



May 14, 2009

Federal Trade Commission  
Office of the Secretary  
Room H-135 (Annex M)  
600 Pennsylvania Ave., N.W.  
Washington, DC 20580  
Submitted online

RE: Fuel Rating Rule Review, Matter No. R811005

On behalf of the Alliance of Automobile Manufacturers (Alliance), I am submitting comments on the FTC's review of its Fuel Rating Rule. The Alliance is an association of 11 vehicle manufacturers including BMW Group, Chrysler LLC, Ford Motor Company, General Motors, Jaguar Land Rover, Mazda, Mercedes-Benz USA, Mitsubishi Motors, Porsche, Toyota and Volkswagen. Formed in 1999, the Alliance serves as a leading advocacy group for the automobile industry on a range of public policy issues. This association, which is open to all new car and light truck manufacturers, is especially committed to improving the environment and motor vehicle safety. For more information, visit the Alliance website at [www.autoalliance.org](http://www.autoalliance.org).

The Alliance appreciates this opportunity to comment on the Fuel Rating Rule, which exists to protect consumers. Given the recent and expected future expansion in the numbers and types of liquid fuels available to consumers, this is a good time for such a review. In the following pages, the Alliance comments on several issues: continued need for the rule, its benefits, its ability to provide truthful information to consumers, possible changes to the rule and overlap with rules under other authorities. We would be glad to discuss our recommendations or our perspective in more depth with FTC staff if desired.

In closing, we note the purpose of pump labeling is to allow consumers to make informed decisions about fuel purchases, and we are pleased the federal government has taken and continues to take steps to help protect consumers in a rapidly changing marketplace. We hope the FTC finds these comments helpful.

Sincerely yours,

Ellen L. Shapiro  
Director, Automotive Fuels  
(202) 326-5533  
[eshapiro@autoalliance.org](mailto:eshapiro@autoalliance.org)

**BMW Group • Chrysler LLC • Ford Motor Company • General Motors • Jaguar Land Rover  
Mazda • Mercedes-Benz • Mitsubishi Motors • Porsche • Toyota • Volkswagen**

**Alliance of Automobile Manufacturers**  
**Comments on the FTC Fuel Rating Rule, Matter No. R811005**  
**Submitted May 14, 2009**

**Is there a need for the Rule as currently promulgated?**

Yes, there is definitely a need to maintain the Rule. The ASTM gasoline specification, D4814, does not include required octane limits or even list octane among its specified properties. Rather, D4814 merely presents a discussion on antiknock indices in current practice in its appendix, which consists of non-mandatory information. Therefore, without the Rule, a fuel producer or supplier could meet the properties required by ASTM D4814 and legally designate a fuel as regular or premium grade, for example, without meeting any octane limits, whether the widely accepted minimum  $87 (R+M)/2$  for regular grade or the  $91-93 (R+M)/2$  for premium grade. This will harm consumers who require certain octane levels for their engines.

Similarly, biodiesel and biomass-based diesel labeling is critical for diesel-based pumps. The increased use of biodiesel has led ASTM to modify its diesel fuel specification, D975, to include up to 5 volume percent biodiesel and to develop a new specification, ASTM D7467, for biodiesel blends containing 6-20 volume percent biodiesel, and federal law (EISA) is based on this market development. No light duty vehicle manufacturer currently warrants any of its non-fleet vehicles for use with blends containing more than 5% biodiesel, however, so an indication of the biodiesel content at the pump is essential.

**What benefits has the Rule provided to the consumer?**

The Rule helps consumers select the proper fuel for their vehicles and comply with manufacturer recommendations and/or warranty coverage. For any vehicle, the owner's manual is the key source of information on the type of fuel to use. The information is critical because the vehicle warranty is dependent on use of the proper fuel. Fuel dispenser labeling that conveys information about octane rating, ethanol content, biodiesel content and other fuel quality properties and limits is the only mechanism available to consumers to link fuel requirements in the owner's manual to what is actually being put into the vehicle. Without the owner's manual, consumers would not know what type of fuel is needed by the vehicle, and without the pump label, the information in the owner's manual would have no meaning for the consumer when purchasing fuel. Thus, consumers need both sources of information to make proper fuel choices.

**What impact has the Rule had on the flow of truthful information to consumers and on the flow of deceptive information to consumers?**

Although the ASTM D4814 does not set octane levels for gasoline, the levels found in the marketplace have become de facto standards that are reflected on the labels and can be checked by authorities. The labels provide states with the means to ensure octane quality and prevent misrepresentation of fuel quality. The Alliance of Automobile Manufacturers conducts a semiannual survey of both gasoline and diesel fuel.<sup>1</sup> The gasoline survey, which has been comprised of about 770 retail samples collected from 25 cities across the U.S. during winter and summer months, has shown very good compliance with octane postings over the many years the surveys has been conducted. These surveys demonstrate the utility of the labels to the marketplace at large. Removing pump octane posting, however, would cause confusion in the marketplace, potentially by both suppliers and consumers, and if a consumer uses a gasoline with an improper octane level for the vehicle, s/he could experience non optimal vehicle performance or even damage to the engine.

---

<sup>1</sup> The Alliance of Automobile Manufacturers North American Fuel Survey, covering the years 1999 through the present and conducted in the winter and summer seasons from locations in the U.S., Canada and Mexico, may be found at [store.autoalliance.org](http://store.autoalliance.org).

Similarly, pump labeling of E85 dispensers appears to have been successful as well, given that reports about unintentional misfueling of conventional vehicles have been virtually nonexistent to date.

In contrast, the situation with biodiesel blends has been problematic. A review of the Alliance fuel survey data contained in a soon to be published SAE paper (SAE number 2009-01-1850, by Geng, Buczynsky, and Konzack) showed that pump labeling of biodiesel blends in the U.S. market has been a poor indicator of biodiesel content. The measured biodiesel content of samples collected in winter 2007 and summer 2008 and tested by an independent laboratory was compared to the labels on the dispensers from which the samples were taken. The results were not encouraging. For example, one sample labeled 'B2' actually contained 9% biodiesel, and about 20 samples labeled 'Biodiesel' had biodiesel content ranging from 0.2 to 46%. Clearly, these and other potential failures to provide accurate information can be detrimental to the consumer who relies on the label for meeting vehicle warranty requirements. The Alliance hopes the new biodiesel content pump labeling rule, along with strong enforcement, will help rectify these misrepresentations in the future.

**What modifications, if any, should be made to the Rule to account for changes in relevant technology, including development of new liquid alternative fuels, or economic conditions?**

Currently, there is a petition at EPA to allow the maximum level of ethanol in gasoline for use in conventional vehicles to increase from 10% to 15% by volume.<sup>2</sup> If EPA grants this petition and allows E15 in the marketplace, it would pose a problem for consumers due the likely absence of any label indicating ethanol content. In the past, many states labeled dispensers containing blends up to E10, but with the increasing prevalence of E10 in the market, this practice has greatly declined and completely disappeared in many, if not most, parts of the country. If EPA were to allow E15 to appear in the marketplace, retailers would likely place this fuel in unlabeled dispensers. Since virtually all conventional vehicles built to date have been validated for gasoline containing only up to 10% ethanol (E10), however, unlabeled dispensers would cause consumers to unwittingly put their vehicle warranties at risk. Thus, labels in this case would be essential.

**Does the Rule overlap or conflict with other federal, state, or local laws or regulations?**

Except for EPA-required labeling of diesel fuel pumps for sulfur content, we are unaware of any other government regulations that provide uniform, required information to consumers regarding fuel quality at the dispenser.

---

<sup>2</sup> See "Notice of Receipt of a Clean Air Act Waiver Application to Increase the Allowable Ethanol Content of Gasoline to 15 percent; Request for Comment," 74 Fed. Reg. 18228 (2009).