



National Petrochemical & Refiners Association

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FILED ELECTRONICALLY

Matthew Wilshire
Division of Enforcement
Bureau of Consumer Protection
Federal Trade Commission
600 Pennsylvania Avenue, N.W.
Washington, D.C. 20580

Re: Fuel Rating Rule Review, Matter No. R811005

Dear Mr. Wilshire:

The National Petrochemical and Refiners Association (“NPRA”) is pleased to provide comments in response to the Federal Trade Commission’s request for public comments on the Automotive Fuel Ratings, Certification and Posting rule at 16 CFR Part 306 (74 FR 9054; 3/2/09). NPRA members comprise more than 450 companies, including virtually all U.S. refiners and petrochemical manufacturers. Our members include producers and suppliers of gasoline and diesel fuels, which are subject to this rule. NPRA offers comments in two specific areas – octane certification and biodiesel documentation and labeling.

Octane Certification

NPRA members have significant experience in octane determination. We believe that the rule should be amended to provide additional flexibility.

First, the rule currently references the 1992 versions of the ASTM specifications (D 4814) and methods for measuring research and motor octane (D 2699 and D 2700 respectively). These references should be updated to the latest ASTM version of these specifications and test methods.

Second, there are other measurement technologies and methodologies that the industry has extensive experience with that should be allowed in addition to ASTM D 2699 and D 2700. We suggest a revision to Section 306.5(a) to allow these alternative approaches. Some suggested language is included below.

(a) To determine the automotive fuel rating of gasoline, add the research octane number and the motor octane number and divide by two, as explained by the



American Society for Testing and Materials (“ASTM”) in ASTM D4814–09, entitled “Standard Specifications for Automotive Spark-Ignition Engine Fuel.” To determine the research octane number, use ASTM standard test method D2699–08. To determine the motor octane number, use ASTM standard test method D2700–08. An alternative method for determining octane number, ASTM D2885 “Standard Test Method for Determination of Octane Number of Spark Ignition Engine Fuels by On-Line Direct Comparison Technique,” may also be used.

Non-ASTM test technologies and methodologies that are correlated with D2699-08 and D2700-08 using ASTM D6708 may be used to determine the automotive fuel rating. However, if alternate technologies and methodologies are used, D 2699-08 and D2700-08 remain the referee methods in case of dispute.

Biodiesel Transfer Documentation and Pump Labeling

Currently, there is no requirement to label dispensers if the diesel fuel contains 5% or less biodiesel or biomass-based diesel. We believe this is appropriate and should remain. However, increased use of biodiesel with various means of transporting the diesel, biodiesel, and the blended material has raised some new concerns. A party may receive diesel containing 5% or less biodiesel without knowing the fuel contained any biodiesel. The receiving party may then blend additional biodiesel volume into the fuel, resulting in a blended fuel with greater than 5% biodiesel content. Since the party was not aware of the initial content, it would not know that the volume was in fact in need of labeling.

The industry would like to work with the FTC to develop a solution to this potential problem. We encourage the FTC to coordinate with the Environmental Protection Agency on this issue. In order to facilitate proper dispenser labeling, it will be necessary to disclose biodiesel content at or below 5%. However, any new disclosure requirements should be handled in a manner similar what is employed for disclosure of higher concentrations – as a category of fuel. For example, disclosure that the fuel contains up to 5% biodiesel, which is a similar approach as identification that the fuel contains between 5 percent and 20 percent biodiesel (a B20 category of fuel). The FTC should also work with the National Council of Weights and Measures (NCWM). NCWM issues Handbook 130 which contains model regulations used by states. Consistency between EPA, FTC and NCWM will help avoid having individual states with potentially different requirements.



Please let me know if you have any questions concerning these comments and suggestions. NPRA appreciates the opportunity to provide input.

Sincerely,



Tim Hogan
Director, Motor Fuels



NPRA