocks for thousands of products vital to everyday life. AFPM members also produce approximately 20% of the ethanol consumed in the United States.

AFPM opposes the Agency's proposal to extend the 1 psi RVP waiver to E15. EPA has consistently interpreted the RVP waiver as applying to blends of gasoline and ethanol between 9 and 10 percent. In fact, the agency has affirmatively rejected the interpretation it now advances. While EPA is free to reinterpret ambiguous statutory text, an agency may not contradict the plain meaning of the statute it is interpreting. The rule of law must be respected and EPA should withdraw this aspect of the proposal.

It is possible to sell E15 currently in the summer if it meets applicable RVP regulations. For example, one third of the country is required to use reformulated gasoline (RFG). The proposed RVP waiver would not apply in RFG areas. RFG has a summer volatile organic compound (VOC) requirement that is already the same for E10 and E15. Additionally, the lower RVP blendstocks produced for these areas may be used to blend E15 outside an RFG area. E15 use in these areas – and nationwide during the rest of the year – has been anemic. This is due to the potential liabilities associated with incompatible refueling infrastructure, the fact that vehicle manufacturers do not recommend E15 in 75% of the fleet on the road today, and E15 is prohibited for use in all small engines.

Recognizing the problems created by the Agency's unlawful enactment of the E15 partial waivers, the Agency established retail pump label regulations for E15 in the 2011 Misfueling Mitigation Rule.¹ Retail stations may be confused regarding E15 pump labels and summer RVP requirements. This current rulemaking is an opportunity to remind the regulated community about this relationship.

EPA's required pump label for E15 applies all year and is not seasonal. The ethanol industry's complaints about the need to relabel pumps is a red herring.

The Agency has stated that summer RVP cannot be circumvented by relabeling; "intended use" on a pump label does not exempt E15 from fuel quality requirements, and while such relabeling has occurred EPA has not enforced this aspect of the law.

All gasoline, including E15, is subject to all of the requirements applicable to gasoline because of its formulation, not because of its end use. These requirements cannot be circumvented by relabeling. Allowing a fuel to be exempted from fuel quality requirements simply based on a statement of its intended use would undermine the EPA's ability to assure compliance with fuel quality requirements.²

This reminder is appropriate whether or not E15 has a 1 psi RVP waiver.

We are still assessing the proposed RIN market reforms and will include comments on those topics in our formal submission. Thank you for this opportunity.

¹ 76 Fed. Reg. 44406 (July 25, 2011)

² 81 Fed. Reg. 80863 (November 16, 2016)