



# Iowa Renewable Fuels Association

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April 5, 2013

The Honorable Fred Upton  
Chairman  
House Energy and Commerce Committee  
2125 Rayburn House Office Building  
Washington, DC 20515

The Honorable Henry Waxman  
Ranking Member  
House Energy and Commerce Committee  
2125 Rayburn House Office Building  
Washington, DC 20515

Dear Chairman Upton and Ranking Member Waxman:

As the largest trade association representing Iowa's ethanol and biodiesel producers, the Iowa Renewable Fuels Association (IRFA) appreciates the opportunity to respond to your request for stakeholder comment on questions regarding the so-called blend wall.

IRFA welcomes a full, fair, and factual review of the Renewable Fuel Standard by the House Energy and Commerce Committee. However, our general observation is that the Committee's initial white paper and the corresponding stakeholder questions on the so-called blend wall have a narrow focus which, whether intended or not, is almost entirely consistent with the oil industry's point of view. With this in mind, we request the Committee to consider additional questions regarding this important topic, which IRFA has suggested and expounded upon below. As the Committee's review of the RFS proceeds, we request that the Chairman and Ranking Member ensure that subsequent RFS-related topics—all of which are complex, impacting many different stakeholders in unique ways—are approached from a more balanced perspective.

IRFA believes the points raised in the Committee's initial white paper and stakeholder questions are predicated on a false oil industry premise: namely that the so-called E-10 blend wall is real. In fact, the E10 blend wall vanished once EPA approved E15—in the most extensive testing of any fuel in history—for 2001 and newer vehicles.

In reality, in its relentless effort to obstruct the introduction of E15 and undermine the RFS at every turn, the oil industry is attempting to erect a bogus blend wall, brick by brick, to protect its virtual monopoly over the transportation fuel marketplace. This bogus blend wall is the lynch pin of the oil industry's argument to attempt to convince Congress and the public that the RFS needs to be waived

and ultimately eliminated. Under their fanciful scenario, the oil companies argue that the combination of the RFS and the bogus E10 blend wall will force them to artificially limit gasoline supplies in the U.S.

The attractiveness of this tall tale for refiners is not hard to understand. It would allow them to export more refined products to higher value foreign markets while simultaneously raising gasoline prices on Americans—all while they blame someone else and rake in the ill-gotten profits. Next they will point to artificially higher gasoline prices as creating the economic harm to necessitate a repeal or multi-year waiver of the RFS. While the basis for this argument is a fairy tale, the basics of the oil plan itself have been laid out in public by the refiners in numerous forums.

Yet, the lynch pin of the oil argument is the fiction that the E10 blend wall is real and insurmountable. Instead of simply falling for the Big Oil bluff, we urge the Committee to take a serious, balanced look at the validity of the bogus E10 blend wall argument. To that end, IRFA submits the questions below and urges the Committee to request stakeholder input on these questions in addition to the original Committee questions. To speed the process, IRFA has also provided input on the additional questions which details the specific actions and inactions that the oil industry has used in its attempt to build a bogus blend wall.

### **Additional Questions for Stakeholder Comment**

#### **1. To what extent do the oil refiners' branded contracts, which prohibit retailers from selling blends above E10, create an artificial blend wall?**

Many retailers in the United States operate under branded contracts with oil companies. These branded contracts provide retailers with brand recognition, funding for specific infrastructure upgrades and other incentives. In exchange, these branded contracts often allow oil companies to dictate which fuels that retailers may offer to consumers. IRFA is currently aware of several Iowa retailers interested in offering higher ethanol blends that are prevented from doing so under their branded contracts.

In addition, the Renewable Fuels Association (RFA) reported that after Zarco 66, a retailer in Lawrence, KS, became the first retailer in America to offer E15 as a registered fuel, “ConocoPhillips quickly threatened to terminate Zarco 66’s franchise agreement and charge Zarco 66 hundreds of thousands of dollars in penalties unless Zarco 66 started offering ‘premium’ gasoline—gasoline that would replace the ethanol housed in one of Zarco 66’s fueling tanks, and a gasoline that is likely to result in far fewer sales than the ethanol blends that would be available if Zarco 66 maintained the current ethanol contents.”<sup>1</sup>

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<sup>1</sup> RFA letter to EPA, FTC, DOE and USDA. March 19, 2013. <http://ethanolrfa.org/page/-/PDFs/RFA%20Zarco%20Letter%203-19-13.pdf?nocdn=1>

The oil refiner claim that retailers and consumers do not want E15 falls flat. It is the oil companies' own actions through the restrictions in branded contracts that often restrain E15 or E85 sales, thereby adding a brick to their artificial blend wall. And it is a bogus blend wall brick that can be removed instantaneously by the oil industry.

**2. To what extent does the oil refiners' petroleum distribution monopoly — whereby refiners refuse to make available the proper blendstock for E15 during the summer to retailers who request it — create an artificial blend wall?**

Given a century of government subsidies and pipeline loan guarantees, the oil industry has created what amounts to a fuel distribution monopoly. Today a small number of companies control the refineries, they control what goes into the pipelines, and thereby they often control — and limit — what can be sold at the “independent” corner gasoline station.

The impact of the oil industry's petroleum distribution monopoly is very real and very powerful. Pipelines provide the most cost-effective mode of transporting liquid fuels. Today, many of the pipeline/terminal systems are owned and operated by independent companies. But the real control over fuel supplies remains with the refiners. The refiners decide what products are put into a pipeline and at what fuel terminals those products are taken out.

Therefore, even if the refiners put gasoline suitable for blending with 15% ethanol into a pipeline system, they can dictate it only be taken out at Kansas City and Chicago—and not at points in between. By not providing the E15 blendstock to Iowa terminals, oil companies can effectively control the fuel choices offered at a corner gas station in Iowa. This very action was taken during the summer of 2012 in Iowa and we expect it to occur again this summer.

That is a clear example of how the oil industry's fuel distribution monopoly can prevent free market competition and thwart the will of those retailers and consumers who want to use E15, thereby creating an artificial blend wall. And it is a bogus blend wall brick that can be removed instantaneously by the oil industry.

**3. To what extent does the oil industry's opposition to equalizing the RVP requirements for E10 and E15 in Tier 3 fuel regulations create an artificial blend wall?**

Federal regulations dictate that conventional fuels during the summer (June 1 through September 15) adhere to a 9 psi limit on the Reid vapor pressure (RVP) scale (a measure of volatility of the fuel). The fuel volatility cap helps to reduce evaporative emissions.

When ethanol accounts for a minority of a fuel blend, the blended product will have a higher vapor pressure than the gasoline blendstock alone. However, in recognition of ethanol's ability to reduce tailpipe emissions, the EPA long ago granted E10 a 1 psi waiver from the 9 psi RVP summer limit. Therefore, E10 blends can have an RVP of up to 10 psi.

Even though the positive emissions impact of E15 is even greater than E10, the EPA has not granted E15 a similar one pound waiver. As a result, refiners can send a traditional 9 psi gasoline (which meets the 10 psi cap for E10) to Iowa in the summer for blending to E10. But blending 15% ethanol with that gasoline would result in a blend over the 9 psi cap for fuels other than E10.

During the winter fuel season (Sept. 16 through May 30) there is no RVP cap for conventional fuels. Therefore, the same 9 psi fuel can be used to blend both E10 and E15.

Congress or the EPA should equalize the summertime RVP limits for E10 and E15. Either both ethanol blends should be granted the one pound waiver or both fuels should be held to the standard 9 pound limit. IRFA supports either alternative, yet we understand the oil industry opposes both alternatives.

In fact, it is our understanding that early versions of the EPA's proposed Tier 3 gasoline regulations would have equalized the RVP limits for E10 and E15. However, after oil industry opposition, this provision was removed from the final proposed rule.

If both E10 and E15 had the same RVP limit then the same gasoline could be blended with both – preventing Big Oil from using this regulatory quirk to limit consumer fuel choices and create an artificial blend wall.

**4. To what extent do the bogus, Big Oil-funded anti-E15 studies (which have been completely refuted by the U.S. Department of Energy) undermine consumer confidence in E15 and create an artificial blend wall?**

In a coordinated effort to undermine consumer confidence and demand for E15, the oil industry has funded multiple bogus anti-E15 studies. One egregious example of this is the Coordinating Research Council (CRC) Project Number CM-136-09-1. This bogus study has been touted by the oil industry as its most convincing evidence that E15 is not safe for vehicles.

However, immediately after the study was released, U.S. Department of Energy (DOE) Vehicle Technologies Program Manager Patrick B. Davis issued a blistering rebuke of the study's findings and methodology. In a blog post on the DOE website, Davis stated that "the study is significantly flawed...CRC failed to establish a proper control group [and] we believe the choice of test engines, test cycle, limited fuel selection, and failure criteria of the CRC program resulted in unreliable and incomplete data, which severely limits the utility of the study."<sup>2</sup>

Similarly, the RFP for CRC Project CM-136-09-1 makes it perfectly clear that the project was designed to fail. The RFP states, "The objectives of the test program are to determine engine durability effect of E20 on a group of engines that are deemed to be sensitive to the effects of E20 as

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<sup>2</sup> Davis, Patrick B. "Getting It Right: Accurate Testing and Assessments Critical to Deploying the Next Generation of Auto Fuels." May 16, 2012. <http://energy.gov/articles/getting-it-right-accurate-testing-and-assessments-critical-deploying-next-generation-auto>

described above. The vehicles should be selected from among those that are more likely to exhibit some of the issues with E20.” The RFP goes on to say, “As indicated before, this program is designed to test engines from vehicles that are likely to be sensitive to fuels with ethanol concentrations greater than 10%.”<sup>3</sup>

Of the vehicles selected for the study, American Coalition for Ethanol Senior Vice President Ron Lamberty said the following: “Big Oil says the CRC test proves E15 will put ‘millions of vehicles at risk,’ yet there weren’t even a million of the tested vehicles sold. The vehicle models used in CRC Project CM-136-09-1 make up about one-half of one percent of the total vehicle pool approved to use E15. The eight vehicles represent less than 1 million of the 180 million cars and light trucks sold in the United States in model years 2001 and newer.”

Lamberty added, “The vehicles chosen for the test—the 2001 Honda CR-V, 2002 VW Jetta, 2004 Scion xA, 2005 Chevrolet Colorado, 2007 Ford Edge, 2007 Dodge Ram, 2009 Dodge Caliber, and 2009 Chevy Aveo—were selected because they had a well-documented history of the type of failure the test purported to be looking for, regardless of the fuel used in them. Over 300 technical service bulletins (TSB) were issued by the manufacturers of the eight tested vehicles, many which described the exact problems that caused a “fail” grade in the CRC test.”<sup>4</sup>

Clearly, CRC Project CM-136-09-1 was a contrived study with a pre-determined outcome to destroy consumer confidence in E15, and thereby create an artificial blend wall.

**5. To what extent do the numerous anti-E15 lawsuits by oil refiners, which seek to reverse the EPA’s approval of E15, cause retailers to delay in offering E15 and thereby create an artificial blend wall?**

The oil industry has engaged in continuous anti-E15 litigation following EPA’s approval of E15 for 2001 and newer vehicles. Recently, one lawsuit was appealed to the Supreme Court. The purpose of this litigation is to create uncertainty for retailers, causing them to delay decisions on whether to adopt E15 as a fuel option for consumers. This uncertainty resulting from the oil industry’s anti-E15 litigation undermines the availability of E15 in the marketplace, thereby creating an artificial blend wall. Ant it is a bogus blend wall brick that can be removed instantaneously by the oil industry.

**6. To what extent does legislation to ban E15 introduced by oil refiner allies in Congress cause uncertainty among retailers and thereby create an artificial blend wall?**

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<sup>3</sup> CRC Project CM-136-09-1 Request for Proposals. February 18, 2009. p. 5-6.

<http://www.crao.com/doingbusiness/RFPs/2009%20RFPs/CM-136-09-1/CM-136-09-1%20RFP.pdf>

<sup>4</sup>Lamberty, Ron. “Lies, More Lies, and Then There’s CRC Studies.” *Ethanol Producer Magazine*. April 1, 2013. <http://ethanolproducer.com/articles/9703/lies-more-lies-and-then-thereundefineds-crc-studies>

Since EPA's approval of E15 for 2001 and newer vehicles, several pieces of oil industry-backed legislation have been introduced to delay E15 adoption and to outright ban E15 from the marketplace. These legislative efforts also serve to create uncertainty for retailers, causing them to delay decisions on whether to adopt E15 as a fuel option for consumers. This uncertainty resulting from oil industry-backed legislation undermines the availability of E15 in the marketplace, thereby creating an artificial blend wall.

**7. To what extent does the oil industry trade associations' direct advocacy to discourage consumers from buying E15 where available create an artificial blend wall?**

Immediately after the first U.S. retailer began offering E15 as a registered fuel for 2001 and newer vehicles, oil industry trade associations issued press releases to discourage consumers from buying E15. On one hand the oil industry complains to lawmakers and regulators that the adoption of E15 has been slow, while on the other hand they seek to slow it. These direct advocacy efforts served to undermine consumer acceptance of E15, thereby creating an artificial blend wall.

**8. How much does the oil companies' artificial E10 blend wall cost consumers at the pump by preventing the choice of cheaper, cleaner, higher performing E15?**

It is not the RFS that raises gasoline prices. Rather, it is the direct actions of the oil industry to limit consumer access to lower cost E15 that increases the costs for motorists. If policy makers buy into the oil industry's bogus blend wall, consumers will pay more for gasoline than necessary for years to come as the oil monopoly is maintained.

According to the Center for Agricultural and Rural Development, the presence of ethanol in the fuel supply reduced gasoline prices by \$1.09 per gallon nationwide in 2011 and \$1.69 in the Midwest.<sup>5</sup> In addition, wholesale ethanol is currently priced about 50 cents per gallon cheaper than gasoline. With these facts in mind, there is no doubt that the oil industry's efforts to prevent the choice of E15—through its self-imposed, artificial blend wall—have cost consumers the opportunity to save significant amounts of cash at the pump.

In the end, it is clear there is no valid E10 blend wall. The efforts by oil companies to build a bogus blend wall can be reversed literally overnight if they so choose. To buy the Big Oil bluff would be to reward the bad actors who have spent years undermining the RFS instead of preparing for it, To gut the RFS would preserve the oil monopoly and deprive consumers of more choices at the pump – choices that are cleaner, cheaper, and homegrown. The RFS is working and must be preserved. Its fundamental intent was to crack the petroleum monopoly and it is on the verge of doing so.

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<sup>5</sup> Hayes, Dermot J. and Du, Xiaodong. "The Impact of Ethanol Production on U.S. and Regional Gasoline Markets: An Update to 2012." Iowa State University Center for Agricultural and Rural Development. May 2012. <http://www.card.iastate.edu/publications/dbs/pdf/files/12wp528.pdf>

April 5, 2013

Thank you again for the opportunity to respond to your request for stakeholder comment on the so-called blend wall. We appreciate your consideration of the additional questions and answers presented above, and we look forward to a thoughtful discussion of the RFS as the Committee continues its review throughout the year. If you have any questions regarding these comments, please contact me at 515-252-6249 or [mshaw@iowarfa.org](mailto:mshaw@iowarfa.org).

Sincerely,

A handwritten signature in black ink that reads "Monte Shaw". The signature is written in a cursive, slightly slanted style.

Monte Shaw  
Executive Director