

Regulation History of E15 Compliance Survey Plans

What is E15?

E15, a blend of 15% ethanol and 85% gasoline by volume, may be sold in the United States as a highway fuel, subject to certain conditions. The Environmental Protection Agency (EPA) granted two partial waivers that taken together allow but do not require the introduction into commerce of gasoline that contains greater than 10 volume percent (vol%) ethanol and up to 15 vol% ethanol (E15). The waivers allow for use of E15 in model year (MY) 2001 and newer light-duty motor vehicles but require fuel pump labeling and other mitigation measures to prevent consumers from using E15 in all other vehicles and engines. The waiver decisions were based on test results provided by the U.S. Department of Energy (DOE) along with other test data and information that showed use of E15 will not adversely affect emissions from 2001 and newer MY vehicles.

E15 may be lawfully sold by a fuel or fuel additive manufacturer only after the manufacturer has registered E15 and met the conditions of the partial waivers, which include a misfueling mitigation plan for minimizing the potential for E15 to be used in vehicles and engines not covered by the partial waivers. There are a number of additional factors, including requirements under other federal, state, and local laws that may also affect the distribution of E15.

Conditions of the E15 waivers

EPA placed two types of conditions on the waivers for E15: (1) those to help prevent misfueling of E15 into vehicles, engines and equipment that may not use E15; and (2) those addressing fuel and ethanol quality. All conditions must be met before E15 may be introduced into commerce.

Fuel quality conditions:

- Ethanol used for E15 must meet ASTM International D4806-10.
- The Reid Vapor Pressure for E15 is limited to 9.0 psi during the summertime.

Misfueling mitigation conditions:

- Fuel and fuel additive manufacturers subject to the waivers must submit to EPA a plan (a misfueling mitigation plan (MMP)), for EPA's approval, and must fully implement the EPA-approved MMP prior to introduction of the fuel or fuel additive into commerce as appropriate. The MMP must include provisions that will implement all reasonable precautions for ensuring that the fuel or fuel additive is only introduced into commerce for use in MY2007 and newer motor vehicles. Reasonable precautions in an MMP must include, but are not limited to, the following conditions:
 - Labels must be placed on E15 retail dispensers indicating that E15 use is only for MY2001 and newer motor vehicles;
 - Product Transfer Documents (PTDs) must accompany all transfers of fuels for E15 use;
 - Parties involved in the manufacture of E15 must participate in a survey of compliance at fuel retail dispensing facilities; and
 - Any other reasonable measures EPA determines are appropriate.

On June 23, 2011, EPA finalized regulations to help prevent misfueling of vehicles, engines and equipment not covered by the partial waiver decisions. These regulations require all E15 fuel dispensers to have a label, shown below, that informs consumers about what vehicles can, and what vehicles and equipment cannot, use E15. The rule prohibits the use of gasoline containing more than 10 vol% ethanol in any vehicle, engine, or type of equipment that is not covered by the waiver. The rule also requires PTDs specifying ethanol content and Reid Vapor Pressure (RVP) to accompany the transfer of gasoline blended with ethanol and a survey of retail stations to help ensure compliance with labeling and ethanol content requirements.

Approval of the model misfueling mitigation plan

On March 2, 2012, the Renewable Fuels Association (RFA) submitted the "Renewable Fuels Association Model E15 Misfueling Mitigation Plan" to EPA for review. RFA developed the March 2, 2012 Model Plan to help fuel and fuel additive manufacturers meet the misfueling mitigation conditions of the partial waivers. On March 15, 2012, EPA sent RFA a letter informing RFA that the March 2, 2012 Model Plan would generally be sufficient to satisfy the partial waivers' requirements for an MMP. EPA also noted that any company that wishes to use the March 2, 2012 Model Plan must notify EPA in writing that the company seeks approval of the Model Plan for the company's use in meeting the waiver requirements for an MMP. EPA indicated that it may seek additional information and/or misfueling mitigation measures as needed from companies requesting to use the Model Plan.

Because the March 2, 2012 Model Plan does not spell out the specific elements of a survey plan, companies that use the Model Plan must submit a survey plan for EPA approval and cannot introduce E15 into commerce until EPA has approved the survey plan and the plan has been implemented.

The RFG Survey Association (RFGSA) submits the annual E15 Compliance Survey Plan for EPA approval on behalf of companies that wish to introduce E15 into commerce. The RFGSA plan provides for a survey of industry compliance with E15-related requirements, including pump labeling and fuel specifications. It is similar in many respects to surveys conducted for other fuel regulatory programs. With EPA's approval of the RFGSA annual survey plan, every company that enrolls in the RFGSA plan meets the waiver condition for a survey plan for the year for which the survey is submitted and approved and the company is enrolled. (Under the E15 Misfueling Mitigation Rule, survey plans are submitted for approval each year for the following year.) Any company or group of companies may develop and submit a different survey plan for EPA approval, if the company or group so chooses.

Full implementation of an EPA-approved survey plan is a further condition of the E15 partial waivers. Failure to fully implement an approved plan means the E15 introduced into commerce by the plan's submitter(s) or enrollee(s) is not covered by the partial waivers.

Fuel and fuel additive manufacturers that enroll in RFGSA's E15 Compliance Survey program must also register their E15 or ethanol for use in making E15 before introducing E15 into commerce.