

§ 80.1501 What are the labeling requirements that apply to retailers and wholesale purchaser-consumers of gasoline-ethanol blends that contain greater than 10 volume percent ethanol and not more than 15 volume percent ethanol?

(a) Any retailer or wholesale purchaser-consumer who sells, dispenses, or offers for sale or dispensing E15 shall affix the following conspicuous and legible label to the fuel dispenser:

ATTENTION

E15

UP TO 15% ETHANOL

USE ONLY IN

• 2001 AND NEWER PASSENGER VEHICLES

• FLEX-FUEL VEHICLES

Don't use in other vehicles, boats, or gasoline-powered equipment. It may cause damage and is prohibited by Federal law.

(b) Labels under this section shall meet the following requirements for appearance and placement:

(1) *Dimensions.* The label shall measure 3 and $\frac{5}{8}$ inches wide by 3 and $\frac{1}{8}$ inches high.

(2) *Placement.* The label shall be placed on the upper two-thirds of each fuel dispenser where the consumer will see the label when selecting a fuel to purchase. For dispensers with one nozzle, the label shall be placed above the button or other control used for selecting E15, or in any other manner which clearly indicates which control is used to select E15. For dispensers with multiple nozzles, the label shall be placed in the location that is most likely to be seen by the consumer at the time of selection of E15.

(3) *Text.* The text shall be justified and the fonts and backgrounds shall be as described in paragraphs (b)(3)(i) through (vi) and (b)(4)(i) through (iv) of this section.

(i) The word "ATTENTION" shall be capitalized in 20-point, orange, Helvetica Neue LT 77 Bold Condensed font, and shall be placed in the top 1.25 inches of the label as further described in paragraph (b)(4)(iii) of this section.

(ii) The word "E15" shall be in 42-point, orange, Helvetica Black font, and shall be placed in the top 1.25 inches of the label.

(iii) The ethanol content: "Up to 15% ethanol" shall be in 14-point, center-justified, orange, Helvetica Black font

in the top 1.25 inches of the label, below the word E15.

(iv) The words "Use only in" shall be in 20-point, left-justified, black, Helvetica Bold font in the bottom 1.875 inches of the label.

(v) The words, and symbols "• 2001 and newer passenger vehicles • Flex-fuel vehicles" shall be in 14-point, left-justified, black, Helvetica Bold font.

(vi) The remaining two sentences shall be in 12-point, left-justified, Helvetica Bold font, except that the word "prohibited" in the second sentence shall be in 12-point, black, Helvetica Black Italics font.

(4) *Color.* (i) The background of the top 1.25 inches of the label shall be black.

(ii) The background of the bottom 1.875 inches of the label shall be orange.

(iii) The label shall have on the upper left side of the label a diagonal orange stripe that is .3125 inches tall. The stripe shall be placed as far down and across the label as is necessary so as to as to create a black triangle of the upper left corner of the label whose vertical side is contiguous to the vertical edge of the label and is .4375 inches long, and whose horizontal side is contiguous to the horizontal edge of the label and is 1.0 inches long. The word "Attention" shall be centered to the upper edge of this stripe.

(5) Alternative labels to those specified in this section may be used if approved by EPA in advance. Such labels must contain all of the informational elements specified in paragraph (a) of this section, and must use colors and other design elements similar in substance and appearance to the label required by this section. Such labels may differ in size and shape from the label required by this section only to a small degree, except to the extent a larger label is necessary to accommodate additional information or translation of label information.

(i) If you use U.S. Mail, send a request for approval of an alternative label to: U.S. EPA, Attn: E15 Alternative Label Request, 6406J, 1200 Pennsylvania Avenue, NW., Washington, DC 20460.

(ii) If you use an overnight or courier service, send a request for approval of an alternative label to: U.S. EPA,

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Attn: E15 Alternative Label Request, 6406J, 1310 L Street, NW., 6th Floor, Washington, DC 20005. (202) 343–9038.

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§ 80.1502 What are the survey requirements related to gasoline-ethanol blends?

Any gasoline refiner, gasoline importer, ethanol blender, ethanol producer, or ethanol importer who manufactures, introduces into commerce, sells or offers for sale E15, gasoline, blendstock for oxygenate blending, ethanol, or gasoline-ethanol blend that is intended for use in or as E15 shall comply with the survey program requirements in either paragraph (a) or paragraph (b) of this section. These same parties are also subject to paragraphs (c), (d) and (e) of this section regardless of whether they choose the survey program requirements in paragraph (a) or paragraph (b) of this section. In the case of ethanol producers and ethanol importers, the ethanol that is produced or imported shall be deemed as intended for use in E15 unless an ethanol producer or an ethanol importer demonstrates that it was not intended for such use.

(a) *Survey option 1.* In order to satisfy the survey program requirements, any gasoline refiner, gasoline importer, ethanol blender, ethanol producer, or ethanol importer who manufactures, introduces into commerce, sells or offers for sale E15, gasoline, blendstock for oxygenate blending, ethanol, or gasoline-ethanol blend intended for use in or as E15 shall properly conduct a program of compliance surveys in accordance with a survey program plan which has been approved by EPA in all areas which may be reasonably expected to be supplied with their gasoline, blendstock for oxygenate blending, ethanol, or gasoline-ethanol blend if these may be used to manufacture E15 or as E15 at any time during the year. Such approval shall be based upon the survey program plan meeting the following criteria:

(1) The survey program shall consist of at least quarterly surveys which shall occur during the following time periods in every year during which the gasoline refiner, gasoline importer,

ethanol blender, ethanol producer, or ethanol importer introduces E15 into commerce:

- (i) One survey during the period January 1 through March 31;
- (ii) One survey during the period April 1 through June 30;
- (iii) One survey during the period July 1 through September 30; and
- (iv) One survey during the period October 1 through December 31.

(2) The survey program plan shall meet all of the requirements of paragraph (b), except paragraphs (b)(4)(ii) and (b)(4)(v) of this section. The survey program plan shall specify the sampling strata, clusters and area, and number of samples to be included. Notwithstanding paragraph (b)(2) of this section, in order to comply with this paragraph the survey plan need not be conducted by a consortium.

(b) *Survey option 2.* (1) To comply with the requirements under this paragraph (b), any gasoline refiner, gasoline importer, ethanol blender, ethanol producer, or ethanol importer who manufactures, introduces into commerce, sells or offers for sale E15, gasoline, blendstock for oxygenate blending, ethanol, or gasoline-ethanol blend intended for use in or as E15 must participate in a consortium which arranges to have an independent survey association conduct a statistically valid program of compliance surveys pursuant to a survey program plan which has been approved by EPA, in accordance with the requirements of paragraphs (b)(2) through (b)(5) of this section.

(2) The consortium survey program under this paragraph (b) must be:

(i) Planned and conducted by a survey association that is independent of the ethanol blenders, ethanol producers, ethanol importers, gasoline refiners, and/or gasoline importers that arrange to have the survey conducted. In order to be considered independent:

(A) Representatives of the survey association shall not be an employee of any ethanol blender, ethanol producer, ethanol importer, gasoline refiner, or gasoline importer;

(B) The survey association shall be free from any obligation to or interest