April 19, 2021

The Honorable Michael Regan
Administrator
Environmental Protection Agency
1200 Pennsylvania Ave. NW
Washington, DC 20460

RE: Docket ID EPA–HQ–OAR–2020-0448

Dear Administrator Regan:

On behalf of the National Corn Growers Association's (NCGA) 40,000 dues-paying corn farmers nationwide and the more than 300,000 corn growers who contribute to corn checkoff programs in their states, we appreciate the opportunity to respond to the Environmental Protection Agency's (EPA) request for comment on a proposal to modify the fuel dispenser label for 15 percent ethanol blended fuel (E15) and grant additional allowances for compatibility demonstration for underground storage tank systems (USTs).

As producers of the primary feedstock for ethanol, corn growers support expanding availability of higher ethanol blends such as E15, an immediate, available, and affordable solution to lowering carbon emissions in transportation. NCGA supports modifications to EPA's E15 label and the proposed UST compatibility allowances for secondary containment and already compatible tanks and piping. NCGA also supports the proposed compatibility requirements for new and replacement equipment as a cost-effective means to ensure retailers can more easily bring future fuels to the marketplace without compatibility barriers or need for new investments.

Finalizing this proposal will remove additional barriers to retailers offering E15 and provide an immediate fuel decarbonization opportunity. This proposal builds on the successful 2019 rule determining E15 is substantially similar to E10 and granting E15 the same summer volatility treatment as E10, allowing retailers to offer drivers E15 year-round and provide customer choice without interruption. Following a 10 percent expansion of retail sites in 2020, retailers offer E15 at 2,341 stations in 30 states. More than 200 fuel terminals now offer E15, a large expansion from the five terminals offering E15 in 2017, increasing availability of fuel lower in carbon and exhaust emissions and lower in cost.

Updating EPA's label and supporting compliance demonstration for USTs will benefit both consumers and retailers. Due to fleet turnover since EPA approved E15 for 2001 and newer vehicles in 2011, the majority of light duty vehicles on the road today are model year 2001 and newer, and only a very small percentage of the vehicle fleet is pre-2001 and lacks EPA approval for E15. With nearly all drivers now able to use E15, labeling should inform consumers this product is safe for use in their vehicles.

Through NCGA and state corn grower associations, farmers have made significant financial investments to support biofuels infrastructure compatible with higher ethanol blends such as E15. Farmers' investments have supported retailers in determining equipment compatibility with higher blends and supported greater availability and installation of equipment compatible with higher blends and future fuels. We urge EPA to expand the allowances for already compatible equipment to do more to make

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compatibility demonstration less burdensome for retailers that want to offer consumers greater choice and value and meet the objective of allowing E15 use with existing compatible infrastructure.

Modifications to EPA's E15 Label

While NCGA would otherwise agree with removal of the E15 label requirement, we are instead supporting modification of the EPA's label. Separate Federal Trade Commission (FTC) regulations exempt retailers from labeling E15 if the dispenser is labeled according to EPA's requirements. As concluded in the proposed rule, retailers would be required to label E15 dispensers according to FTC requirements in the absence of an EPA labeling requirement.[1] For that reason, we instead support modification of EPA's label.

FTC regulations categorize blends containing more than 10 percent ethanol but not more than 83 percent ethanol as "ethanol flex fuels." Using the FTC label for E15 would be incorrect because FTC labeling for blends of more than 10 percent and up to 50 percent ethanol is required to include the statements "Use ONLY in flex-fuel vehicles" and "may harm other engines."[2] EPA has approved E15 for all 2001 and newer light duty vehicles, and its use is not limited to flex fuel vehicles, making the FTC label inaccurate and misleading for consumers.

While the FTC could take future action to update and correct its labeling requirement, timely action cannot be assured, and EPA cannot modify FTC's requirements in this rulemaking. Without assurance of a timely and accurate update to the FTC's labeling regulation, NCGA supports modifications to the EPA label rather than removal at this time.

The purpose of pump labeling is to provide necessary information to support consumer fueling decisions. NCGA believes the E15 label must clearly and factually inform consumers which vehicles E15 is safe and approved for use in and identify the limited engines in which E15 is not approved for use. Because more than 95 percent of light duty vehicles on the road today are 2001 and newer and can use E15, the label should inform consumers that E15 is safe for use in their vehicles. The much smaller number of consumers purchasing fuel for a motorcycle, boat or small gasoline engine should be informed that federal law does not allow use of E15 in their engines, without creating undue confusion or concern for the vast majority of consumers with vehicles E15 is approved for and safe for use in.

Specific to EPA's proposed modifications, NCGA supports:

- Removal of the "Attention" stripe along the upper corner of the label.
- Removing the phrase "E15" from the label while including the phrase "Contains up to 15% ethanol."
- Revising the language "Use only in" to "Safe for use in."
- Revising the format of the word "prohibited" such that it is not bold or italicized type.

NCGA recommends further revisions to the statement regarding engines to avoid use in. To further streamline the statement at the bottom of the label to state EPA's prohibition of those uses, NCGA supports use of the following alternative statement on the label:

[1] 16 CFR 306.10(a)
[2] 16 CFR 306.12

- "Avoid use in motorcycles, boats or gasoline powered equipment as required by federal law."

We believe this statement provides the necessary facts, based on EPA's 2010 and 2011 partial waivers for the use of E15, to support consumer fueling decisions and avoids speculation. With this recommended labeling, consumers can easily determine whether their vehicle or engine falls within the "Safe for use in" description or the "Avoid use in" listing and make an accurate, fact-based fueling decision based on the type of vehicle/engine they are fueling.

Regarding the proposed color modification, NCGA agrees a color other than orange would be better suited for the label. NCGA believes a black and white label would offer ease of low-cost adoption for retailers, modifying the label to a black header with white text and white body with black text. Alternatively, NCGA would prefer the blue and white label color scheme EPA proposed over the current orange and black label.

NCGA believes the federal government's E15 label should supersede state and local government E15 labeling requirements. Requiring an additional state or local government label for the same fuel is unnecessary and causes confusion for consumers. NCGA supports consistent pump labeling for E15, a federally approved fuel, and encourages EPA to use its authority to preempt state and local government labeling requirements to maintain consistent pump labeling.

In prior rulemakings, some stakeholders have suggested that EPA also reference consulting vehicle owner's manuals on the E15 label. NCGA believes statements to that effect on the E15 label are unnecessary and should not be included. EPA, after significant testing and evaluation, approved E15 for use in 2001 and newer vehicles, but EPA's partial waivers were granted in 2010 and 2011. A consumer consulting a 2010 model year vehicle owner's manual will likely see no references to E15 because that vehicle was manufactured prior to EPA's approval of the fuel. However, it is safe to use E15 in that 2010 vehicle based on EPA's partial waivers. The approval and safety of E15 use in 2001 and newer vehicles is not contingent on statements in vehicle owners' manuals but on EPA's partial waivers for E15. Therefore, EPA's label should reflect the conditions of the E15 partial waivers, provide the information at the pump that directly enables consumers to make sound fueling decisions and avoid creating additional consumer confusion.

Some stakeholders have also suggested EPA regulate retailer marketing of E15. NCGA believes EPA does not have authority to regulate retailer marketing of E15. EPA's authority extends to the labeling requirement, providing fact-based information to consumers about vehicles and engines E15 is approved for use in and is not. Retailers follow the labeling requirements and should retain the ability to market this product to their customers according to the conditions for E15 use.

Misfueling is not occurring now and is less likely to occur with more E15 in the marketplace. As E15 has become more widely available, consumers are becoming increasingly familiar with this fuel. In March, Growth Energy reported that U.S. drivers have reached the milestone of 20 billion miles driven on E15.[3] Because all vehicles on the road can run on regular gasoline, which is primarily E10 today, when retailers add E15 to their inventory, they retain all previous customers while doing more to service the more than 95 percent of vehicles capable of using E15. Consumers choose E15 because it offers higher octane fuel at a lower cost, with E15 saving drivers between 3 and 10 cents per gallon at the pump. At both the

[3] "Growth Energy: American Drivers Reach 20 Billion Miles on E15." Growth Energy, March 9, 2021: https://growthenergy.org/2021/03/09/growth-energy-american-drivers-reach-20-billion-miles-on-e15/

wholesale and retail level, ethanol costs less than gasoline. When additional ethanol is blended, the price of the finished fuel declines.

EPA should encourage greater adoption and use of E15 because this fuel reduces emissions across the board. Increasing fuel ethanol volume from 10 percent to 15 percent reduces greenhouse gas (GHG) emissions from the transportation sector. Because ethanol currently results in between 40 and 46 percent fewer GHG emissions than gasoline, increasing the volume of ethanol in the fuel provides greater GHG reductions, making E15 a lower carbon fuel and an immediate decarbonization opportunity. The carbon footprint of ethanol is shrinking and will continue to decline, due in part to farmers' production practices. With continued improvements in corn and ethanol production, and advancements in carbon sequestration, ethanol has the ability to reach net zero carbon emissions over time.

Blending more ethanol displaces the most harmful compounds found in gasoline. These aromatic hydrocarbon additives (such as benzene, toluene, ethylbenzene, xylene – or BTEX) have high cancer-causing potential and contribute to fine particulate matter emissions that harm health. The additional five percent volume of ethanol in E15 further dilutes hydrocarbon aromatics, reducing harmful exhaust emissions. Finally, because E15 has a slightly lower Reid Vapor Pressure (RVP) than E10, E15 lowers the volatility of in-use gasoline and reduces evaporative emissions.

The modified E15 label NCGA supports will better inform fact-based consumer fueling decisions at the pump and help more consumers access lower cost, lower-emission and higher octane E15. We urge EPA to modify the E15 label in this recommended manner.

E15 Compatibility with Underground Storage Tanks (UST)

Through NCGA and state corn grower associations, farmers have invested their resources to back biofuels infrastructure compatible with distributing higher ethanol blends such as E15, including assisting retailers in determining compatibility of their equipment with higher blends and supporting greater availability and installation of equipment compatible with higher blends, such as E25 compatible pumps. We have found that the requirements and cost to add E15 are often exaggerated and widely misunderstood, partly due to the complex nature of requirements regarding fuel, but also due to misleading and inaccurate claims from the petroleum industry interested in protecting its market share.

Compatibility has not been the issue, but proving compatibility has. With this proposal, EPA's compatibility standards are not changing, but EPA is allowing station owners and operators simpler, logical methods to demonstrate their infrastructure is compatible with E15. EPA's proposals increase recognition of existing compatibility and help dispel the myths holding retailers back.

Among the initiatives corn growers have financially supported to increase market deployment of higher ethanol blends are the FlexForward resources offered by the American Coalition for Ethanol.[4] Their extensive Flex Check compatibility tool allows retailers to search for their components by manufacturer, model number or product category to determine whether their infrastructure is compatible with E15. Retailers can download compliance letters for their equipment and receive guidance on the steps needed to offer E15. Corn growers are committed to supporting retailers' access to information and

[4] American Coalition for Ethanol, accessed at https://flexfuelforward.com/flexcheck/

resources that dispel the misinformation of compatibility with E15 and higher blends, but the requirements on retailers must be less burdensome to meet.

We appreciate EPA's proposals to expand options for UST owners and operators to meet compatibility requirements and the forward-looking proposal for new UST systems and replacement equipment and components to be compatible with up to 100 percent ethanol, cost effectively future-proofing UST investments for changing fuel markets and new, low carbon fuel choices. However, we believe EPA's proposal could do more to expand allowances for already compatible equipment that retailers have in place that can safely and effectively be used for E15.

First, EPA is proposing that owners and operators of existing UST systems who cannot determine compatibility can alternately demonstrate compliance if their UST system has secondary containment and interstitial monitoring. Difficulty demonstrating compliance often results when UST owners and operators cannot locate or do not receive compatibility documents for all equipment and components during to retail station ownership changes, and many stations go through multiple ownership changes. We agree that secondary containment, which has been a requirement in some states for many years, and interstitial monitoring provide effective and well-established protection and will provide some UST owners and operators who have been unable to determine compatibility an effective pathway to demonstrate compatibility and store and use E15. NCGA supports this proposal.

While this alternative compliance demonstration may not be an option for all UST owners and operators, making this option available will be beneficial. For example, Minnesota regulators estimate an additional 3 to 5 percent of sites could demonstrate compatibility with this option that otherwise face barriers to showing compatibility. In addition, for UST owners and operators who currently have secondary containment, installing interstitial monitory would be a much less costly option than a new UST installation. As EPA notes, the replacement cost avoidance from this safe option could be significant for many retailers and would provide a more cost-effective solution for them.

Second, EPA identified equipment for which UST owners and operators would not need to demonstrate compatibility because certain categories of equipment are known to be compatible with higher blends. NCGA supports this change and including the specific equipment EPA identifies in the proposal - all steel and fiberglass tanks manufactured after July 2005 and all fiberglass reinforced plastic piping.

In addition to these tanks and piping, we urge EPA to expand the allowances for already compatible equipment to do more to make compatibility demonstration less burdensome for retailers that want to offer consumers greater choice and value and meet the objective of allowing E15 use with existing compatible infrastructure. Listing these tanks and piping is a good first step, but EPA must ensure the greatest possible extent of equipment known to be compatible is included in the final rule.

According an audit by the U.S. Department of Energy's National Renewable Energy Laboratory (NREL), the majority of installed tanks can store blends above E10, and UST manufacturers have approved their tanks for blends up to E100 for several decades, including all steel tanks and double-walled fiberglass tanks since 1990.[5] Appendix C of NREL's report includes a compatibility list for tanks, Appendix D is a list of compatible pipes, and Appendix E provides compatibility information for other UST equipment.[6] As

[5] Moriarty, Kristi and Yanowitz, Janet. "E15 and Infrastructure." National Renewable Energy Laboratory, May 2015, p vi. Available at https://afdc.energy.gov/files/u/publication/e15_infrastructure.pdf
[6] Moriarty, Kristi and Yanowitz, Janet. "E15 and Infrastructure." National Renewable Energy Laboratory, May 2015. Available at https://afdc.energy.gov/files/u/publication/e15_infrastructure.pdf

demonstrated in these listings, NREL's audit provides an extensive list of equipment compatible with blends such as E15 and higher, and NCGA encourage EPA to use this resource. Manufacturers have introduced new products since NREL's report was published in 2015, and we agree with NREL's assessment that there is a higher likelihood that new products will be compatible with E15.

As the NREL audit demonstrates, most existing UST equipment since 2015 is compatible with blends above E10, raising the question of why burdensome compatibility demonstrations by retailers remain necessary. NCGA believes EPA can safely reduce the threshold for these demonstration requirements because the lifespan of tanks and equipment, prior requirements for UST owners and operators and the length of time fully compatible equipment has been standard in the marketplace makes these piece-by-piece demonstrations increasingly unnecessary today.

Finally, for new or replacement UST system equipment and components, EPA proposes that these be compatible with ethanol blends up to 100 percent. NCGA strongly supports this proposal. We agree with EPA that because UST systems remain in use for decades, "Implementing this requirement now will help ensure future fuels storage infrastructure can reliable store a larger variety of fuels." Given the challenges many retailers have faced in demonstrating compatibility to offer higher ethanol blends, we believe that taking steps now to plan for future fuels prevents the much higher cost of upgrading equipment after it is installed and avoids the compatibility demonstration obligations that must be met today. Due to the state's incentive for low carbon fuels, higher ethanol blends such as E85 have grown rapidly in California, and there is considerable value in providing this assurance of compatibility with higher ethanol blends in new and replacement UST systems to compliment low carbon fuel policies in states or at the federal level going forward.

As EPA notes, all UST system equipment and components are readily available with 100 percent ethanol compatibility in the market today. For many pieces of equipment and components, 100 percent ethanol compatibility is the standard and there is no additional cost for this higher blend compatibility. For example, manufacturers have approved their tanks for blends up to E100 for several decades, including all steel tanks and double-walled fiberglass tanks since 1990, according to NREL's audit. Tanks are the most expensive component for a UST system, so if E100 compatibility has been the standard for all tanks since 1990, there should be no additional cost for tanks to meet the standard.

With tanks approved for E100, the cost of components is minor in comparison. While models of some components may have an additional cost for 100 percent ethanol compatibility, we agree with EPA that the marginal cost will be minimal compared to the total cost of a UST project. For example, estimates from Minnesota regulators for a fully E100 compatible system, including both UST and above-ground dispensers and equipment, show about a 10 percent higher cost. Furthermore, this new requirement will increase demand for 100 percent ethanol compatible equipment and components, lowering prices and making this level of compatibility and flexibility the industry standard.

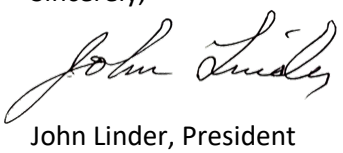
Conclusion

NCGA urges EPA to complete this rulemaking and update the E15 label to better inform and support consumer fueling decisions with a fact-based label. E15 offers consumers a lower cost and lower emissions fuel that has proven safe and effective through 20 billion miles of use in nearly all passenger vehicles on the road today, and EPA has an interest in promoting low carbon fuel. EPA must avoid speculation and creating consumer confusion with the label; the label should enable consumers to make an informed decision directly at the pump.

NCGA strongly supports the proposed UST compliance demonstration allowances and proposed compatibility requirements for new and replacement equipment as a cost-effective means to ensure retailers can more easily bring low carbon future fuels to the marketplace. The proposed allowances are an important first step, and EPA must ensure the greatest possible extent of equipment known to be compatible is included in the final rule. NCGA believes EPA can safely reduce the threshold for these demonstration requirements because of the lifespan of tanks and equipment and the length of time fully compatible equipment has been standard in the marketplace, supporting greater market availability of low carbon E15.

Thank you for considering NCGA's comments.

Sincerely,



John Linder, President
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