



DEPARTMENT of AGRICULTURE
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*Serving, promoting and protecting the agricultural producers, processors
and consumers of Missouri's food, fuel and fiber products.*

May 21, 2010

Federal Trade Commission
Office of the Secretary
Room H-135 (Annex M)
600 Pennsylvania Avenue
N.W., Washington, D.C. 20580

Re: Fuel Rating Rule Review, R811005

Dear Sir/Madam,

This letter is to provide comments on the FTC's Fuel Rating Rule Review, R811005; specifically, labels for mid-level ethanol blends and E85.

The Missouri Department of Agriculture (MDA) is responsible for insuring all motor fuels sold in the State of Missouri meet FTC labeling requirements, among other state and federal requirements. MDA fully supports the rule's goal of helping purchasers identify the correct fuel for their vehicle. MDA also supports decals for E85 and for the intermediate blends.

Like a few other states, Missouri currently allows the sale of mid-level ethanol blends such as E20, E30, and E40 when dispensed through retail blender dispensers. Since no FTC decal was available for mid-level ethanol blends, MDA designed a decal with the same color scheme as the current E85 decal which states the minimum concentration of ethanol in each blend. MDA's labeling scheme showing these decals is attached along with other state and federal agencies' recommended labels. MDA's rationale for the design of these decals was to remain consistent with what purchasers have become accustomed to when purchasing motor fuel for flex-fuel vehicles. The FTC's proposed mid-level ethanol blend decals do not specify the concentration of the ethanol component. MDA feels the proposed mid-level ethanol blend decals should specify the percentage of the ethanol component in the fuel because prices for mid-level ethanol blends vary by blend percentage, and the purchaser should be delivered only the concentration they intended to purchase. Additionally, specifying the percentage of the ethanol component would help purchasers choose a fuel that is most economically beneficial, when purchasing fuel with fuel economy in mind.

MDA recommends no change to the current E85 label. The FTC's notice of proposed rulemaking cited comments from the Alliance of Automobile Manufacturers (AAM) which stated: "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". MDA has also received very few complaints of misfueling conventional vehicles with E85, and concurs with AAM in their assessment of the effectiveness of E85 labeling.

MDA also concurs with comments from the Iowa Renewable Fuels Association and Downstream Alternatives, Inc. " who support a labeling regime that, like that for biodiesel fuels, rates ethanol blends according to the percentage of ethanol in the blend, regardless of whether ethanol is the principal component in the fuel".

In order to prevent misfueling of E85 into non-flex fuel vehicles, the National Conference on Weights and Measures adopted a dispenser pump labeling requirement. This model regulation can be found in both the Engine Fuels and Automotive Lubricants Regulation and the Method of Sale Regulation of NIST Handbook 130. This labeling requirement can also be recognized for all blend levels intended for only flex-fuel vehicles. Section 2.30 of the Method of Sale Regulation states:

2.30. E85 Fuel Ethanol.

2.30.1. How to Identify Fuel Ethanol. – Fuel ethanol shall be identified as E85.

2.30.2. Labeling Requirements

- (a) Fuel ethanol shall be labeled with its automotive fuel rating in accordance with 16 Code of Federal Regulations Part 306.
- (b) **A label shall be posted which states "For Use in Flexible Fuel Vehicles (FFV) Only." This information shall be clearly and conspicuously posed on the upper 50 % of the dispenser front panel in a type at least 12.7 mm (½ in) in height, 1.5 mm (1/16 in) stroke (width of type). A label shall be posted which states, "Consult Vehicle Manufacturer Fuel Recommendations," and shall not be less than 6 mm (¼ in) in height by 0.8 mm (1/32 in) stroke; block style letters and the color shall be in definite contrast to the background color to which it is applied.**

(Added 2007)

Therefore, we recommend the following for FTC labeling of mid-level blends:

1. Continue the orange style decal of FTC's existing decal used for E85
2. Substitute the word "Contains XX% Ethanol" for intermediate blends and continue using "Minimum XX% Ethanol" for E85.
3. No statement of warning or consulting owner's manual for the FTC label as the separate NCWM label provides sufficient information.

Thank you for your consideration of these comments.

If you ever need assistance from the Missouri Department of Agriculture, please let us know.

Sincerely,

Ronald G. Hayes
Director, Division of Weights and Measures

C: Missouri Label for Intermediate Blends

Labeling Examples for Motor Fuel Dispenser Panel and Nozzle Handle

FLEX FUEL VEHICLES (FFVS) ONLY!
Warning: Using this fuel in any vehicle or engine that is not a flexible fuel vehicle or engine may damage the vehicle or engine and void its warranty.
Federal law prohibits the use of gasoline containing more than 10 percent ethanol in any motor vehicle or non-road engine that is subject to U. S. EPA regulations, other than flexible fueled vehicles and engines.

Mo's label to meet NIST HB130 reqmt.

Regular Unleaded

\$2.49

Minimum Octane Rating
(R+M)/2 Method

87

Octane

Push Here

FTC's Octane Label

\$2.34

E20

Contains 20% Ethanol

Push Here

Missouri's Intermediate Blend Labels (nominal ethanol content, not minimum)

\$2.29

E30

Contains 30% Ethanol

Push Here

\$2.19

E85

Minimum 70% Ethanol

Push Here

FTC's Current Alternative

Yellow Pump Handle Label

STOP!
NOT GASOLINE!
This fuel is designed to operate in Flex-Fuel Vehicles (FFV's) only. Please consult your owner's manual before fueling if you are unsure if you are operating an FFV.
STOP!

Attention:
Before selecting this fuel, please check your vehicles owner's manual.

Mo's Label (similar to)