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Fuel Rating Review, Matter No. R811005

ConocoPhillips submits the following comments on the Notice of Proposed Rulemaking for the Automotive Fuel Ratings, Certification and Posting rule (16 CFR Part 306). ConocoPhillips owns and operates 12 refineries in the U.S. We also own and operate petroleum product pipelines and have branded retail outlets throughout the U.S. As a producer, transporter, and marketer of gasoline and diesel products, we are directly impacted by the rule's provisions and any modifications to the rule.

Octane Certification – use of ASTM D 2885

ConocoPhillips supports the proposed provisions to allow use of ASTM D 2885 *Standard Test Method for Determination of Octane Number or Spark-Ignition Engine Fuels by On-Line Direct Comparison Technique* for certification of gasoline octane. We appreciate the Commission's affirmative response to the comments provided last year requesting this allowance.

Allowance of Infrared Test Methods for Octane Certification

In comments submitted to FTC last year by ConocoPhillips, we asked the Commission to allow use of other non-ASTM octane measurement technologies and methodologies provided they were correlated with ASTM D 2699 and D 2700. The comments provided were as follows:

There should also be a provision to allow non-ASTM octane measurement technologies and methodologies provided they are correlated with ASTM D2699 and D2700. The U.S. Environmental Protection Agency incorporates such correlation criteria in specifying allowed use of alternative methods in determining critical gasoline and diesel fuel parameter values. In order to provide some standard guidance to the correlation process, the FTC should consider requiring the correlation be developed using ASTM D6708, Standard Practice for Statistical Assessment and Improvement of Expected Agreement Between Two Test Methods that Purport to Measure the Same Property of a Material.

The FTC responded to this comment in the proposed rule in footnote 66 as follows:
NPRA and ConocoPhillips recommended further loosening the Rule's octane rating provisions to allow non-ASTM approved procedures so long as they are

“correlated” with ASTM D2699 and D2700. However, without specific rating procedures, the Commission would have difficulty determining whether a supposedly “correlated” procedure accurately rates octane, and the commenters did not provide any criteria for showing correlation. Thus, allowing any “correlated” procedure would impede Rule enforcement and, therefore, the Commission declines to allow such procedures. See 15 U.S.C. 2823(c)(3)(A)(i) (Commission must consider “ease of administration and enforcement” before approving alternative octane rating procedures).

ConocoPhillips would like to reiterate our previous request, however, with more specificity and detail in an effort to provide FTC with sufficient information to make a determination on this issue. ConocoPhillips specifically requests allowance of infrared measurement techniques to measure and certify the gasoline octane provided these methods are correlated with ASTM D2699 and D2700. The refinery laboratories have extensive experience with establishing and maintaining test method correlations. EPA regulations establish primary test methods for various fuel properties but allow alternate test methods provided the alternate methods are correlated with the primary method.

Infrared measurement techniques have been widely used for octane measurement by refineries and others. Refineries often use infrared measurement techniques for measuring the gasoline octane during the blending process to ensure the final blended product will meet specification. The infrared measurement systems allow for greater numbers of samples to be analyzed throughout the blend than is possible with the octane engines. This provides more data to help ensure the final blended gasoline product meets the applicable octane specification.

Finally, ASTM D2699 and D2700 would remain the referee test methods for purposes of enforcement; therefore, allowance of the alternative approach would not pose an impediment to enforcement.

Mid-level Ethanol Blends

ConocoPhillips is a member of the American Petroleum Institute and worked cooperatively with API members to develop the detailed comments on labeling requirements for mid-level ethanol blends. We support the comments submitted by API. The increased use of blending pumps that dispense mid-level ethanol blends results in the need for a uniform approach to labeling of these dispensers. Consumers would benefit from having these products clearly and consistently labeled so consumers can make the right fuel choice suitable for the intended use.

Biodiesel

Similarly, the increased use of biodiesel throughout the United States led to a need for labeling, as directed by the Energy Independence and Security Act of 2007 (EISA07), for blends containing greater than 5% methyl ester biodiesel. There is currently no requirement to label dispensers if the diesel fuel contains 5% or less biodiesel. This is appropriate and should remain this way. However, to enable the retailer to accurately label the pump, the required disclosure of methyl ester biodiesel content by suppliers upstream of the retail outlet should be extended to blends containing up to 5% biodiesel. Adoption of these new disclosure requirements will help ensure that all recipients of the fuel in the supply chain are aware of the fuel’s methyl ester biodiesel content, and if further blending occurs, allows for proper identification of the total methyl ester biodiesel

content. This will enable the retailer to appropriately label at the pump should the final product received contain more than 5% methyl ester biodiesel.

Biomass-based Diesel (Renewable Diesel)

ConocoPhillips has experience with producing renewable diesel through co-processing after completing the EPA registration process to allow introduction of renewable diesel into commerce. ConocoPhillips supports the comments provided by API concerning biomass-based diesel (i.e. renewable diesel).

Please contact me if you would like to discuss these comments or if you have any questions or concerns.

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