

April 7, 2008

**VIA E-MAIL**

Office of the Secretary  
Federal Trade Commission  
Room H-159  
600 Pennsylvania Avenue, NW  
Washington, DC 20580

Re: **Proposed Rule for Biodiesel Labeling, Matter Number R811005**

Dear Sir or Madam:

The Engine Manufacturers Association (EMA) is the trade association representing the major manufacturers of internal combustion engines used in a variety of applications including trucks and buses, nonroad and agricultural equipment, marine vessels, locomotives, grounds care and utility equipment, and stationary generators. More specifically, EMA members manufacture essentially all of the compression ignition, diesel-fueled engines used throughout the country.

Engine manufacturers require and specify the use of diesel fuel with certain defined properties and specifications to ensure engine performance, prevent damage to the engine and its components and to help ensure the durability of emissions control equipment that reduce emissions to meet regulatory standards. It is critical that all diesel fuel offered for sale or used in compression ignition engines meets the engine manufacturer's fuel specifications and any federal or state regulatory requirements. Consequently, proper pump labeling is needed to provide the consumers the information that they need in order to make informed decisions regarding fuel properties and qualities.

EMA fully supports the need to label diesel fuel pumps as to their biofuels content. Due to the facts that the addition of biobased fuel and biodiesel fuel alter the inherent properties of petroleum diesel fuel, that the quality of biodiesel and biobased fuels can vary significantly, and that all engine manufacturers as well as international fuel specifications and standards place volume limits on the acceptable amount of biodiesel fuel, consumers need to know the percentage and quality of biofuels present at fuel dispensing facilities before they purchase or use the fuel. Proper labeling is critical to the diesel fuel consumer.

In response to a legislative requirement in Section 205 of the Energy Independence and Security Act of 2007, the Federal Trade Commission has proposed requirements for biodiesel labeling as part of its Fuel Rating Rule. Proposed requirements for biofuel labeling were noticed in a Federal Register announcement on March 11, 2008, and comments were requested on the

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proposal by April 7, 2008. The following are the comments of EMA on the proposed labeling requirements.

**1. EMA generally supports the FTC labeling requirements for biodiesel and biobased diesel fuel as presented in the Federal Register notice.**

In general, EMA supports the labeling provisions as proposed in the March 11, 2008, Federal Register Notice. This includes the following provisions:

- No specific label for biodiesel blends where the biobased fuel content is less than or equal to 5% by volume.
- A label indicating that a diesel fuel contains up to 20 percent biobased fuel for a diesel fuel where the biobased content of the fuel is over 5 percent but less than or equal to 20 percent.
- A label specifically indicating the percent of biobased fuel for any diesel fuel that contains more than 20 percent biobased fuel by volume.

However, instead of the specific language proposed in the notice, EMA recommends that the label for fuels containing between 5% and 20% need only state:

**“CONTAINS BIOMASS-BASED DIESEL OR BIOIDIESEL IN QUANTITIES UP TO 20%”**

**2. EMA recommends that the label for neat (100%) biodiesel and biodiesel blends include a statement as to whether the biodiesel feedstock does or does not meet the applicable ASTM specification.**

Fuel quality is an important characteristic of any fuel, and it is critically important for proper engine performance that the fuel meet applicable specifications. For biodiesel blends, the quality of the finished fuel depends on the quality of the biodiesel feedstock or neat(100%) biodiesel. Consequently, consumers need to be informed as to whether the biodiesel feedstock that was used to blend the fuel met the applicable quality standards and ASTM D6751.

EMA recommends that a statement to this effect be added to the pump label. Following the statement as to the contents of the fuel, the following statement should be added to the label:

- For biodiesel feedstock that meets ASTM D6751: **“THE BIODIESEL FEEDSTOCK USED IN THIS FUEL MEETS THE TECHNICAL SPECIFICATIONS OF ASTM D6751.”**
- For biodiesel feedstock that does not meet ASTM D6751: **“THE BIOIDIESEL FEEDSTCOK USED IN THIS FUEL DOES NOT MEET THE TECHNCIAL SPECIFICATIONS OF ASTM D6751.”**

**3. Biodiesel blends containing less than or equal to 5% biodiesel or biomass-based diesel should be included in the rule, but should not require labeling.**

The FTC is proposing to manage diesel fuels containing less than 5% biodiesel or biobased diesel fuels by indicating that such fuels are not automotive fuels covered by Part 306. This is accomplished in the proposed changes to the definitions of Section 306.0(i)(2) and 306.0(i)(3).

Rather than using the above approach, EMA recommends that FTC include all biodiesel and biomass-based diesel fuel and their blends within the definition of an automotive liquid fuel but then add a requirement within the regulation stating that diesel fuel containing less than or equal to 5% by volume of these fuels do not require any special labeling. EMA believes that including a specific statement that biodiesel blend fuels containing less than 5% biobased or biodiesel content is preferable to the definition approach used in the proposal.

**4. The definition of biomass-based diesel should include a reference to an applicable ASTM specification and clarify that the fuel can be derived from any renewable material.**

The proposed definition of biomass-based fuels (306.0 (k)) states that the fuel must meet EPA registration requirements. In a manner similar to the definition of biodiesel, the definition of biomass-based fuels should also reference applicable specification to ensure that the feedstock meets quality and technical requirements. EMA recommends that the definition of biomass-based fuels indicate that it must meet ASTM D975 or other applicable specification.

In addition, the definition of biomass-based fuel is somewhat confusing because it specifically identifies waste materials. The underlying material for biomass-based diesel does not need to come from waste products, but could indeed be manufactured from any renewable material. The definition should be changed to identify materials other than wastes.

**5. EMA provides the following specific answers to questions posed in the notice**

In Section V of the Federal Register Notice, the FTC identifies some specific questions for comment. EMA provides the following responses to those questions. In cases where there is no response, EMA does not have a comment or any information on the topic.

**Question (2) What modifications should be made to the proposed amendments to increase their benefits to consumers?** EMA believes that providing an indication as to whether the biodiesel feedstock meets or does not meet the ASTM D6751 specification would greatly benefit consumers. The quality of the feedstock is critical to the quality of the blended fuel, and consumer should be able to identify whether or not the diesel fuel that they are about to buy contains off-spec fuels.

**Question (4) Should the rule allow a non-specific percentage designation for biodiesel blends over five and no more than twenty percent?** EMA believes that there is no need to label fuels and pumps with the specific percentage of biodiesel or biomass-based diesel

fuel as long as the percentage is less than or equal to five percent. Virtually all manufacturers and EMA approve the use of biodiesel blends less than 5% in engines, and many manufacturers approve the use of biodiesel blends up to 20%. Consequently, there is no quality reason or rationale to make a specific delineation among blends less than 20%. A single designation is sufficient to assure the quality of a blended fuel.

**Question (5) Should the rule require a specific designation for biodiesel blends above 20 percent?** Yes. EMA believes that any diesel fuel containing more than 20% biomass-based or biodiesel feedstock must be labeled with the specific percentage. The rationale for this requirement is that consumers should know the level of biodiesel and biomass-based diesel in order to evaluate the potential effects of the fuel on engine performance and operability. Depending on the engine and the quality of the fuel, blends with levels higher than 20% have increasing problems, and it is important for consumers to know the content of the fuel.

**Question (8) Is purple an appropriate background color for the biodiesel blend and biodiesel label.** Any color that is visible and does not conflict with other labels on the pump is fine. However, EMA suggests that green may be a more appropriate color for bio-based and biodiesel fuels.

Sincerely,

*Joseph L. Suchecki*

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Director, Public Affairs