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ONE HUNDRED THIRTEENTH CONGRESS
Congress of the United States
House of Representatives

COMMITTEE ON ENERGY AND COMMERCE

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July 19, 2013

Mr. Christopher Grundler
Director, Office of Transportation and Air Quality
Office of Air and Radiation
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Dear Mr. Grundler:

Thank you for appearing before the Subcommittee on Energy and Power on Thursday, June 26, 2013, to testify at the hearing entitled "Overview of the Renewable Fuels Standard: Government Perspectives."

Pursuant to the Rules of the Committee on Energy and Commerce, the hearing record remains open for ten business days to permit Members to submit additional questions for the record, which are attached. The format of your responses to these questions should be as follows: (1) the name of the Member whose question you are addressing, (2) the complete text of the question you are addressing in bold, and (3) your answer to that question in plain text.

Also attached are Member requests made during the hearing. The format of your responses to these requests should follow the same format as your responses to the additional questions for the record.

To facilitate the printing of the hearing record, please respond to these questions and requests by the close of business on Friday, August 2, 2013. Your responses should be e-mailed to the Legislative Clerk in Word format at Nick.Abraham@mail.house.gov and mailed to Nick Abraham, Legislative Clerk, Committee on Energy and Commerce, 2125 Rayburn House Office Building, Washington, D.C. 20515.

Thank you again for your time and effort preparing and delivering testimony before the Subcommittee.

Sincerely,



Ed Whitfield
Chairman
Subcommittee on Energy and Power

cc: The Honorable Bobby L. Rush, Ranking Member, Subcommittee on Energy and Power

Attachments

Attachment 1—Member Requests for the Record

During the hearing, Members asked you to provide information for the record and you indicated that you would provide that information. For your convenience, descriptions of the requested information are provided below.

The Honorable Michael C. Burgess

1. How many vehicles haven been tested with E-15 gasoline by EPA or DOE?
2. During the hearing, you indicated that you were willing to provide technical information and/or reports resulting from vehicle testing with E-15, please provide that information.
3. What limit of liability does an independent private retailer have with respect to misfueling?

Attachment 2—Additional Questions for the Record

The Honorable Robert E. Latta

1. Could you explain the scope of the affirmative defense built into the quality assurance program for purchasing Renewable Identification Numbers (RINs).
 - a. What must a RIN buyer do in order to be adequately protected under the quality assurance program?
 - b. What level of ‘due diligence’ is required by the buyer?
 - c. How does the Environmental Protection Agency define ‘due diligence’?
 - d. How will the agency communicate the criteria for due diligence to RIN buyers, so they are adequately protected by the quality assurance program?

The Honorable H. Morgan Griffith

On July 25, 2011, EPA published in the Federal Register a final rule, Regulation to Mitigate the Misfueling of Vehicles and Engines with Gasoline Containing Greater than Ten Volume Percent Ethanol and Modifications to the Reformulated and Conventional Gasoline Programs (40 CFR Part 80). In testimony before the House Energy and Commerce Subcommittee on Energy and Power on June 26, 2013, Mr. Christopher Grundler summarized that under this rule retailers who wish to offer E15 for sale must submit to EPA a misfueling mitigation plan, affix to their dispensers EPA required labels that inform the consumer of appropriate and prohibited uses of the fuel, and submit to a survey to assist EPA in tracking the availability and sale of E15.

I have learned from fuel retailers that they are concerned about potential liability under the Clean Air Act in the event a self-service customer introduces E15 into a vehicle for which it is not approved. These retailers express concern that even if they are compliant with the requirements of the above referenced misfueling mitigation regulation, they may be found in violation of the Clean Air Act and possibly fined by the EPA or sued by a private party exercising their rights under the Act, if a consumer misfuels with E15.

If a retailer complies with the misfueling mitigation requirements of 40 CFR Part 80, and a person other than the retailer or the retailer’s appointed agent introduces E15 into a vehicle or engine for which it has not been approved:

1. Is that retailer in violation of the Clean Air Act?
2. Is that retailer guilty of misfueling?
3. Will that retailer be subject to enforcement actions by the EPA for violating a control or prohibition of the Clean Air Act?
4. Will that retailer be subject to the private right of action provisions of the Clean Air Act?