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Fuel Rating Review, Matter No. R811005

ConocoPhillips appreciates the opportunity to provide comment in response to the Federal Trade Commission's request for public comments on 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

Octane monitoring and certification testing is a significant issue for refineries producing gasoline product. Due to changes and advancements in testing methodologies and techniques, we believe that the rule should be amended to recognize and allow these new developments to be fully utilized.

First, the rule should be updated to reference the most current versions of the ASTM specifications (D 4814) and methods for measuring research and motor octane (D 2699 and D 2700 respectively).

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. ASTM D 2885 Standard Test Method for Determination of Octane Number of Spark-Ignition Engine Fuels by On-line Comparison Technique was adopted by ASTM after the promulgation of the Automotive Fuel Rating Rule in 1979. It uses the same engines but in an updated methodology that provides acquisition efficiencies and accuracies for the industry. This test method (suitable for determining Motor and Research Octane values) should be allowed to be used for octane determination. Some suggested language to provide for inclusion of this method is shown 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 or D2885-08. To determine the motor octane number, use ASTM standard test method D2700–08 or D2885-08.

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.

Biodiesel (methyl ester) Transfer Documentation and Pump Labeling

The current rule distinguishes between biodiesel (methyl ester) and biomass-based diesel (which includes renewable diesel). This distinction is important as the two fuels have different properties. Labeling requirements for methyl ester biodiesel were driven by a need to identify threshold levels that are important with regard to engine compatibility and warranties. Many original equipment manufacturers and customer service departments do not recommend use of biodiesel fuel blends over five percent (there is no such concern with renewable diesel). This led to a labeling need for diesel fuels containing greater than the 5% threshold volume of methyl ester biodiesel. There is currently no requirement to label dispensers if the diesel fuel contains 5% or less biodiesel or biomass based diesel. This is appropriate and should remain this way.

The use of methyl ester biodiesel has increased in recent years due to some state mandates and the Federal Renewable Fuels Standard. In order to accommodate increasing use of biodiesel in the most cost effective manner, the industry is implementing changes in transporting of biodiesel and biodiesel blends. Some pipelines are looking at or have begun allowing biodiesel blends to be transported via pipeline in special situations. A party may receive diesel containing 5% or less biodiesel without knowing the fuel contained any biodiesel. Downstream of the pipeline destination, additional biodiesel may be blended into the fuel resulting in a blended fuel with greater than 5% biodiesel content. Since the biodiesel blender was not aware that the diesel fuel already contained some biodiesel, they would not know to inform the purchaser that the fuel contained more than 5% biodiesel. This could result in improper retail pump labeling.

Industry personnel, including ConocoPhillips, would be happy to work with the FTC to develop a solution to this potential problem. The Environmental Protection Agency (EPA) and the National Council of Weights and Measures (NCWM) would be good contacts in working this issue. The industry would need consistency between any FTC regulations and EPA regulations. Likewise, consistency with NCWM would help prevent states potentially having different requirements.

Of critical importance, any new disclosure requirements should allow for identification of a category of fuel versus specific concentrations. 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) is recommended).

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

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