



**To:** Federal Trade Commission  
**From:** Ron Lamberty, Vice President of Market Development, American Coalition for Ethanol (ACE)  
**Date:** May 20, 2010  
**RE:** Comments on Proposed Amendments to the Fuel Rating Rule; FTC File No. R811005

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In response to the Federal Trade Commission's recommended changes to 16 CFR Part 306, Automotive Fuel Ratings, Certification and Posting, the American Coalition for Ethanol appreciates the opportunity to provide you with our views regarding rating, certification, and labeling requirements for ethanol fuels. ACE agrees with the rule's goal of helping purchasers identify the correct fuel for their vehicles, and offers the following comments in an attempt to help achieve that goal.

When E10 was introduced into the nation's fueling infrastructure several decades ago, labeling guidelines were not addressed, and took the form of "warning" labels in most of the nation. That type of labeling primarily served to cause doubt in consumers, to create false fears, and to form irrational linkages to problems that had no relation to ethanol. In fact, it is likely that many of the anecdotal, non-scientific anti-E15 comments sent to EPA during the comment period on the E15 waiver bear witness to the fact that this ethanol myth and folklore is still strong today.

Many of the changes recommended in 16CFR Part 306 of the proposed rule are based on the introduction of additional flex fuel blends, referred to as "mid-level" ethanol blends in the market. These blends contain lesser concentration of ethanol than E85, and like E85, can only be used in flexible fuel vehicles.

While we agree with some of the findings the recommendations in the proposed rule, the conclusions reached in section IV B 3 are inconsistent with the information gathered in developing the rule, and will actually provide information that will confuse and deter consumers from identifying and purchasing the correct fuel for their vehicles.

As stated in "The Record" (section III A of the recommended changes) the FTC notes that "The Alliance of Automobile Manufacturers (AAM) reported results from compliance surveys of retail gasoline pumps showing "very good compliance" with the Rule's octane provisions, and noted that **"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."** The Record goes on to say that "The National Automobile Dealers Association seconded AAM's support of the Rule, explaining that consumers need accurate fuel rating information to comply with manufacturer recommendations and warranty requirements."

Given these facts, it would follow that labels for other flexible fuels should be labeled in an identical fashion to E85, as those labels have been successful in meeting the stated goals of the rule. Identifying

the fuel as well as the minimum percentage of ethanol has been successful in preventing unintentional misfueling, and it would follow that a similar label for other flex fuel blends would do the same.

The recommendation that the phrase “MAY HARM SOME VEHICLES” be added to blends above 10% is particularly troubling, and the need for such an ominous statement is unsupported by any of the data gathered in the report. In reality, any fuel “MAY HARM SOME VEHICLES,” so to give equal treatment to all fuels and to provide the same level of information to all consumers, all fuels would have to carry a similar “warning.” Any consumer would likely avoid using ANY fuel labeled in such a fashion, assuming that his/her vehicle may be on that would be harmed. One could even expect such a label to lead a flex-fuel vehicle owner to question whether a mid-level blend or E85 is suitable for the very type of vehicle that was designed to use that fuel. Given those probable consumer reactions, this labeling recommendation flies in the face of the rule’s stated goal of helping purchasers identify the correct fuel for their vehicles.

Ironically, in section 306.10, the recommended Methanol and M85 pump labels – both fuels far more corrosive and likely to cause damage than any of the other fuels listed in this report - would carry no “MAY HARM SOME VEHICLES” warning. That fact only adds to the appearance that this regulation is unnecessarily biased in favor of petroleum-based fuels and against ethanol blended fuels.

E85 labels do not carry a dire warning about harm, yet those labels -in the words of AAM – “appear to have been successful . . . given that reports about unintentional misfueling of conventional vehicles have been virtually nonexistent . . .” If current labeling regulations for E85 are sufficient to avoid any potential harm from misfueling, it would be reasonable and consistent to adopt similar or even less stringent regulations should apply to lower concentrations of ethanol.

While some might also credit the orange color of the label as a factor that has prevented misfueling, it is also a color that is used to indicate caution in the transportation sector. While that is a possible reason that very few consumers have unintentionally used E85 in a conventional vehicle, it is also a possible reason that dissuaded those with flex-fuel vehicles from using E85. Again, in the spirit of “helping purchasers identify the correct fuel for their vehicles,” ACE understands the need for consistent labeling, but would prefer to allow retailers and their suppliers to determine the colors they choose to market ethanol blends. If that is not possible, a uniform color that is not associated with danger would be preferable.

As ACE has advised petroleum marketers who have added E85 and mid-level blends over the past several years, we believe it is important to clearly identify and differentiate between flex-fuels and conventional blends. ACE has long recommended that flexible fuel labels be clearly identified as different from standard fuels. In fact, we recommend that marketers identify flex-fuels by using product labels that are the reverse of the labels used for standard fuels (white letters on dark background versus dark letters on white background), or at very least, that they be identified by a clearly contrasting color.

Like the “MAY HARM SOME VEHICLES” statement, the “CHECK OWNER’S MANUAL” statement – while good advice - is also one that should either be used on all fuels, or none all. Having that phrase only on labels for blends of ethanol above 10 percent would lead many to shy away from using the fuel, even if their vehicle were built to operate on it. The simple addition of the phrase “For Flex Fuel Vehicles Only” would be a change that we would support.

Ethanol is a high octane fuel, and as such, ACE believes that octane ratings should be permitted on pumps that dispense mid-level ethanol blends and E85. Again, we would recommend a background color other than the yellow used for conventional fuels, and would support the addition of a phrase such as “for flex fuel vehicles only,” but do not believe it is fair to prevent ethanol retailers from informing those flex-fuel vehicle owners about an advantage of ethanol blends that may help a consumers make his/her fuel selection.

ACE believes a well structured labeling program will reduce the likelihood of misfueling and provide information that will help purchasers identify the correct fuel for their vehicles.

Thank you again for the opportunity to provide input on this matter. I am available to discuss these issues with you at your convenience. Please feel free to contact me with questions or concerns at  
or by email at .