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January 3, 2011

The Honorable Lisa P. Jackson,  
Administrator  
U.S. Environmental Protection Agency  
Mailcode: 6102T  
1200 Pennsylvania Avenue NW  
Washington, DC 20460

Attention: Docket ID NO. EPA –HQ-OAR-2010-0448

Re: 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.

Dear Administrator Jackson:

The American Lung Association appreciates this opportunity to provide comments on EPA's proposed 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, published in the Federal Register on November 4, 2010 at 75 Fed. Reg. 68044. (Misfueling Rule)

The American Lung Association is the nation's oldest voluntary health agency. Founded to combat tuberculosis in 1904, the American Lung Association's mission is to save lives by improving lung health and preventing lung disease. For nearly five decades the Lung Association has been active in support of cleaning up outdoor air pollution to reduce the impact of air pollution on public health.

The American Lung Association does not find the proposed Misfueling Rule adequate to mitigate or prevent misfueling and encourages EPA to strengthen the rule. The rule, as proposed, cannot prevent the misuse of E-15 in vehicles and other engines that EPA has not approved.

#### **Covered Vehicles and Engine**

The American Lung Association remains concerned about the air quality impact of mid-level ethanol (E-15) on all vehicles and we strongly encourage additional, more robust testing that demonstrates no increases in emissions before any additional expansion of the partial waiver to more vehicles or engines. The states and cities are challenged now to provide protection to public health under the current national air quality standards for ozone, and additional emissions from mid-level ethanol would likely worsen that problem. Therefore, until sufficient evidence exists to show that mid-level ethanol would not add emissions, the American Lung Association opposes the use of E-15 in heavy duty gasoline engines and vehicles, motorcycles, nonroad engines, vehicles and equipment.

For the same reasons, the American Lung Association also believes that E-15 should be prohibited from MY2001-MY2006 motor vehicles.

### **Public Outreach and Communication**

We are deeply concerned that, although the proposal highlights the need for a significant outreach and education component, the proposed rule does not make clear which entities will underwrite and participate in such education and outreach to ensure that the public is informed with accurate information. EPA suggests that, on other issues with fuels, key stakeholders have performed this education function. However, the rule does not create any infrastructure nor does it compel participation by any stakeholder in such communication efforts. We urge EPA to develop a comprehensive public education plan that includes a website with accurate consumer information, and use of other media, including social media to provide this information. EPA should also develop and distribute educational materials including public service advertisements to warn against misfueling. EPA must commit resources to communicate accurate information to correct misinformation about the appropriate use of E-15.

### **Signage**

The American Lung Association believes that the proposed “CAUTION” label is inadequate and understates the needed admonition. We believe EPA should use much clearer and stronger language either “WARNING” or “STOP” in large type, of at least 24 –point font. We urge EPA to consider larger font sizes, perhaps as large as 30-point type across the top of the pump label. We support using the depiction of the “stop sign” as well with the word “STOP” as the label if EPA adopts the use of the word “STOP” as the top line message for the label.

It is not clear from the proposal that EPA has conducted any consumer research to understand how such labels will be understood by the public, particularly those with low literacy or who are non-English speakers. We urge EPA to conduct consumer research to determine the most effective messages to convey this information to consumers.

We are concerned that the concepts of “other vehicles and engines” will not be understood by consumers. Will the owner of a new lawnmower understand that their lawnmower is such an engine to which the label refers and therefore should not be fueled with E-15? Is “engine” a term that consumers use to describe lawn and garden equipment, motorcycles, boats etc?

Unlike earlier experiences where the new vehicles were also labeled with information about the appropriate fuel such as “unleaded fuel only” and where older vehicles and engines would not be harmed or create additional pollution by using the newer fuel formulations, newer vehicles do not include such labeling and older vehicles and engines may be damaged and air pollution emissions may increase. Because of these critical differences, we urge EPA to put in place additional measures to mitigate and prevent misfueling.

EPA also must require the inclusion of the word “engines” in the warning statement “this fuel might damage other vehicles and **engines**” (*emphasis added*). The proposed label does not include the need warning about damaging engines.

### **Graphics Images and Icons**

The American Lung Association urges EPA to include graphics images and/or icons on the label to depict the types of engines and vehicles that should not be fueled with E-15. We believe that a series of images such as lawnmowers, boats, motorcycles, gas cans (used for refueling small engines) and/or other small engines such as chainsaws depicted in a circle with a slash or X across the image would convey to

consumers not to use E-15 fuel for such engines. Absent such clarity, we do not know if consumers will understand that the “other vehicles and engines” refers to their particular engine or vehicle.

### **Labeling other pumps**

We believe that all pumps should be clearly labeled and include the types of vehicles for which the fuel is approved so all E-0, E-10, E-85 and blender pumps should be labeled with large readable signage. Fuel that is approved for all vehicles and engines should be labeled with the word “ATTENTION” in 24-point type or larger and include the ethanol concentration and which engines and vehicles the fuel is approved. For E-85 and blender pumps, we believe EPA should use much clearer and stronger language either “WARNING” or “STOP” in large type at least 24 –point font but EPA should also consider larger font sizes. We support using the depiction of the “stop sign” as well with the word “STOP.” These signs should include the specific vehicles, i.e. Flex Fueled Vehicles, for which the fuel is approved. The signs should also clearly state which vehicles and engines the fuel is unsuited, including graphic images and icons consistent with the graphic images or icons proposed for E-15; for example, the sign should include images of the type of vehicle or engine with a slash or X across it.

### **Additional Barriers to Misfueling**

The American Lung Association strongly supports the inclusion of additional misfueling prevention measures. At minimum, EPA should require E-15 nozzle hand warmers to be a uniform and instantly recognizable color with a different texture. We suggest a bright and distinctive color such as neon pink, safety orange or bright yellow to clearly indicate to customers that this fuel is different and not appropriate for many vehicles. This color and texture consistency will assist any public outreach and education efforts. Messages that state “do not use the pink handled pump for your gasoline powered equipment –lawnmower or boat, or in your 2006 and older car” will be much easier for the consumer to understand than any discussion of ethanol concentration levels.

Many self-service gas stations require the user to key in their billing zip code prior to authorizing a credit or debit card transaction or prepayment with a cashier or other cashier authorization prior to the pump operating. EPA should require similar measures to preclude misfueling such as using the keypad to require consumers to type in their vehicle’s model year or authorization by the cashier before proceeding to use E-15 fuel. Since many gasoline retailers may need to make other upgrades to their tanks and other equipment prior to the introduction of E-15 such controls could be added the time of such installation.

The American Lung Association urges EPA to explore additional requirements to prevent misfueling including the use of radio frequency identification (RFID) tags that indicate that would signal the pump that it is appropriate to dispense E-15 into that vehicle. Other options to be further explored include requiring separate refueling islands for E-15 pumps, requiring a refueling attendant to ensure that the correct fuel is used.

### **New Vehicles and Engines**

EPA should promulgate rules for all new vehicles and engines that will require labels adjacent to the filler door or cap that indicate if E-15 is an approved fuel. Labels for engine and equipment for which E-15 is not approved could state “WARNING Do Not Fill with E-15”, “STOP Do Not Fill with E-15”, “WARNING – E-15 Prohibited” “STOP – E-15 Prohibited”, “WARNING – NO E-15” or “STOP – NO-15”. For new cars and trucks for which E-15 is approved the label could state “E-15 Approved” or “E-15 – OK”.

## **1. 0 psi RVP Waiver**

The American Lung Association supports EPA's proposal not to grant a 1.0 psi waiver for E-15 because of the increased evaporative emissions associated with such a waiver.

**Product Transfer Documents and Ethanol Content Survey**

The American Lung Association supports EPA's proposed recordkeeping requirements for product transfer documents. We support EPA's proposed ethanol content Survey Option 2 and encourage EPA to maximize the number of samples obtained and expedite the analysis of the samples.

The American Lung Association remains concerned about the potential for adverse air quality impacts associated with E-15 use and particularly concerned about the air quality impact of E-15 misfueling. We urge EPA to strengthen the proposed warning labels incorporating stronger, clearer language and graphic images or icons. We further urge EPA to include additional barriers to prevent misfueling including colored nozzle hand warmers as well as measures to prevent misfueling including requiring preauthorization to verify an approved vehicle through electronic or human intervention. Finally, we urge EPA to engage in a robust public education and outreach effort to ensure that consumers have accurate information to prevent misfueling.

Thank you for consideration of our comments.

Sincerely,

A handwritten signature in black ink, appearing to read "Paul G. Billings". The signature is fluid and cursive, with a large initial "P" and "B".

Paul G. Billings  
Vice President, National Policy & Advocacy