Renewable Fuels Association

May 14, 2009

Mr. Donald S. Clark
Office of the Secretary
Federal Trade Commission
Room H-135 (Annex M)
600 Pennsylvania Avenue N.W.
Washington, DC 20580

RE: Fuel Rating Rule Review, Matter No. R811005

Dear Secretary Clark:

The Renewable Fuels Association (RFA) respectfully submits the following comments in response to the systematic review of the current Federal Trade Commission (FTC) Automotive Fuel Ratings, Certification and Posting regulations (herein referred to as the "Fuel Rating Rule"), as published in the Federal Register on March 2, 2009 in Volume 74, No. 39.

For many years, the current requirements of the Fuel Rating Rule have successfully provided guidance for the retail distribution of liquid transportation fuels. The review of the current Fuel Rating Rule is timely as the U.S. embarks on a new course to expand domestic and renewable energy. The passage of the Energy Independence and Security Act in December 2007 provides the frame work to combine energy and environmental goals, culminating in a very complex and changing profile for transportation fuels. This landmark legislation systematically advances the production and use of renewable fuels and ensures that ample amounts of renewable biofuels, like ethanol, will be required as an alternative to petroleum fuels. Increasing renewable fuel availability promises change in the landscape of today's transportation fuel market with the introduction of new fuels and new fuel blends. It will also impact the automotive industry with the introduction of additional hybrid and flex-fuel vehicles.

Our industry, in particular, is impacted by the Fuel Rating Rule content as fuel ethanol is blended with regular unleaded gasoline to produce a fuel commonly referred to as E10: a 10% volume fuel ethanol/90% unleaded gasoline fuel blend. Today, ethanol is blended into nearly 75% of the nation's unleaded gasoline and with the rapid growth in ethanol production and use across the country; we believe E10 may soon be the "standard" fuel available in the United States. Another ethanol fuel blend available to consumers is the alternative liquid

fuel called E85, defined as an ethanol/ gasoline fuel blend with a minimum of 70% ethanol by volume. This alternative fuel is restricted for use solely in flex-fuel vehicles designed to run on all blends of gasoline and ethanol up to 85% ethanol. From an automotive vehicle perspective, there are two spark ignition engine types available to U.S. consumers: conventional engines designed to use E10 and unleaded gasoline and flex-fuel engines designed to use alternative fuels such as E85.

Today, conventional engine platforms are currently limited to gasoline/ethanol fuel blends containing a maximum of 10% volume ethanol. On March 6, 2009, a petition was submitted to U.S. EPA to increase the ethanol content approved for use in these engines to up to 15% volume. We believe that the guidelines for gasoline and E10 as described in the current Fuel Rating Rule, 16CFR306.0, cover both the gasoline/ethanol blends available today as well as any future fuels "developed to comply with the Clean Air Act, 42 U.S.C. 7401," such as the fuel described in the above petition. The present certification and posting requirements for ethanol/ gasoline fuel blends as written today are sufficient to provide consumers information to make informed decisions at the retail level and we support their continued inclusion. The posting of the octane rating of the fuel blends also aligns with the automotive manufacturer's fuel recommendations section for proper operation of the engine.

While small in comparison to the E10 market, interest in and use of E85 is expected to grow with increasing federal renewable fuel usage requirements. We are concerned that the existing Fuel Rating Rule requirements for alternative fuel blends, specifically E85, are limiting due to the inclusion of the description "85 percent or more by volume but not less than 70 percent, as determined by the Secretary of the United States Department of Energy." Recent research conducted with varying E85 fuel blends and cold climate conditions[1] suggests that under extreme cold conditions, additional hydrocarbon content may be needed in this fuel blend to provide sufficient fuel volatility for ignition. A suggested modification to address this limitation would be to remove the restriction of "but not less than 70 percent" from the definition of an alternative liquid motor fuel mixture in §306.0(i)(2)(ii) and replace it "but not less than a stated minimum." An alternate suggestion would be to recognize the standard fuel specification that is used for E85 fuel blends, ASTM D 5798 Standard Specification for Fuel Ethanol (Ed75-Ed85) for Automotive Spark-Ignition Engines. Recognition of a national fuel standard would provide the flexibility to recognize the most currently available fuel requirements. For comparative purposes, the Canadian General Standard Board has recently lowered the ethanol content in E85 fuel blends down to 50% by volume to specifically address cold start ignition concerns.

Introduction of new alternative fuel blends is expected as the marketplace incorporates additional biofuel volumes. Mid-level ethanol blended fuels, fuels containing above 10% and below 70% ethanol content, are being developed and marketed to provide consumers with more fuel choices at the retail level. They are described as fuel blends with varying levels of ethanol and gasoline called "E XX," where the letter E stands for "ethanol volume percent" and the "XX" indicates the minimum ethanol content contained in the blend, with the balance of the fuel being a hydrocarbon such as unleaded gasoline. Mid-level ethanol

[1] Coordinating Research Council Report No. 652: 2008 CRC Cold Start and Warm Up E85 and E15/E20 Driveability program, available at www.crcao.org

blends are approved for use in flex-fuel vehicles. The Fuel Rating Rule provides for mid-level ethanol blends by including "not limited to" in the definition of an alternative liquid automotive fuels in §306.0(i)(2). As these mid-level ethanol blends grow in popularity and availability, we believe the Fuel Rating Rule should provide guidance for these fuel blends.

The current Fuel Rating Rule for alternative fuels mandates the certification and posting of the principal alternative fuel component with voluntary certification and posting of the octane rating. We believe the current requirement provides producers, distributors, and retailers the needed communication detail to meet regulatory requirements and support marketplace needs and expectations. We also support the inclusion of the posting requirements for retailers, as outlined in section §306.10(f), for all ethanol blended fuels through the disclosure of minimum volume expected percentages.

The present certification and posting requirements for gasoline fuel blends have indeed been used successfully at the retail level, providing transparency to consumers when making fuel choices. Looking toward the future, we believe there should be no restrictions for existing methodologies and characterizations for postings or certifications, such as octane rating, for new fuels introduced to the marketplace. To ensure the seamless transition to increasing ethanol content in liquid transportation fuels, the RFA has initiated a modification and review of the two most commonly used methods[2] for determining the octane rating as it applies to increasing ethanol content in gasoline. It is important that the octane rating be applicable to ethanol blended fuels and be determined accurately. We encourage the Federal Trade Commission to recognize the most current versions of the ASTM methods used to determine the octane, alternative fuel content or other techniques used to quantify and qualify the value to consumers. No advantage should be provided to conventional gasoline fuel blends that would not also be provided to alternative fuel blends. We suspect that with the introduction of new fuel blends, new methods for determining value of the fuels will most likely be developed, such as the disclosure of renewable energy content, pollution reduction or climate change benefit.

Thank you for the opportunity to comment on this important matter. Please feel free to contact me with any questions or comments, at (309) 830- 6154 or via email at kmoore@ethanolrfa.org.

Respectfully,

Kristy Moore

[2] ASTM D 2699 Standard Test Method for Research Octane Number for Spark-Ignition Engine Fuel, ASTM D 2700 Standard Test method for Motor Octane Number for Spark-Ignition Engine Fuel