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June 28, 2022

Mr. Michael S. Regan, EPA Administrator
Mail Code 1101A
1200 Pennsylvania Avenue, Northwest
Washington, District of Columbia 20460

Timothy M. O'Shea, Acting United States Attorney
222 West Washington Avenue, Suite 700
Madison, Wisconsin 53703

Merrick B. Garland, Attorney General
United States Department of Justice
Washington, District of Columbia 20530

Re: Notice of Intent to Sue

To EPA Administrator, U.S. Attorney for the Western District of Wisconsin, and U.S. Attorney General:

I drive a 2009 Toyota Highlander Hybrid Limited. I just started using E15 fuel in it for the first time from local Kwik Trip gas stations. I did this because there is a sticker on the pumps that says it is safe for use in vehicles 2001 and later.

Upon using E15 a second time, it became difficult to refuel. I never had this happen using 10% or ethanol-free gas, which is all I used before. Now, when I start to fill up the tank, the gas pump stops repeatedly before the tank is full. I then wait a moment, press the gas pump lever again, and again the pump clicks as if the gas tank is full before it is really full. It takes far longer than it should to simply fill up a tank of gas. I have since refueled the SUV with non-E15 gas a couple times, but the problem still continues. I will have the gas tank and fuel system inspected by a local mechanic, but I do not know if this is all.

I drive for Uber and Lyft for a living. As much as E15 gas provides a solution to possible future gas shortages, as it is cheaper per gallon and uses agriculture, it does not work, although the EPA states that it is fine for use in my vehicle. If you know of what has happened to it, please fill me in.

Thus, all relevant parties are now on notice that, unless the United States Government agrees to settle this claim, I will file in the Western District of Wisconsin with a claim for damages created by the Environmental Protection Agency release saying E15 gas is safe in light-duty vehicles made in 2001 and later. Following this letter is a relevant document by the EPA authorizing E15's distribution at gas stations available to the public.

Sincerely,



W. Stephen Lush, II
StephenLush2@Gmail.COM

enclosure

Cc:
file

EPA Announces E15 Partial Waiver Decision

The Environmental Protection Agency (EPA) is taking additional action on Growth Energy's waiver request application submitted under section 211(f)(4) of the Clean Air Act. Today's partial waiver allows fuel and fuel additive manufacturers to introduce, into commerce, gasoline that contains greater than 10 volume percent (vol%) ethanol (E10) and no more than 15 volume percent ethanol (E15) for use in model year (MY) 2001 through 2006 light-duty motor vehicles, which includes passenger cars, light-duty trucks and sport utility vehicles (SUV), provided certain conditions are fulfilled. In October 2010, EPA granted a partial waiver for E15 for use in MY2007 and newer light-duty motor vehicles subject to the same conditions. Taken together, the two waiver decisions allow the introduction into commerce of E15 for use in MY2001 and newer light-duty motor vehicles if the conditions are met.

The required conditions are designed to reduce the potential for misfueling of E15 into vehicles and engines for which it is not approved and to ensure fuel and ethanol quality.

Along with the October 2010 waiver decision, EPA issued a proposed rule with the express purpose of reducing the potential for misfueling of E15 into vehicles, engines, and products for which it is not approved. EPA held a public hearing on the proposed rule and received many written comments by the end of the public comment period (January 3, 2011). The Agency will address the public's comments in the final rule. When issued, the rule is expected to provide the most practical methods of satisfying the conditions of both partial waiver decisions.

Action on Growth Energy's waiver request is one of many steps that must be completed by various parties before E15 may be distributed and sold. Those steps include

but are not limited to submission of a complete E15 fuels registration application by the fuel and fuel additive manufacturers who wish to introduce E15 into commerce, and EPA review and approval of the application. Various state laws may also affect the sale and distribution of E15.

October 2010 E15 Waiver Decision for MY2007 and Newer Motor Vehicles

In March 2009, Growth Energy and 54 ethanol manufacturers petitioned EPA to allow the introduction into commerce of up to 15 volume percent ethanol in gasoline. In April 2009, EPA sought public comment on the Growth Energy petition and subsequently received about 78,000 comments. On October 13, 2010, EPA took two actions on the waiver request based on the information available at that time ("October Waiver Decision"). First, it partially approved Growth Energy's waiver request to allow the introduction of E15 into commerce for use in MY2007 and newer light-duty motor vehicles, subject to several conditions. Second, the EPA determined it could not approve the waiver request for MY2000 and older light-duty motor vehicles, heavy-duty gasoline engines and vehicles, highway and off-highway motorcycles, and nonroad engines, vehicles, and equipment. EPA also stated that it was deferring a decision on the waiver request for MY2001–2006 light-duty motor vehicles to await the results of additional testing conducted by the Department of Energy (DOE). Prior to EPA's October Waiver Decision, ethanol was limited to 10 vol% in motor vehicle gasoline.

MY2001-2006 Motor Vehicles

EPA's waiver decision allows but does not require the use of E15 in MY2001 through 2006 and newer cars, light-duty trucks, and SUVs. This decision is based in large part on DOE's Catalyst Study that evaluated the long-term effects of ethanol blends on the durability of the exhaust emissions control system, especially the catalytic converter (catalyst), for these vehicles. EPA concluded that the DOE Catalyst Study and other information thoroughly demonstrate that the impact of E15 on overall exhaust emissions, including both immediate and durability-related, will not cause or contribute to MY2001-2006 motor vehicles exceeding their exhaust emission standards. These results confirm EPA's engineering assessment that the changes manufacturers made to these model year vehicles (e.g., calibration, hardware) to comply with EPA standards have resulted in vehicles able to maintain exhaust emission control performance when fueled on E15.

With respect to evaporative emissions, analysis of available information indicates that if any exceedances occur, they will be limited in nature and do no actual environmental harm. In fact, E15 is likely to result in somewhat lower evaporative emissions compared to fuel currently sold in much of the country (E10) as a result of the lower volatility of E15 under the partial waiver decisions.

Conditions on the Waiver

There are two types of conditions being placed on today's partial waiver which are the same for MY2007 and newer light-duty motor vehicles under the October Waiver Decision: those for

mitigating the potential for misfueling of E15 in all vehicles, engines and equipment for which E15 is not approved, and those addressing fuel and ethanol quality.

Conditions to reduce the potential for misfueling include the following:

- Parties involved in the manufacture and sale of E15, which include renewable fuel producers and importers, petroleum refiners and importers, and ethanol blenders, must submit a plan addressing the conditions of today's waiver to EPA for approval.
- Retail dispensers must have labels indicating that E15 is only for use in MY2001 and newer motor vehicles.
- Product Transfer Documents (PTDs) must accompany all transfers of fuels for E15 use.
- Parties must participate in a survey of compliance at fuel retail dispensing facilities to ensure adequate enforcement of labeling requirements.

For fuel quality purposes, E15 must meet ASTM International 4806-10 standard for ethanol. In addition, its Reid Vapor Pressure (RVP) is limited to 9.0 pounds per square inch during the summertime gasoline volatility season (May 1 – September 15) so that MY2001-2006 motor vehicles can meet evaporative emissions standards with E15. Other seasonal and geographic requirements that would limit the RVP of gasoline to lower than 9.0 psi still apply (e.g. areas of the country that have a 7.8 psi summertime RVP standard).

The conditions placed on today's partial waiver are the same as those placed on the October Waiver Decision.

For More Information

You can access the notice and related documents on EPA's Office of Transportation and Air Quality (OTAQ) Web site at:

www.epa.gov/otaq/regs/fuels/additive/e15

For more information, please contact EPA's Fuels Program at:

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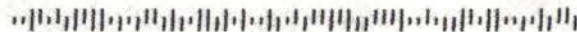
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