

# Marketer Alert

October 8, 2019

Valued NDPMA Members:

NDPMA has been working closely with the ND Corn and Ethanol groups to ensure your best business interests are being protected as these groups roll out an E15 grant program.

I'm forwarding you the specific section of an EPA Q&A put out last year. It deals specifically with compatibility with higher blends. The information covered is extremely important in light of what is being proposed in ND concerning the E15 grant programs.

**Bottom line: Any retail site built before 2007 cannot be compatible with E15 because no pipe dope existed for higher blends.** EPA rightly points out that even sites built since 2007 most likely do not have pipe for higher blends unless it was specified in the bid process because it was more expensive. If you built a site based on low bid with no spec for pipe dope it's very likely you are not able to sell any products above E10 at retail.

**All pipe dope must be compatible. Period. And a site owner who uses old piping (almost every type of pipe system used pipe dope at different connections, if not all connections) to dispense E15 is in violation of the Federal CFR as well as the mirror ND regulations and is essentially breaking the law.**

NDPMA has met with the Department of Environmental Quality. It has made it very clear in protecting your business interests and the DEQ concurs. **Any site which experiences a petroleum release caused by a blend of gas greater than E10 that has not done its due diligence regarding federal and state compatibility regulations will not be reimbursed by the tank fund for clean-up expenses.**

## Regarding the marketing of E15, North Dakota Century code states:

23.1-13-04. Retail sale of alcohol-blended gasoline - **Label requirements.**

A dealer may not sell at retail alcohol-blended gasoline unless the dispensing unit and any price advertising bear the name of the alcohol blended with the gasoline if the alcohol-blended gasoline consists of one percent or more by volume of any alcohol. The disclosure must be in letters at least the same size as those used for the label of the basic grade of gasoline and must be next to the gasoline grade label. A producer of alcohol-blended gasoline may provide a retailer with a label promoting the benefits of alcohol-blended gasoline, if the label at least meets the requirements of this section.

23.1-13-06. Retail sale of alternative fuels - **Notice required.**

A dealer may not sell at retail alternative fuel unless the dispensing unit and price advertising contains the name and main components of the alternative fuel or alternative fuel blend. The disclosure must follow the same labeling specifications that apply for petroleum-based fuels. The department shall adopt rules under chapter 28-32 for labeling of petroleum products and alternative fuels. A producer of alternative fuels or alternative fuel blends may provide a retailer with a label promoting the benefits of the alternative fuel if the label meets the requirements of this section.

In visiting with the DEQ, the state law as written above means a retail price sign/digital marquee must clearly state "Unleaded 88" gasoline contains ethanol. In addition, the E15 Label must be clearly displayed on the dispenser to avoid the risk of any consumer misfuelling or deceptive marketing practices.

## EPA Underground Storage Tank (UST) Technical Compendium about the 2015 UST Regulation

This document contains EPA's interpretations and guidance about the 2015 underground storage tank (UST) regulation. Regarding the following it states:

### Compatibility – Pipe Dope and Sealants

**Question: Is pipe dope typically compatible with ethanol blends greater than E10?**  
(Added: September 2018)

**Answer:** As of 2018, pipe dope that is compatible with ethanol blends higher than E10 is available, but much of the pipe dope on the market is not.

Higher-ethanol compatible pipe dope was available beginning around 2007. Despite that, UST systems installed then and since to store lower levels of ethanol, such as E0 or E10, probably have pipe dope compatible only with lower levels of ethanol.

Because higher-ethanol compatible pipe dope is more expensive, pipe dope compatible only with lower levels of ethanol to be stored in those UST systems may have been used, rather than higher-ethanol compatible pipe dope.

To avoid violating the compatibility requirements in 40 CFR 280.32, each thread or junction must be re-sealed with compatible pipe dope if owners and operators wish to store ethanol blends greater than 10 percent and they currently have pipe dope incompatible with such blends in their UST system. Otherwise, they may not store those blends. In some UST systems, these joints may be buried beneath the surface and not in contained sump areas; it may be necessary to excavate to access them.

**Question: Must owners and operators demonstrate compatibility of pipe dope or sealants when storing ethanol blends greater than 10 percent, such as E15 or E85, or biodiesel blends greater than 20 percent?** (Added: September 2018)

**Answer:** Pipe dope or sealants used anywhere in the UST system must be compatible with the regulated substance stored in the UST system, according to 40 CFR 280.32(a). The 1988 UST regulation required compatibility for all components of UST systems and the 2015 UST regulation reiterated that requirement. Pipe dope used as part of an UST system must be compatible with the substance stored.