

Year-Round Sale of E15

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Interest continues in the year-round sale of E15—generally described as an ethanol-gasoline fuel blend of 15% ethanol and 85% gasoline—among some Members of Congress. At present, E15 generally cannot be sold during summer months because it does not meet the [Reid Vapor Pressure \(RVP\) requirements](#), which limit fuel volatility, under the Clean Air Act (CAA) for the summer ozone season (generally June 1–September 15). Recently, the U.S. Environmental Protection Agency (EPA) issued a [proposed rule](#) that would allow higher-volatility summertime E15 (in line with an existing exemption for 10% ethanol-gasoline fuel blends), among other provisions, thus allowing year-round E15 sales. However, it is not clear if EPA has the authority to grant the exemption. At issue for Congress is whether to leave the CAA as is, amend the CAA to exempt higher ethanol-gasoline fuel blends from the RVP requirements, or to make clear that E15 is not to receive an exemption from the RVP requirements. To inform this decision, Congress is also considering how year-round E15 sales might affect other federal programs (e.g., Renewable Fuel Standard) and associated stakeholders, such as the petroleum industry and the advanced biofuel industry.

Clean Air Act RVP Requirements

The CAA authorizes the EPA Administrator to [regulate fuels and fuel additives](#). Among other pollutants, the CAA regulates ground-level ozone ("smog"). One of the requirements to reduce the formation of smog is a limit on gasoline volatility (volatile compounds evaporate and contribute to smog formation). [RVP](#) is a common metric used to determine gasoline volatility; the lower the RVP, the less volatile the gasoline. RVP requirements (in §211(h) of the CAA)—which apply to the 48 contiguous states and the District of Columbia—generally prohibit the sale of gasoline with an RVP greater than 9 pounds per square inch (psi) during the high ozone season (i.e., the summer months). The act provides some exceptions, including a waiver—the "1 lb waiver"—stipulating that ethanol-gasoline fuel blends containing 10% ethanol (E10) are subject to a 10 psi RVP limit, given certain conditions. Further, the act provides exclusions from the waiver such that, upon notification by a governor that the RVP limit granted for E10 will increase air pollutant emissions in that state, the Administrator must revert to the 9 psi limit for that area. In some areas of the country, generally based on [nonattainment for ozone](#), more stringent RVP limits apply (e.g., 7.0 or 7.8 psi RVP for conventional gasoline), with the 1 pound waiver added on.

Authority to Lift the E15 Summer Months Restriction

On at least two occasions, EPA reported that it does not have the authority to include blends with an ethanol content greater than 10% in the 1 pound waiver. EPA reported in a July 2011 [E15 Misfueling Mitigation Final Rule](#) that "In sum, the text of section 211(h)(4) of the CAA and this legislative history supports EPA's interpretation, adopted in the 1991 rulemaking, that the 1 psi waiver only applies to gasoline blends containing 9–10 vol% ethanol." However, in May

2017, EPA [reported](#) that it was undertaking a statutory analysis of the RVP waiver for inclusion of E15. In the current proposal, EPA states that they have the authority to extend the waiver to E15. Further, several rulemakings by EPA may indirectly address the RVP requirements. These rulemakings include the [2016 renewables enhancement and growth support proposed rule](#), which would control evaporative emissions from higher-level ethanol blends, and the current rule for [National Ambient Air Quality Standards for ozone](#), which may prompt states to tighten requirements on evaporative emissions in ozone nonattainment areas.

Federal Agency Actions

On March 12, 2019, EPA issued a proposed rule that would allow E15 to be sold year-round, among other provisions. In short, to do this, EPA proposes three things:

- 1. modify EPA's interpretation of Section 211(h)(4) of the CAA to interpret "containing" to mean "containing at least," thereby establishing a lower limit of the ethanol content that may receive a 1 pound waiver instead of an upper limit;
- 2. issue a regulation that would modify certain parts of an existing EPA regulation that addressed the volatility of E15 in the [E15 Misfueling Mitigation Rule](#) (MMR), in part, to revise the interpretation of Section 211(h)(4) of the CAA in the MMR; and
- 3. clarify EPA's interpretation of Section 211(f) of the CAA "to ensure that E15 with an RVP of 10 psi can be introduced into commerce."

EPA asserts that these actions would subject E15 to the same volatility standards that apply to E10. The deadline for public comment is April 29. EPA [reports](#) it should be able to meet its deadline to have the rule in place before the summer driving season.

Legislative Action

In the 116th Congress, one bill relates to E15: [H.R. 1024](#) addresses labeling requirements for fuel pumps that dispense E15. Legislation was introduced in the 115th Congress ([H.R. 1311](#), [S. 517](#)) that would have given ethanol-gasoline fuel blends containing greater than 10% ethanol (e.g., E15) a waiver from the CAA RVP limits.

Legislative Issues and Options

Congress could consider whether to leave the CAA as is, to amend RVP requirements under the CAA to include higher ethanol-gasoline fuel blends, or to underscore that E15 is not to receive an exemption from the RVP requirements. Amending the CAA to allow E15—as [some stakeholders](#) have supported—could increase demand for ethanol production, which may lead to additional economic development for the agricultural sector. However, it is not clear that an amendment would lead to increased E15 demand due to [infrastructure constraints](#) and consumer choice, among other issues. Further, it is not clear if such a change would impact other aims of the Renewable Fuel Standard (RFS) statute: including greenhouse gas emission reduction, energy security, etc. Some in the oil and natural gas industry [do not favor the proposed RVP change](#) due to concerns about vehicle performance and legal concerns, among other considerations. Some in the renewable fuel industry support [a swift implementation of the proposed RVP change](#).

Portions of this CRS Insight are sourced from CRS Insight IN10703, *Reid Vapor Pressure Requirements for Ethanol*, issued on May 18, 2017, available to congressional clients upon request from the author.