



August 30, 2022

Kevin Allen, Associate Director
Arizona Department of Agriculture Weights and Measures
Services Division
1802 W. Jackson St., #78
Phoenix, AZ 85007

Submitted via email: kallen@azda.gov

RE: Notice of Proposed Rulemaking for Arizona Administrative Code, Title 3, Chapter 7

Dear Mr. Allen,

We are writing to provide public comment pursuant to the Notice of Proposed Rulemaking for Arizona Administrative Code, Title 3, Chapter 7. We appreciate the opportunity to offer input on this important rulemaking.

Eco-Energy is an integrated energy marketer and midstream services company with \$4 billion in annual revenue. Its core business is the marketing and transportation of ethanol and natural gas across the United States, Canada, and internationally. Eco-Energy maintains a newly-constructed fuel terminal in Phoenix – its tenth ethanol distribution terminal in the United States. Our Phoenix terminal offloads ethanol from railcars to dedicated storage where it is then transferred via pipeline to every local blending terminal. The terminal can handle over 250 million gallons of ethanol per year. Its 4 million gallons of dedicated ethanol storage avoids the added cost and complexity of truck deliveries and provides much-needed reliability and security of supply in Arizona’s complex gasoline market.

First and foremost, we strongly support the Arizona Department of Agriculture’s (“the Department’s”) decision to allow E15 (15 percent ethanol blends). As you know, the vast majority of Arizona’s fuel already contains 10 percent ethanol by volume (called E10). Allowing E15 will align Arizona with the vast majority of U.S. states that have already done so, add supply opportunity to chronically tight petroleum markets, and give consumers another option at the pump.

We appreciate that the Department has conducted considerable due diligence regarding Arizona market readiness to allow E15. Retailers considering plans to offer E15 have well-established systems and [industry support](#) in place to confirm compatibility of equipment, including existing regulations on [Underground Storage Tanks](#). Since the 1980s, [petroleum equipment](#) manufacturers have offered compatible products for blends above 10 percent ethanol, including storage tanks, piping, [pipe dope](#), valves, hanging hardware, dispensers, hoses, and nozzles, as standard equipment. More specifically, we would like to highlight the following:

1. E15 is allowed for sale in almost all states and is sold in significant quantities in more than 30 states. U.S. consumers have traveled more than [30 billion miles on E15 without incident](#).
2. The U.S. Environmental Protection Agency (EPA) has [approved E15 for use](#) in all 2001 and newer passenger vehicles; or, more than 96 percent of the cars and trucks on the road today. The U.S. Department of Energy, in

collaboration with the National Renewable Energy Laboratory (NREL), tested 86 cars (for more than 100,000 miles each) on E15 and E20 blends, and found [no degradation of vehicle systems or materials \(including emissions controls\)](#) for either blend.

3. According to numerous reports by the [National Renewable Energy Laboratory \(NREL\)](#), [U.S. Department of Energy](#), [EPA](#), [Steel Tank Institute](#), and [Fiberglass Tank and Pipe Institute](#), most underground storage tanks made in the last 30 years are approved for up to 100 percent ethanol. The NREL report states: “It is often stated that tanks cannot be used to store E15, but this assumption is incorrect as the majority of installed tanks can store blends above E10. For many decades, underground storage tank (UST) manufacturers approved their tanks for blends up to E100, for example, all steel tanks and double-walled fiberglass tanks since the year 1990. Manufacturers of pipe thread sealants (pipe dope) used in UST systems have stated that their products have been compatible with ethanol blends up to E20 for many years.”
4. The vast majority of fuel dispensing equipment is already manufacturer-approved for E15. For example, most fuel dispensers are manufactured by either Wayne or Gilbarco. All Wayne dispensers are compatible with E15 (and new Wayne dispensers are compatible with ethanol-blends up to 25 percent). Gilbarco dispensers are also compatible with E15 (since 2008).
5. E15 is covered under existing product liability and commercial liability policies, as long as the retailer is operating within the parameters of the established regulatory and compliance guidelines (i.e., EPA E15 requirements). The proposed rule requires any Arizona retailer interested in selling E15 to be in compliance with federal (EPA) E15 requirements.
6. While the question of equipment compatibility is settled, any retailer concerned about equipment compatibility is under no obligation to sell E15. As you know, the Department’s proposal does not mandate E15, and E15 availability is not going to displace standard blends.

Allowing E15 is advantageous for Arizona consumers in numerous ways:

- **Consumer Savings.** Allowing more ethanol to be blended into gasoline reduces gas prices by: (1) displacing some of the most expensive petroleum octane enhancers with a cheaper alternative; and, (2) extending fuel supply and reducing tightness between supply and demand. Ethanol has traded at a \$1.00 or more discount to wholesale gasoline for most of 2022. Over the last year, E15 has been offered by more than 2600 retail gasoline stations across 31 states at a 30-40 cents per gallon (CPG) discount to regular gasoline. At some stations, E15 has sold at a 60 CPG discount, with E85 (85 percent ethanol blends) at a \$1.50-2.00 discount to regular gasoline. Pricing dynamics aside, allowing higher levels of ethanol blending brings additional motor fuel supply to otherwise tight U.S. and Arizona (AZ-CBG) finished gasoline markets. Arizona’s gasoline prices hit an all-time high of \$5.39 per gallon in June 2022, largely due to extremely tight U.S. refinery output against consumer demand. As you know, Arizona receives almost all of its gasoline through two pipelines – from California and Texas. Allowing more ethanol use through our Phoenix terminal provides increased protection for Arizona consumers against volatile gasoline markets due to tight petroleum supply, refinery outages, or other infrastructural issues.

- **Lower Emissions.** As discussed, E15 is offered at more than [2,600 retail locations](#) across [31 states](#). U.S. consumers have traveled more than [30 billion miles on the fuel](#). In areas where E15 is used, air quality continues to improve. Numerous independent, peer-reviewed studies confirm that E15 lowers both tailpipe and lifecycle carbon emissions. The most recent analysis is based on vehicle testing conducted by the University of California - Riverside showing that [E15 reduces emissions relative to regular gasoline](#), including particulate matter (PM), carbon monoxide (CO), nitrogen oxides (NOx), and hydrocarbon gases (THC). EPA also confirmed that “[E15 is likely to result in somewhat lower evaporative emissions](#) compared to fuel currently sold in much of the country (E10) as a result of the lower volatility of E15.” Greater E15 use can help state regulators address the state’s ongoing air quality challenges. For lifecycle carbon emissions, rigorous and peer-reviewed analysis by [academic researchers](#), the [California Air Resources Board](#), [DOE](#) and [U.S. Department of Agriculture](#) agree that ethanol blending significantly reduces lifecycle greenhouse gas (GHG) emissions.

Finally, we would like to provide comment on two key aspects of the proposed rule as related to deference to federal law. As you know, one of the keys to allowing E15 at the state level is to strike the right balance between setting state controls on ethanol use and deferring to federal law where appropriate. We strongly support the balance struck by the Department as it pertains to the balance between state and federal authorities. We would like to highlight two critical areas:

1. The proposal strikes the right balance for mis-fueling mitigation and pump labeling. Any retailer seeking to offer E15 must secure approval of a mis-fueling mitigation plan (MMP) from EPA. An approved MMP must meet [federal requirements for labeling, product transfer, compliance surveys, and consumer outreach](#). The requirements are stringent and have an excellent track record. As discussed, U.S. consumers have traveled more than [30 billion miles on E15 without incident](#). We appreciate that the Department found the right balance here, because overlaying an additional state-level mis-fueling/labeling program could confuse and burden national fuel retailers accustomed to federal (EPA) rules and act to discourage the use of E15 in Arizona.
2. While allowing E15 is a straightforward process in some areas due to the fact that E15 is regulated the same way as E10 and meets the same fuel specifications and environmental standards as E10, the state was right to take a hard look at recent regulatory and court decisions related to federal Reid vapor pressure (RVP) limits on gasoline. RVP is controlled primarily to reduce evaporative emissions (particularly in warmer climates and seasons). As you know, E10 blends are allowed to exceed federal RVP limits by 1 PSI in the summer due to the fact that ethanol blending reduces smog-forming emissions in other areas. In 2019, EPA extended that waiver to E15 based on the fact that E15 reduces emissions even further. A D.C. Circuit Court struck down the method used by EPA to extend the RVP waiver in July 2021. Earlier this year, President Biden extended the waiver to E15 again – this time by emergency waiver – and committed to solving the problem permanently. In short, federal RVP rules are fluid; and, the Department took the right approach to resolving uncertainty in the proposed rule. In essence, the Department is proposing to do what other states have done; legalize the use of E15 while assuring that its use meets all state rules but defers to federal law on RVP. This approach allows E15 to be used in Arizona only insofar as its use complies with federal law (i.e., the proposal does not either prohibit E15 when allowed by federal rules nor allow it when restricted by federal rules). Perhaps most importantly, this approach avoids a conflict with federal law.



Eco-Energy very much appreciates the time and energy devoted by the Department and other agencies toward allowing the sale of E15 in Arizona. We would be happy to discuss further any questions the Department might have. Thank you for the opportunity to comment on this important proposed rule.

Sincerely,

A handwritten signature in black ink, appearing to be "CW", written over a white background.

Craig Willis
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