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GrowthEnergy.org

November 27, 2019

Mr. James Caldwell
Compliance Division, Office of Transportation and Air Quality, 6405A
Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington DC 20460

RE: EPA-HQ-OAR-2015-0202; FRL-9995-78-OMS; Information Request Submitted to OMB for Review and Approval; Comment Request; Recordkeeping and Reporting Related to E15 (Renewal)

Dear Mr. Caldwell:

Growth Energy respectfully submits these comments in response to EPA's information collection request (ICR) on recordkeeping and reporting requirements related to E15 misfueling mitigation measures, including Misfueling Mitigation Plan requirements established under EPA's Misfueling Mitigation Rule.¹ Growth Energy is the world's largest association of biofuels producers, representing 100 U.S. plants that each year produce more than eight billion gallons of cleaner-burning, renewable fuel. Together, our members are working to bring better and more affordable fuel choices to the fuel pump to consumers and protect the environment for future generations.

EPA's recent RVP rulemaking, which lifted seasonal restrictions on E15, was a welcome step in expanding access to renewable fuels nationwide and year-round.² As discussed below, however, unnecessary labeling, recordkeeping, and reporting barriers to full expansion of E15 remain, as well as burdensome restrictions on E15 hose configurations. We urge EPA to lift these regulatory burdens and provide consumers with access to a higher blend, higher octane fuel choice that can save consumers up to 10 cents per gallon compared to traditional fuel.

¹ *Regulation to Mitigate the Misfueling of Vehicles and Engines with Gasoline Containing Greater than Ten Volume Percent Ethanol and Modifications to the Reformulated and Conventional Gasoline Programs; Final Rule*, 76 Fed. Reg. 44,406 (July 25, 2011).

² *Modifications to Fuel Regulations to Provide Flexibility for E15; Modifications to RFS RIN Market Regulations; Final Rule*, 84 Fed. Reg. 26,980 (Jun. 10, 2019).

1. EPA Should Eliminate or Modify the E15 Label Requirements to Avoid Consumer Confusion

Growth Energy has worked with E15 retailers to ensure that they have understood the complex requirements related to Misfueling Mitigation Plans. The Agency's unprecedented requirements for multiple product fuel dispensers (fuel pumps) configurations and complex labeling requirements have caused significant confusion in the retail fuel industry. Growth Energy has spent significant resources to understand consumer behavior and purchasing habits in order to support retailers implementing Misfueling Mitigation Plan requirements. This work has included completing more than 4,000 qualitative and quantitative consumer surveys and consumer intercepts while fueling, and examining more than 300,000 consumer purchases of E15.³

The Agency's mandated E15 label creates the most significant consumer confusion due to the content, color scheme and "EXX" product name requirements of the label. For these reasons, the label should be eliminated, just as the Reformulated Gasoline label was eliminated, or else significantly modified. The overwhelming evidence is that referring to the product as "EXX", where the "E" indicates ethanol content and "XX" indicates the ethanol concentration, presents the greatest confusion to consumers. Consumers have been trained for decades to purchase motor fuel by octane grade, not the inside baseball talk of "EXX." In addition, the color scheme chosen by EPA for the label does not call attention to the label content. In fact, retail station owners' marketing efforts have been the most effective communication and educational tool to ensure consumers understand the motor fuel of choice for their engine. The existing E15 label does not enhance these efforts.

2. EPA Should Eliminate the E15 Survey Requirement

Growth Energy has supported numerous Agency requests for information on the development of the E15 market. However, EPA's E15 compliance tool – the E15 survey – is an expensive requirement that needs at a minimum a complete overhaul and consideration that it be eliminated altogether. The first years of E15 survey data are of no compliance value due to the lack of understanding of the operation of multiple product dispensers and the use of an improper sampling protocol. Only after collaboration with the National Conference of Weights and Measures, who are subject matter experts on sampling fuel dispensers, did the Agency's only approved survey contractor modify their legacy sampling protocol to accurately sample E15 retail dispensers. The publication of NIST Handbook 158, Field Sampling Procedures for Fuel and Motor Oil Quality Testing, has greatly improved the sampling and testing accuracy of retail E15 offerings.⁴ As shown in the chart below, this lack of understanding of the operational engineering of a multiple product dispenser cost the ethanol industry over \$7 million dollars in survey costs alone.

³ Convenience Store News. The Benefits of E15. Growth Energy. June 7, 2018.

⁴ NIST Handbook 158 Field Sampling Procedures for Fuel and Motor Oil Quality Testing. 2016.

Calendar Year	RFGSA Cost for E15 Compliance Survey ⁵
2012	\$1,430,000
2013	\$1,790,000
2014	\$1,340,000
2015	\$1,326,000
2016	\$1,300,000
2017	\$1,300,000
2018	\$1,360,000

The Agency’s E15 survey design requirements mimicked the Reformulated Gasoline market, which was ~30% of the total gasoline sales in the United States. This led to excessive numbers of samples to be required for the E15 survey. This high number of samples translates to highly inflated costs that were shouldered by the ethanol industry during some of the most trying financial times and poor growing seasons for agriculture. The E15 market is nowhere near the size of the Reformulated Gasoline market, and the sampling requirements should not have been so large.

The Agency must be proactive in its review of these and related burdensome regulations that provide little value at a high cost to industry. Hindsight indicates that a direct “copy and paste” of the Reformulated Gasoline requirements to the partial waiver approvals for E15 are not effective for today’s fuel market. The Agency’s requirement for a compliance survey at fuel retail dispensing facilities should be eliminated, or appropriately modified to the scale and size of the E15 market.

3. EPA Should Allow E15 To Be Used with Common Hoses

EPA’s retail restrictions on the use of common dispenser hoses for E15 are unnecessary and create burdensome configuration and engineering challenges that fall solely on E15 and not on other fuel types. These restrictions are unfair and unjustified. For all fuel types, up to 0.3 gallons of fuel from previous pumping transactions can remain in a dispenser hose, yet EPA has imposed restrictions related to this residual fuel only for E15. These include requiring dedicated E15 hoses, ensuring a dedicated E0/10 hose, or else requiring minimum refueling volumes to achieve desired octane content. However, the ethanol content of residual fuel has not been proven to raise any special concerns other than those might be raised by residual fuel generally (*e.g.*, effect on octane levels). The Agency should thus eliminate the hose configuration requirements specific to E15.

* * * *

Growth Energy appreciates EPA’s continued attention to the burdens associated with complying with the Misfueling Mitigation Rule and related requirements. Because our products are a vital part of the national fuel supply, anything that unnecessarily confuses consumers about the benefits of our products or increases the costs of production, sales, or marketing of our products ultimately hurts the American consumer. We urge EPA to consider lessening the burdens discussed above to provide consumers with more options at the pump.

⁵ Costs reported from Annual Meeting RFGSA Proposed Budgets. Reporting years 2012- 2018.

Growth Energy and our members are happy to provide EPA with any additional information needed.

Sincerely,

A handwritten signature in blue ink, appearing to read "Emily Skor". The signature is fluid and cursive, with a large initial "E" and a long, sweeping tail.

Emily Skor, CEO
Growth Energy