

Year-Round Sale of E15

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Because of recent actions by the Trump Administration and other factors, congressional interest has grown concerning the year-round sale of E15—an ethanol-gasoline fuel blend of 15% ethanol and 85% gasoline. At present, E15 cannot be sold during summer months because it does not meet the Reid Vapor Pressure (RVP) requirements under the Clean Air Act (CAA) for the summer ozone season (generally June 1–September 15). Recently, it has been reported that the Trump Administration directed the U.S. Environmental Protection Agency (EPA) to lift the summertime restriction, thus allowing year-round E15 sales. It is not clear if EPA has the authority to lift the restriction. At issue for Congress is whether to leave the CAA as is or to amend it to exempt higher ethanol-gasoline fuel blends from the RVP requirements, and how year-round E15 sales might affect both federal programs (e.g., Renewable Fuel Standard) and associated stakeholders (e.g., the petroleum industry, environmental organizations, and the advanced biofuel industry).

RVP Requirements Under the Clean Air Act

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 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 Section 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 (summer months). The act provides some exceptions, including a waiver stipulating that ethanol-gasoline fuel blends containing 10% ethanol (E10) are subject to a 10 psi RVP limit, given certain conditions (i.e., 1 pound waiver). 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, more stringent RVP limits apply (e.g., 7.0 or 7.8 psi RVP for conventional gasoline), with the 1 pound waiver added on.

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Authority to Lift the E15 Summer Months Restriction

On at least two occasions, EPA reported 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 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. 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.

Legislative Action

Legislation has been introduced in Congress (H.R. 1311, S. 517) that would give ethanol-gasoline fuel blends containing greater than 10% ethanol (e.g., E15) a waiver from the CAA RVP limits. H.R. 1311 and S. 517 would amend two sections of the CAA. First, the bills would amend Section 211(h) to include such fuel blends for both the RVP ethanol waiver and the RVP exclusion from the ethanol waiver. Second, the bills would amend the CAA section on new fuels and fuel additives (Section 211(f)(4)) to allow for a fuel or fuel additive that received a waiver under Section 211(f)(4) prior to January 2017 and met all of that waiver’s requirements, except for the RVP requirement, to be sold. This portion of the bill would apply to E15, which was granted a partial waiver by EPA in 2011 under CAA Section 211(f)(4). Other E15-related legislation has been introduced (e.g., H.R. 5855, H.R. 1315, H.R. 777). For instance, H.R. 1315 would prohibit the sale of ethanol-gasoline fuel blends containing greater than 10% ethanol and would void the E15 waivers previously granted by the EPA.

Legislative Issues and Options

Congressional options on RVP include whether the CAA should be left as is or amended to include higher ethanol-gasoline fuel blends. Amending the CAA—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 issues and consumer choice among other issues. Further, it is not clear if such a change would lead to additional production of advanced biofuels (e.g., cellulosic ethanol) which may have a greater ability to reduce greenhouse gas emissions. Some stakeholders do not favor the RVP policy change announced by the Trump Administration due to concerns about costs, the environment, and market share, among other things.

Some 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.

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