

**ORAL STATEMENT OF
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NATIONAL PETROCHEMICAL AND REFINERS ASSOCIATION
FOR THE PUBLIC HEARING ON PROPOSED
E15 PUMP LABEL, CHANGES TO THE COMPLEX
MODEL AND PRODUCT TRANSFER DOCUMENT
REGULATIONS, COMMINGLING RESTRICTIONS, AND
NATIONAL RETAIL FUEL SAMPLING AND
PUMP LABEL SURVEYS**

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Good morning. I am Greg Scott, Executive Vice President and General Counsel of the National Petrochemical and Refiners Association. NPRA represents high-tech American manufacturers, fueling and building America's future. NPRA members manufacture virtually all the refined petroleum products and petrochemicals produced in the United States, serving the American people responsibly and effectively. These manufacturers provide jobs directly and indirectly for 2 million Americans, economic and national security, and thousands of vital products to families and businesses throughout the United States.

As an initial matter, I would like to reiterate that NPRA opposes the partial, conditional waiver for E15. EPA does not have authority under the Clean Air Act to approve a partial waiver. The Agency based its partial waiver decision on new data submitted to the public rulemaking docket *on the day before EPA announced the partial waiver*, providing no time for stakeholder review or meaningful public comment of this critical study. Further, EPA's decision was based on new data submitted to the record after the public comment period closed in 2009, and the Agency chose not to reopen the public comment period for input on the new data. It is hard to understand how EPA can ignore the public notice and comment provisions of the Administrative Procedures Act.

American families, farmers, truckers and businesses rely on NPRA members millions of times every day to provide affordable, reliable and safe fuels for use in their gasoline-powered on-road and non-road engines. EPA's partial waiver decision undermines this reliance. EPA's proposed misfueling rule is woefully inadequate to guard effectively against the potential harm that consumers will experience due to the E15 partial waiver. EPA has freely admitted that E15 is incompatible with most gasoline-powered engines in use by consumers today. Yet it is inevitable that if E15 is made available at retail stations, many consumers will misfuel – putting the wrong gasoline into the wrong engine. This misfueling may occur intentionally, due to price differential or a quality perception, or unintentionally, due to consumer confusion or inattention. Such misfueling cannot be avoided merely with a dispenser label.

E15 will find its way into older vehicles, small engines, and boats with dire consequences for personal safety, irreversible engine damage, consumer confusion, operational problems, loss of manufacturers' reputations, and warranty arguments. The risks are large and daunting.

EPA does not know if its proposed dispenser label will be adequate to inform, educate and warn consumers. Reliance on the dispenser labels employed in the ultra low sulfur diesel (ULSD) phase-down is inappropriate given that ULSD was backwards compatible with existing diesel engines. The introduction of E15 is much more analogous to the lead phase-down in the 1970s. To accomplish the lead phase-down, EPA mandated physical barriers to make misfueling difficult, if not impossible. Yet, despite these physical barriers, EPA's own data indicated that misfueling rates topped 20 percent annually. If that rate of misfueling is doubled for E15, without the physical barriers present during the lead phase-down, the damage to engines, risks to consumers, and harm to the environment will be significant.

NPRA supports a one-psi RVP waiver for E15. It does not make sense for Congress to allow a one-pound waiver for E10/conventional gasoline and for EPA to not allow it for E15/conventional gasoline. If regular octane conventional gasoline/E10 with the waiver is blended with premium octane/E15 without the waiver to produce a midgrade, then this midgrade would not qualify for the waiver. This would be very disruptive and would have the practical impact of balkanizing gasoline markets by creating a new boutique fuel. EPA has the authority to extend the one-pound waiver to E15 and NPRA urges EPA to use that authority.

NPRA asks EPA to convene a roundtable discussion of appropriate stakeholders – separate and apart from this public hearing – to discuss misfueling concerns and possible strategies to prevent misfueling. Such a stakeholder roundtable should be conducted prior to the close of the public comment period on the proposed rule to provide stakeholders with the opportunity to include information derived from this roundtable in their comments. If EPA declines to convene such a stakeholder roundtable, NPRA suggests that stakeholders themselves arrange such a meeting.

In addition to these points, NPRA is concerned that the Agency proposes to rely on an industry-funded retail survey to enforce pump label and oxygen content regulations. It is inappropriate for EPA to issue new retail regulations and require that they be enforced by an industry-funded retail survey. It is not industry's job to enforce EPA's regulations, nor is it appropriate for EPA to shift the costs of enforcement onto industry.

Thank you for giving me the opportunity to appear today. NPRA will be providing you with more detailed written comments on the proposal by the close of the public comment period. I would be happy to answer any questions you may have about NPRA's statement.