

PMCI
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To: Federal Trade Commission

From: PMCI

Re: Fuel Rating Rule Review, R811005

Date: May 21, 2010

The Petroleum Marketers and Convenience Stores of Iowa (PMCI) is a non-profit state trade association serving the needs of independent petroleum distributors, petroleum retailers and convenience store owners throughout the state of Iowa. While many of our members may display the logo of one of the major oil companies, they are independently-owned and operated apart from the major oil company. Since 1937, one of PMCI's major goals is the maintenance of a competitive business climate that will encourage growth of the independent petroleum marketing industry within the state.

PMCI would like to thank the Commission for the opportunity to comment on the proposals contained in the Commission's proposal under the "Fuel Rating Rule Review, R811005."

Labeling:

PMCI supports the Commission's proposed amendments for labeling requirements on Mid-Level Ethanol blends and E85. As federal and state policy mandate the sale and consumption of increased volumes of renewable fuel, it is critical that labeling provisions for these fuels offer both retailer and consumer the necessary protection from misfueling incidents. Allowing retail store operators the flexibility to label Mid-Level Ethanol blends by 1) posting the precise concentration of ethanol, 2) posting a disclosure that the blend's concentration is between 10 and 70 percent, or 3) posting a disclosure that shows a specific range of Ethanol content will allow retailers the flexibility to account for relative changes in the prices of gasoline and ethanol. The proposed amendments also serve the purpose of providing consumers the necessary disclosure to make an informed choice about the type of fuel they are placing in their vehicle with regard to that vehicle's warranty.

PMCI also supports the Commission's proposed amendment requiring Mid-Level Ethanol blend labels and E85 labels to state MAY HARM SOME VEHICLES, and CHECK OWNER'S MANUAL, but would ask the Commission to consider slight modifications. In its proposed amendments, the Commission states that the record contained no evidence regarding the incidence of ethanol misfueling. In Iowa where Mid-Level Ethanol blends and E85 are widely available and heavily promoted by interested groups, instances of misfueling occur frequently enough to be a cause for concern among retailers. The majority of these incidents involve consumers who have no knowledge of the regulations against misfueling, while other misfueling incidents are the cause of mistake. Because of the introduction of Mid-Level Ethanol blends in the Iowa marketplace, Iowa adopted its own labeling requirements for Mid-Level Ethanol blends. Retailers are required to disclose the ethanol content of the Mid-Level Ethanol blend and labels must contain the qualifying language FOR FLEX FUEL VEHICLES ONLY.

Because the applicable provisions of the Clean Air Act hold both the consumer and the offeror (retailer) liable for misfuelings, PMCI feels that it is important to provide as much disclosure about Mid-Level Ethanol blends as reasonably possible. It is virtually impossible for a retailer to evaluate the compatibility of each vehicle that fuels at their location. Additionally, some sites where Mid-Level Ethanol blends are offered are unattended sites where no attendant is on-site to oversee the location. As Mid-Level Ethanol

blends become more prevalent in the marketplace, not only will the potential for misfueling vehicles increase, but also various types of small engines whose owner's often use their local retail fuel station to purchase their fuel. PMCI proposes that the Commission amend its proposal by adding the following language to its labeling requirements for Mid-Level Ethanol blends:

- MAY HARM SOME VEHICLES AND SMALL ENGINES
- FOR FLEX FUEL VEHICLES ONLY - CHECK OWNER'S MANUAL

PMCI agrees with the Commission that the labeling of Mid-Level Ethanol blends must provide consumers the necessary disclosure to make an informed choice regarding their fuel purchase. However, as federal and state policy mandate the increased use of Ethanol, PMCI asks that the Commission also give strong consideration to the liability that retailers are exposed to through the offering of Mid-Level Ethanol blends. Because, the vast majority of motor vehicles currently on the road in the United States have vehicle warranties that cover Ethanol blended fuel in concentrations not to exceed 10 percent, retailers who offer Mid-Level Ethanol blends subject themselves to an increased threat of liability based solely on the likelihood that the majority of the vehicles entering their premises have warranties that prohibit the use of Mid-Level Ethanol blends.

Compatibility with Conventional Vehicles:

PMCI's final comment addresses the question of whether Mid-Level Ethanol blends harm conventional vehicles. A number of groups have paid for studies to be conducted on the compatibility of Mid-Level Ethanol blends with conventional vehicles. PMCI supports the continued efforts of these groups in their research. While these studies provide valuable research data, the ultimate answer to this question lies with automobile manufacturers who issue warranties on their vehicles.

On behalf of the members of PMCI, I would like to thank the Commission for their attention to this critical issue and the opportunity to provide comment on your proposed amendments. PMCI supports the proposed amendments but ask the Commission to give strong consideration to the changes proposed by PMCI.

If you have additional questions please contact me.

Respectfully Submitted,

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