U.S. Environmental Protection Agency Proposed Rule Addressing E15 Motor Fuels: Association of State and Territorial Solid Waste Management Officials Comments

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The Association of State and Territorial Solid Waste Management Officials ("ASTSWMO") submitted April 15th comments on the United States Environmental Protection Agency's ("EPA") proposed rule for E15 Fuel Dispenser Labeling and Compatibility with Underground Storage Tanks.

EPA published the proposed rule in the January 19th Federal Register. See 86 Fed. Reg. 5094.

The proposed rule addresses the sale and distribution of gasoline-ethanol blends containing greater than 10 volume percent ethanol and up to 15 percent volume ethanol.

EPA is co-proposing to either:

- Modify the E15 label; or
- Remove the label entirely and seek comment on whether state and local governments may be preempted from requiring different labels on fuel dispensers

EPA is also proposing to modify the underground storage tank ("UST") regulations to grant certain allowances for compatibility demonstration for storage of ethanol blends. The federal agency stated that its purpose is to facilitate the proper storage of E15 in USTs. Further, it is proposing compatibility requirements for future UST installations or component replacements. This is stated to be an attempt to ensure compatibility with higher blends of ethanol.

Ethanol is commonly blended with gasoline. Such petroleum-biofuel blends are described by a letter representing the first initial of the biofuel. For example, E for ethanol. This is followed by a number that usually describes the approximate biofuel percentage of the overall blend: E10 or E15. While some retail motor fuel outlets sell E15, the number is still generally described as a small percentage of total facilities.

The Tanks Subcommittee of ASTSWMO prepared the comments on EPA's proposed E15 rule. The Committee identifies what it characterizes as "several problems" with E15 compatibility with USTs (due to the current infrastructure of UST systems in the United States). These are stated to include:

- Concerns about secondary containment as an adequate substitute for compliance with compatibility requirements based on the proposed rule

- Owners of older secondarily contained USTs warranted by the manufacturer to store fuel blends up to E10 may void their warranties by storing E15
- Older USTs and piping currently in use may be subject to unknown incompatibility issues because records of the exact equipment installed may not be readily available
- Introduction of E15 into UST systems utilizing pipe, dopes, sealants, and gaskets (to create tight systems) may be subject to degradation of materials
- Concern expressed about requiring all new systems be compatible to E100 resulting in costs exceeding benefits
- Existence of ethanol could increase the concentration of other chemicals of concern in dissolved phase plumes and groundwater through a co-solvent effect
- Potential impact on State financial assurance UST trust funds for cleanups
- Concerns about requiring the states to once again go through the UST State Program Approval process if revisions in the proposed rule are implemented
- Potential removal of the E15 labeling could lead to problems for vehicle owners with model year 2000 and older vehicles

ASTSWMO describes itself as an organization representing 50 states, five territories and the District of Columbia whose mission is to enhance and promote effective State and Territorial programs to affect relevant national policies for waste and materials management, environmentally sustainable practices, and environmental restoration.

A copy of the comments can be downloaded here.