



THE CHAIRMAN

FEDERAL TRADE COMMISSION

WASHINGTON, D.C. 20580

May 24, 2018

The Honorable James Risch
Chairman
Committee on Small Business and Entrepreneurship
United States Senate
Washington, DC 20515

Dear Chairman Risch:

We submit this tenth annual report in accordance with Section 212(a)(6) of the amended Small Business Regulatory Enforcement Fairness Act (the “Act”).¹ This statute requires agencies to publish guides to assist small entities in complying with rules that significantly affect them. The Federal Trade Commission (“Commission” or “FTC”) has a longstanding and effective business education program,² and only a small fraction of our business education library is discussed in this report.

From July 1, 2016 to July 1, 2017, the FTC issued no final rules that are subject to Section 212 of the Act.³ Over that time period, the Commission also certified to the Small Business Administration that certain other final regulations issued would not have a significant economic impact on a substantial number of small business entities. Nonetheless, the Commission has either made available or is preparing updated compliance materials for small businesses for several of these rulemakings, although not required to do so by the Act. Some examples are set out below:

- **Used Motor Vehicle Trade Regulation Rule (“Used Car Rule”), 16 C.F.R. § 455:** The Used Car Rule, first effective in 1985, requires car dealers to display a window sticker, or “Buyers Guide,” on used cars offered for sale. On November 18, 2016, the Commission issued a final rule that added a Buyers Guide statement recommending that consumers obtain a vehicle history report (“VHR”), and directing them to an FTC website for more information about VHRs and safety recalls; revised the Buyers Guide statement describing the meaning of an “As Is” sale in which a dealer offers a vehicle for sale without a warranty; added boxes to the front of the Buyers Guide where dealers can indicate additional warranty and service contract coverage; added a Spanish statement to the English Buyers Guide advising consumers to ask for a copy of the Buyers Guide in Spanish if the dealer is conducting the sale in Spanish (and providing a Spanish translation of the optional consumer acknowledgment of receipt of the Buyers Guide);

¹ 5 U.S.C. § 601 note.

² From FY 2002 through FY 2016, the FTC’s “Compliance Assistance” under the Act was rated an “A” by the Small Business Administration’s National Ombudsman. We anticipate the same grade when the National Ombudsman submits its FY 2017 Report for all agencies.

³ Section 212 requires agencies to publish a “small entity compliance guide” for any new rule for which an agency is required to prepare a final regulatory flexibility analysis under section 3(a) of the Regulatory Flexibility Act, which is codified at 5 U.S.C. § 604.

and added air bags and catalytic converters to the list of major defects on the back of the Buyers Guide. 81 Fed. Reg. 81,664 (Nov. 18, 2016). The final rule was effective on January 27, 2017. The Commission updated its guidance, "Dealer's Guide to the Used Car Rule," in November 2016 (enclosed).

- **Automotive Fuel Ratings, Certification and Posting Rule ("Fuel Rating Rule"), 16 C.F.R. § 306:** The Fuel Rating Rule, first issued in 1979, enables consumers to buy gasoline with an appropriate octane rating and establishes standard procedures for determining, certifying, and posting octane ratings. On January 14, 2016, the Commission published final amendments requiring that fuel marketers rate and certify all ethanol blends with ethanol content ranging from above 10 percent to 83 percent, and that retailers post labels with ethanol percentage disclosures and with the statement, "Use only in Flex-Fuel Vehicles/May Harm Other Engines." 81 Fed. Reg. 2054 (Jan. 14, 2016). The amendments were effective on July 14, 2016. The Commission updated its guidance, "Complying with the FTC Fuel Rating Rule," in October 2016 (enclosed).

For many years, the FTC has maintained a highly effective program of providing compliance assistance to small businesses.⁴ We intend to continue to refine and improve these efforts. If you have any questions, please contact Christian S. White, the Deputy General Counsel for Ethics and Professional Responsibility and Small Business Coordinator at the Commission, at (202) 326-2476.

Respectfully,

/signed/

Joseph J. Simons

Chairman

Enclosures

cc: The Honorable Steve Chabot
Chairman
Committee on Small Business
U.S. House of Representatives
Washington, DC 20515

⁴ The Commission also considers the specific and unique circumstances of a case when enforcing business obligations. Section 223 of the Act requires that agencies establish policies to reduce or waive penalties for small entities in appropriate circumstances. In 1997, the Commission issued a small business leniency policy statement that describes factors that may result in a reduction or waiver of penalties. *See* 62 Fed. Reg. 16,809 (Apr. 8, 1997) (issuing policy); 62 Fed. Reg. 46,363 (Sept. 2, 1997) (responding to comment received). As such cases arise, the Commission considers these leniency factors whenever a civil penalty may be assessed against a small business.

In addition, and beyond the Act's requirements, the Commission established corporate leniency policies for violations of the Textile and Wool Rules, 67 Fed. Reg. 71,566 (Dec. 2, 2002), the Funeral Rule (through the Funeral Rule Offender Program), and the Franchise Rule (through the Franchise Rule Alternative Law Enforcement Program) that have helped to foster a more collaborative regulatory environment for small entities. These policies have helped increase overall compliance with the rules while minimizing the burden on business of correcting certain minor or inadvertent errors that are not likely to injure consumers.



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FEDERAL TRADE COMMISSION
PROTECTING AMERICA'S CONSUMERS

Dealer's Guide to the Used Car Rule

TAGS: [Automobiles](#)

Most dealers who sell used vehicles must comply with the Used Car Rule. This publication explains how to prepare and display the Buyers Guide and provides a compliance checklist.

- [Introduction](#)
- [The Buyers Guide](#)
 - [Vehicle Information](#)
 - [Dealer Information](#)
 - [Optional Signature Line](#)
 - [Warranty Information](#)
 - [What About Service Contracts?](#)
 - [What Do I Have to Give the Buyer At the Sale?](#)
 - [Can the Buyers Guide Serve As My Written Warranty?](#)
 - [What If I Don't Comply?](#)
 - [Where Can I Get More Information?](#)

Introduction

Most car dealers who sell used vehicles must comply with the Federal Trade Commission's (FTC's) [Used Car Rule](#). In fact, car dealers who sell, or offer for sale, more than five used vehicles in a 12-month period must comply with the Rule. Banks and financial institutions are exempt from the Rule, as are businesses that sell vehicles to their employees, and lessors who sell a leased vehicle to a lessee, an employee of the lessee, or a buyer found by the lessee.

The Used Car Rule applies in all states except Maine and Wisconsin. These two states are exempt because they have similar regulations that require dealers to post disclosures on used vehicles. The Rule applies in the District of Columbia, Puerto Rico, Guam, the U.S. Virgin Islands, and American Samoa.

This booklet defines the Rule's requirements, explains how to prepare and display the [Buyers Guide](#), and offers a compliance checklist.

You must post a [Buyers Guide](#) before you display a vehicle for sale or let a customer inspect it for the purpose of buying it, even if the car is not fully prepared for delivery. You also must display a Buyers Guide on used vehicles for sale on your lot through consignment, power of attorney, or other agreement. At public auctions, dealers and the auction company must comply. The Rule does not apply at auctions that are closed to consumers.

Previously titled or not, any vehicle driven for purposes other than moving or test driving is considered a used vehicle, including light-duty vans, light-duty trucks, demonstrators, and program cars that meet the following specifications:

- a gross vehicle weight rating (GVWR) of less than 8,500 pounds
- a curb weight of less than 6,000 pounds; and
- a frontal area of less than 46 square feet.

Exceptions to the Rule are:

- motorcycles;

- any vehicle sold for scrap or parts if the dealer submits title documents to the appropriate state authority and obtains a salvage certification; and
- agricultural equipment.

The Buyers Guide

A disclosure document that gives consumers important purchasing and warranty information, the Buyers Guide tells consumers:

- the major mechanical and electrical systems on the car, as well as some of the major problems that consumers should look out for;
- whether the vehicle is being sold "as is" or with a warranty;
- what percentage of the repair costs a dealer will pay under warranty;
- that oral promises are difficult to enforce;
- to get all promises in writing;
- to ask to have the car inspected by an independent mechanic before they buy;
- to get a vehicle history report and to visit ftc.gov/usedcars for information on how to get a vehicle history report, how to check for safety recalls, and other topics; and
- to ask for a Spanish Buyers Guide if the sale is conducted in Spanish; and
- to keep the Buyers Guide for reference after the sale.

If you conduct a used car transaction in Spanish, you must post a [Spanish language Buyers Guide](#) on the vehicle before you display or offer it for sale.

The Buyers Guide must be displayed prominently and conspicuously on or in a vehicle when a car is available for sale. This means it must be in plain view and both sides must be visible. You can hang the Guide from the rear-view mirror inside the car or on a side-view mirror outside the car. You also can place it under a windshield wiper. The Guide also can be attached to a side window. A Guide in a glove compartment, trunk or under the seat is not conspicuous because it is not in plain sight.

You may remove the Guide for a test drive, but you must replace it as soon as the test drive is over.

Vehicle Information

At the top of the Guide, fill in the vehicle make, model, model year, and vehicle identification number (VIN). Write in a dealer stock number if you wish.

Dealer Information

On the back of the Guide, fill in the name and address of your dealership. Also fill in the name (or position) and the telephone number of the person the consumer should contact with complaints. You may use a rubber stamp or preprint your Guide with this information.

Optional Signature Line

You may include a signature line on the Guide and you may ask the buyer to sign to acknowledge that he or she has received the Guide. If you opt for a signature line, you must include a disclosure near it that says: "I hereby acknowledge receipt of the Buyers Guide at the closing of this sale." This language can be preprinted on the form. The signature line and the required disclosure must appear in the space provided for the name of the individual to be contacted in the event of complaints after the sale.

Warranty Information

- The Buyers Guide has two versions: One says "As Is-No Dealer Warranty;" the other says "Implied Warranties Only."
- **As Is-No Dealer Warranty.** If state law allows it, and you choose not to offer a warranty — written or implied — you must use the "As Is" version and check the box next to the heading "As Is-No Dealer Warranty" on the Guide.
- **Implied Warranties Only.** In states that limit or prohibit the elimination of implied warranties, you must use the "Implied Warranties Only" version and check the box next to the "Implied Warranties Only" if you don't offer a written warranty.
- **Warranty.** If you offer the vehicle with an express warranty, you must check the box next to the heading "Warranty" and complete that section of the Guide. Warranties required by state law must be disclosed in this section. Your state Attorney General can tell you about state warranty requirements.

State Law. In some states, use of the "As Is-No Dealer Warranty" Buyers Guide may be legally sufficient to eliminate implied warranties. In other states "as is" sales are allowed only if specific action is taken or certain language is used. For example, some states may require you to eliminate implied warranties by using special language and/or a document other than the Guide.

If you're not sure which version of the Buyers Guide you should use or if you have questions about state requirements, contact the FTC or your state Attorney General's office.

Is the Warranty "Full" or "Limited"?

For a warranty to be considered "full:"

- Warranty service must be provided to anyone who owns the vehicle during the warranty period.
- Warranty service must be provided free of charge when necessary, even for services like removing and reinstalling a system covered by the warranty.
- The consumer must be able to choose either a replacement or a refund if the vehicle can't be repaired after a reasonable number of tries.
- The consumer is not required to take any action to receive service, except to give notice that service is needed. Service must be rendered after notice unless the warrantor can demonstrate that it is reasonable to require consumers to do more than give notice.
- The length of implied warranties must not be limited.

The warranty is considered "limited" if any of these conditions doesn't apply.

What Percentage of Costs Does the Warranty Cover?

Fill in the percentage of parts and labor costs covered by the warranty in the spaces provided. If a deductible applies to repairs made under the warranty, put an asterisk next to the number and explain the deductible in the "systems covered/duration" section. For example, "**A \$50 deductible applies to each repair visit."

What Systems Are Covered? For How Long?

There's one column to list the systems covered, and another to list the length of the warranty for each system. In the left hand column, you must specify each system that's covered by the warranty. The Rule prohibits the use of shorthand phrases such as "drive train" or "power train" because it's not always clear what specific components are included in the "power train" or "drive train."

In the right hand column, you must state the length of the warranty for each system. If all systems are covered for the same length of time, you may state the duration once.

What if the Manufacturer's Warranty Still Applies?

If the manufacturer's warranty hasn't expired, you may disclose this fact by checking the box, "MANUFACTURER'S WARRANTY STILL APPLIES. The manufacturer's original warranty has not expired on some components of the vehicle," in the Non-Dealer Warranties for this Vehicle section of the Buyers Guide.

If the consumer must pay to get coverage under the manufacturer's warranty, you may not check the "Warranty" box. Such coverage is considered a service contract. However, you may check the "Warranty" box if you pay for coverage from the manufacturer and the consumer doesn't have to pay anything more than the price of the vehicle to get the coverage. If you provide a warranty in addition to the unexpired manufacturer's warranty, explain the terms of your warranty on the Buyers Guide.

Where Should Negotiated Warranty Changes Be Included?

If you and the consumer negotiate changes in the warranty, the Buyers Guide must reflect the changes. For example, if you offer to cover 50 percent of the cost of parts and labor for certain repairs, but agree to cover 100 percent of the cost of parts and labor after negotiating with the customer, you must cross out the "50 percent" disclosure and write in "100 percent." Similarly, if you first offer the vehicle "as is" but then agree to provide a warranty, you must cross out the "As Is-No Dealer Warranty" disclosure and complete the "Warranty" section of the Buyers Guide properly.

What About Service Contracts?

If you offer a service contract for repairs, check the box next to the words "Service Contract." However, if your state regulates service contracts as the "business of insurance," you don't have to check this box. Check with your Attorney General or state insurance commissioner to find out if your state regulates service contracts as insurance.

What Do I Have to Give the Buyer At the Sale?

You must give the buyer the original or a copy of the vehicle's Buyers Guide at the sale. The Guide must reflect all final changes. If you include a signature line on your Buyers Guides, make sure the buyer signs the Guide that reflects all final changes.

If you offer a written warranty, or if the manufacturer's warranty still applies, you also must comply with the Magnuson-Moss Warranty Act and other FTC Rules, including the "Warranty Disclosure Rule." The Warranty Act contains provisions that establish consumers' rights with respect to written warranties. For example, the Act prohibits you from eliminating implied warranties when you provide a written warranty.

The Warranty Disclosure Rule requires that you disclose certain information about the coverage of your warranty and consumers' rights under state law. This information must be included in a single document that is clear and easy to read.

Can the Buyers Guide Serve As My Written Warranty?

The warranty information you provide on the Buyers Guide is not sufficient to meet the requirements of the [Warranty Disclosure Rule](#). Therefore, your written warranty and the Buyers Guide must be two separate documents.

Another federal rule — the [FTC's Rule on Pre-Sale Availability of Written Warranty Terms](#) — requires that you display written warranties in close proximity to the vehicle or make them available to consumers, upon request, before they buy.

You also may be interested in [A Businessperson's Guide to Federal Warranty Law](#). It explains the Magnuson-Moss Warranty Act, the federal law governing warranties on consumer products.

What Disclosures Should I Make if I Offer a 50/50 Warranty or Another Type of Split Cost Warranty?

Split cost warranties are those under which the dealer pays less than 100% of the cost for a warranty repair. This type of warranty includes 50/50 warranties where the dealer pays 50% of the cost for a covered repair and the buyer pays the remaining 50%. Another type of split cost warranty is one under which the buyer pays a deductible amount and the dealer pays the remaining cost for the repair.

If you offer a split cost warranty that requires you to pay a percentage of the repair cost for covered repairs, you should include the following disclosures in your warranty document:

- The percentage of the total repair cost you will pay.
- The percentage of the total repair cost the buyer must pay.
- How the total cost of the repair will be determined. For example, your warranty might state: "The total cost of a warranty repair will be the retail price ABC motors charges for the job." As another example, your warranty might state: "The total cost of a warranty repair will be determined by adding the dealer's cost for parts to the labor cost. Labor will be billed at a rate of _____ per hour for the actual time required to complete the repair." As a final example, your warranty might state: "If the work is done by an outside repair shop, total cost of a repair will be the price ABC Motors is charged by the outside shop. If the work is done by ABC Motors, the total cost of the repair will be the same price ABC Motors charges non-warranty customers for the same job."

If your warranty requires buyers to pay a deductible, your warranty document should disclose the deductible amount and the details as to when and under what circumstances the deductible must be paid.

Dealers offering split cost warranties can require that buyers return to the dealer for warranty repairs. If your warranty includes this restriction, however, you should provide an estimate of the total repair cost before work is started. This will allow the buyer to decide whether to approve the repair or have the work done elsewhere.

Where Can I Get Copies of the Guides?

You can download the Buyers Guide from the FTC's [Business Center](#), or you can get Buyers Guides from business-form companies or trade associations. You also can generate them yourself on a computer. However, you must use the wording, type style, type sizes, and format specified in the Rule. You are not allowed to place any other wording or symbols (including logos) on the Buyers Guide. The Guides must be printed in 100% black ink on white paper cut to at least 11" x 7 1/4." These requirements cannot be modified in any way. You may use colored ink to fill in the blanks.

How Am I Doing?

Ask yourself:

- Do you complete a Buyers Guide properly for each used vehicle offered for sale?
- Do you post the Buyers Guide prominently and conspicuously on each used vehicle you offer for sale?
- If you choose to include a signature line for the buyer's signature, do you include the following required disclosure language:

I hereby acknowledge receipt of the Buyers Guide
at the closing of this sale.

- Do you put the following required disclosure in your sales contract:

The information you see on the window form for this vehicle is part of this contract. Information on the window form overrides any contrary provisions in the contract of sale.

- Do you give the vehicle's Buyers Guide or a copy to the purchaser at the time of sale and make sure it states the final negotiated warranty coverage accurately?
- If a sale is conducted in Spanish, do you use the Spanish language Buyers Guide?
- If you offer a written warranty, do you prepare a warranty document that complies with federal law? Is the warranty document available for examination by potential buyers?

What If I Don't Comply?

Dealers who violate the Used Car Rule may be subject to penalties of up to \$41,484 per violation in FTC enforcement actions. Many states have laws or regulations that are similar to the Used Car Rule. Some states incorporate the Used Car Rule by reference in their state laws. As a result, state and local law enforcement officials may have the authority to ensure that dealers post Buyers Guides and to fine them or sue them if they do not comply.

Where Can I Get More Information?

If you have questions about the Used Car Rule, contact the FTC and request a free copy of the Rule or [staff compliance guidelines for the Used Car Rule](#); both documents explain some aspects of the Rule in more detail.

The FTC works for the consumer to prevent fraudulent, deceptive, and unfair business practices in the marketplace and to provide information to help consumers spot, stop, and avoid them. To file a [complaint](#) or to get [free information on consumer issues](#), visit [ftc.gov](#) or call toll-free, 1-877-FTC-HELP (1-877-382-4357); TTY: 1-866-653-4261. The FTC enters consumer complaints into the [Consumer Sentinel Network](#), a secure online database and investigative tool used by hundreds of civil and criminal law enforcement agencies in the U.S. and abroad.

[Note: Edited March 2018 to reflect [Inflation-Adjusted Civil Penalty Maximums](#).]

November 2016



ftc.gov



FEDERAL TRADE COMMISSION
PROTECTING AMERICA'S CONSUMERS

Complying with the FTC Fuel Rating Rule

TAGS: [Automobiles](#) | [Energy](#) | [Gasoline](#)

The FTC prepared this guide to help you comply with the Automotive Fuel Ratings, Certification and Posting Rule, also known as the [Fuel Rating Rule](#). The Rule covers the sale and transfer of liquid automotive fuel.

Introduction

What the Rule Requires

- Who Must Comply
- How Penalties Are Assessed

What Automotive Fuels are Covered

- Gasoline
- Alternative Liquid Automotive Fuels
- Is Diesel Covered?
- The Automotive Fuel Rating

How to Comply

- Refiners, Importers, and Producers of Automotive Fuel
 - Rating Determination
 - Rating Certification
 - Recordkeeping
- Distributors of Automotive Fuel
 - Rating Certification
 - Recordkeeping
- Retailers of Automotive Fuel
 - Rating Posting
 - Recordkeeping

Labels

- Gasoline
- Ethanol Flex Fuels
- Biodiesel, Biomass-Based Diesel, and Their Blends
- Other Alternative Liquid Automotive Fuels

Preemption

Commonly-Asked Questions

Introduction

The FTC prepared this guide to help you comply with the Automotive Fuel Ratings, Certification and Posting Rule, also known as the [Fuel Rating Rule](#). The Rule covers the sale and transfer of liquid automotive fuel.

The Rule does not affect a producer's and marketer's ability to develop and blend fuels that are consistent with U.S. Environmental Protection Agency and original equipment manufacturer requirements. The Rule is designed to ensure that producers and marketers give consumers the information they need to make smart liquid fuel-purchasing decisions.

This guide summarizes the [Fuel Rating Rule](#) and answers commonly-asked questions.

What the Rule Requires

If you are a fuel refiner, importer, producer, distributor, or retailer of liquid automotive fuel (with the exception of diesel fuels that contain less than 5 percent biodiesel and less than 5 percent bio-mass based diesel)), you must comply with the Rule's rating determination, certification, posting, and recordkeeping requirements.

Who Must Comply

Refiners, importers, producers, distributors, and retailers of automotive fuel must comply with the Fuel Rating Rule.

How Penalties are Assessed

The FTC can sue violators of the Fuel Rating Rule in Federal court. The court can impose civil penalties of up to \$41,484 for each violation. The court also can issue an order prohibiting further violations, and other relief, including redress.

What Automotive Fuels are Covered?

The Rule covers liquid fuels distributed for use in motor vehicles. The automotive fuels covered by the Rule include, but are not limited to:

Gasoline

- Gasohol
- Reformulated gasoline
- Oxygenated gasoline

Alternative Liquid Automotive Fuels

- Ethanol Flex Fuels, meaning gasoline and ethanol mixtures of more than 10% but not greater than 83% ethanol by volume
- Biodiesel and biodiesel blends containing more than 5% biodiesel by volume
- Biomass-based diesel and biomass-based diesel blends containing more than 5% biomass-based diesel by volume
- Methanol, denatured ethanol, and other alcohols
- Mixtures containing 85% or more by volume of methanol, denatured ethanol, and/or other alcohols (or such other percentage as determined by the Secretary of the U.S. Department of Energy to provide for requirements relating to cold starts, safety, or vehicle functions), with gasoline or other fuels
- Liquefied natural gas
- Liquefied petroleum gas
- Coal-derived liquid fuels

Is Diesel Fuel Covered?

Generally, the Rule does not cover petroleum-derived diesel fuel. However, the Rule does cover biodiesel and biomass-based diesel as well as biodiesel blends and biomass-based diesel blends that contain more than 5 percent by volume of biodiesel or biomass-based diesel.

The Automotive Fuel Rating

The automotive fuel rating differs for different types of fuel. For:

- **gasoline**, the automotive fuel rating is the octane rating.
- **ethanol flex fuels**, it is a disclosure of the ethanol content, expressed as a percentage of volume. It is accompanied by the text “Use Only in Flex-Fuel Vehicles/May Harm Other Engines.”
- **biomass-based diesel, biodiesel, biomass-based diesel blends** with more than 5% biomass-based diesel, and biodiesel blends with more than 5% percent biodiesel, the rating is a disclosure of the biomass-based diesel or biodiesel component, expressed as the percentage by volume.
- an **alternative liquid automotive fuel**, it is the commonly-used name of the fuel along with a disclosure of the amount, expressed as a minimum percentage by volume, of the principal component of the fuel. A disclosure of other components, expressed as a minimum percentage by volume, may be included on the dispenser label, if desired. For example, a blend of 85 % methanol and 15 % gasoline, may have a rating of “M-85, Minimum 85% Ethanol.”

How to Comply

The Fuel Rating Rule is divided into sections based on industry categories, including refiner, distributor, or retailer. The following summary is divided by similar headings. See [section 306.2](#) of the FTC Fuel Rating Rule for more information.

Refiners, Importers, and Producers of Automotive Fuel

If you are a refiner, importer or producer, you must determine the automotive fuel rating of all automotive fuel **before** you transfer it.

Rating Determination

To determine the automotive fuel rating of **gasoline** (the octane rating), add the research octane number and the motor octane number and divide by two. This is explained by the American Society for Testing and Materials in ASTM D4814, *Standard Specifications for Automotive Spark-Ignition Engine Fuel*.

To determine automotive fuel ratings for **alternative liquid automotive fuels**, you must have a reasonable basis, consisting of competent and reliable evidence, for the percentage by volume of the component of the alternative liquid automotive fuel that you must disclose. You also must have a reasonable basis for the minimum percentages by volume of other components that you choose to disclose.

The FTC recognizes that consensus specifications that define alternative liquid automotive fuels, which include test methods to determine whether the fuels comply with the specifications, do not exist for many of the liquid alternative fuels. Therefore, the FTC is not requiring the use of specific test methods for determining their ratings. The FTC will review, on a case-by-case basis, any questions concerning what may constitute a reasonable basis for determining the automotive fuel ratings of alternative liquid automotive fuels.

Rating Certification

In each transfer of automotive fuel you make to anyone other than a consumer, you must certify the automotive fuel rating of the fuel consistent with your determination. You may certify by including a delivery ticket with each transfer or with a letter of certification or another written statement. If you transfer automotive fuel to a common carrier, you must certify the automotive fuel rating to the common carrier on a delivery ticket, certification letter, or other paper.

A **delivery ticket** may be an invoice, bill of lading, bill of sale, terminal ticket, delivery ticket, or any other written proof of transfer. It must contain the following items:

- your name;
- the name of the person to whom the automotive fuel is transferred;
- the date of the transfer; and
- the automotive fuel rating.

A **certification letter** must include the following items:

- the date;
- your name;
- the other person's name; and
- the automotive fuel rating of any automotive fuel you will transfer to that person from the date of the letter onward.

Generally, a letter of certification is good until you transfer automotive fuel with a lower automotive fuel rating. However, a letter certifying the fuel rating of biomass-based diesel, biodiesel, a biomass-based diesel blend, a biodiesel blend, or an ethanol flex fuel will be good only until you transfer those fuels with a different automotive fuel rating. When you need to certify a new automotive fuel rating, provide a new delivery ticket or certification letter.

Recordkeeping

You must keep records for one year on how you determined automotive fuel ratings. These records must be available for inspection by FTC staff or other authorized persons.

Distributors of Automotive Fuel

If you are a distributor of automotive fuel, you must certify the automotive fuel rating of the automotive fuel in each transfer you make to anyone other than a consumer.

Rating Certification

You may certify either by including a delivery ticket with each transfer of automotive fuel or with a certification letter.

If you don't blend gasoline with other gasoline, or if you don't blend alternative liquid automotive fuels, you must certify with the automotive fuel rating certified to you when you received the fuel. If you blend, [section 306.8](#) of the Rule explains how to determine the automotive fuel ratings that you certify for the blends. Even if you don't blend, you may choose to certify the automotive fuel rating of the fuel consistent with your own determination of the rating according to the methods in [section 306.5](#) of the Rule.

When you transfer automotive fuel to a common carrier, you must certify the automotive fuel rating of the fuel to the common carrier. When you receive automotive fuel from a common carrier, the common carrier must give you a certification of the automotive fuel rating.

Recordkeeping

For one year, you must keep any delivery tickets or letters of certification on which you based your automotive fuel rating certifications, and records of any automotive fuel rating determinations you made in accordance with [section 306.5](#) of the Rule. These records must be available for inspection by FTC staff or other authorized persons.

Retailers of Automotive Fuel

If you are a retailer of automotive fuel, you must post the automotive fuel rating of all automotive fuel you sell to consumers.

Rating Posting

You must post at least one label on the face of each dispenser through which you sell automotive fuel. If you sell two or more kinds of automotive fuel with different automotive fuel ratings from a single dispenser, you must put separate labels for each kind of fuel on each face of the dispenser. You **do not** need to post a label for **ethanol flex fuels** containing no more than 15% ethanol if you have labeled the dispenser in accordance with the EPA's E15 labeling requirements at [40 CFR 80.1501](#).

The label must appear on the face of the dispenser as near as possible to the price per unit of the automotive fuel. The label must be in full view of consumers. You also must maintain and replace labels as needed to make sure that consumers can easily see and read them. If labels are defaced or are unusable, you may post a temporary label.

If you don't blend gasoline with other gasoline, or if you do not blend alternative liquid automotive fuels, you must post the automotive fuel rating certified to you or determine the rating according to the methods in [section 306.5](#) of the Rule. If you blend, [section 306.10](#) of the Rule explains how to determine the automotive fuel ratings that you post for the blends.

When you receive automotive fuel from a common carrier, the common carrier must give you a certification of the automotive fuel rating.

Recordkeeping

For one year, you must keep any delivery tickets or letters of certification on which you based your posting of automotive fuel ratings, and records of any automotive fuel rating determinations you made in accordance with [section 306.5](#) of the Rule. The records may be kept at the retail station or at reasonably-close location. These records must be available for inspection by FTC staff or other authorized persons.

Labels

The standard gasoline and alternative liquid automotive fuel labels are 3 inches wide by 2 1/2 inches long. The size, typestyle, and dimensions of the labels are specified in [section 306.12](#) of the Rule. All labels must be able to withstand extreme weather conditions for at least one year. They must be resistant to automotive fuel, oil, grease, solvents, detergents, and water. Labels should look like [these examples](#), except the black print should be on the appropriately colored background.

Gasoline

Gasoline labels must be printed in black on a yellow background, and disclose the minimum octane rating.

Ethanol Flex Fuels

Labels for ethanol flex fuel must be printed in black on an orange background. For ethanol flex fuels of 50% or less ethanol, the labels must disclose the exact percentage volume of ethanol, for example, "24% Ethanol," **or** the percentage volume rounded to the nearest ten, for example, "30% Ethanol." For ethanol flex fuels above 50%, but no more than 83% ethanol, the labels may contain the exact percentage volume, the percentage rounded to the nearest ten, or the text "51%-83% Ethanol." Therefore, the Rule does not permit labeling a fuel as "E85." In addition, all ethanol flex fuel labels must contain the text "Use Only in Flex-Fuel Vehicles/May Harm Other Engines."

Biodiesel, Biomass-Based Diesel, and Their Blends

Labels for biodiesel and biomass-based diesel and their blends must be printed in black on a light blue background.

For biodiesel blends above 5%, but no more than 20%, the label must disclose the percentage volume of biodiesel followed by the term "Biodiesel Blend," for example, "B-20 Biodiesel Blend," **or** simply state "Biodiesel Blend." Either way, the label also must state "contains biomass-based diesel or biodiesel in quantities between 5 and 20%."

For biodiesel blends above 20%, the label must disclose the percentage volume of biodiesel followed by the term "Biodiesel Blend," for example, "B-70 Biodiesel Blend." The label also must state "contains more than 20% biomass-based diesel or biodiesel."

For 100% Biodiesel, the label must state "B-100 Biodiesel" or "contains 100% biodiesel."

For biomass-based diesel blends above 5% but no greater than 20%, the label must disclose the volume percentage of the biomass-based diesel followed by the term "Biomass-Based Diesel Blend," for example, "20% Biomass-Based Diesel Blend," **or** simply state "Biomass-Based Diesel Blend." Either way, the label must also state "contains biomass-based diesel or biodiesel in quantities between 5 and 20%."

For biomass-based diesel blends above 20%, the label must state the percentage volume of biomass-based diesel followed by the term "Biomass-Based Diesel Blend," for example, "70% Biomass-Based Diesel Blend." The label also must state "contains more than 20% biomass-based diesel or biodiesel."

For 100% Biomass-Based Diesel Blends, the label must state "100% Biomass-Based Diesel" **and** "Contains 100% biomass-based diesel."

Other Alternative Liquid Automotive Fuels

Other alternative liquid automotive fuel labels must be printed in black on an orange background. The labels must disclose the commonly-used name of the fuel and the minimum percentage volume of the principal component of the fuel.

If you are covered by the Fuel Rating Rule and want to change the dimensions of the label to accommodate a longer fuel descriptor or additional fuel components, you must file a petition with the FTC for an exemption from the Rule. You also must state the size and contents of the label you wish to use, and the reasons you want to use it.

Preemption

[Section 306.4](#) of the Rule contains the preemption language found in the Petroleum Marketing Practices Act (PMPA). This section preempts any provision of any local or state regulation that is not the same as an applicable provision of the Rule. However, states or their political subdivisions are authorized to use whatever investigative and enforcement action they deem necessary to enforce state laws that require the certification and posting of automotive fuel ratings.

Commonly Asked Questions

The following questions and answers may help you comply with the [Fuel Rating Rule](#).

Q. According to the Rule, automotive fuel means a liquid fuel distributed for use in any motor vehicle. For purposes of the Rule, what is a "motor vehicle?"

A. As defined by the Petroleum Marketing Practices Act, "motor vehicle" means any self-propelled four-wheeled vehicle of less than 6,000 pounds gross vehicle weight, which is designed primarily for use on public streets, roads and highways.

Q. According to the Rule, the term "automotive fuel" includes liquefied natural gas. Is compressed natural gas (CNG) also covered by the Rule?

A. No. The Rule applies only to liquid automotive fuels and does not cover CNG. The term "automotive fuel" includes, but is not limited to, the liquid fuels listed in [section 306.0\(i\)](#) of the Rule.

Q. Some of the new alternative liquid automotive fuels covered by the Rule, like the liquefied petroleum gases propane and butane, often are not sold for automotive use. Are these sales covered by the Rule?

A. No. Only automotive fuels transferred for use as fuels in motor vehicles are covered by the Rule.

Q. Is the FTC requiring a minimum or a maximum automotive fuel rating level for automotive fuels?

A. No. The FTC's Rule is designed to require that adequate disclosures are made to consumers to enable them to make the best fuel selections for their cars. Of course, you also are responsible for compliance with all other applicable laws and rules.

Q. Can automotive fuel rating certification be accomplished with documents that only identify fuels by code numbers or fuel names and do not include the fuel's rating?

A. No. To comply with the Rule's fuel rating certification requirement, delivery tickets or certification letters that accompany transfers of fuel must include, among other things, the fuel's automotive fuel rating. Descriptive names, like regular or premium, or code numbers are not sufficient.

Q. If I sell fuel to customers who use it only for their own fleets, and not for resale to the general public, do I have to certify the fuel's rating to those customers?

A. No. The Rule requires certification of the automotive fuel rating to anyone other than a consumer of the fuel. Customers who buy fuel for their own fleets are consumers of the fuel under the Rule's definitions.

Q. Do common carriers have to comply with the Rule's certification requirements?

A. No. Common carriers do not fall within the scope of the Rule. The Rule, however, requires covered industry members to give certification documents to, and receive certification documents from, common carriers in the chain of distribution. Accordingly, the FTC believes that common carriers will voluntarily pass on the certifications they receive as they play their part in the chain of automotive fuel distribution.

Q. How long do I have to keep automotive fuel rating certification records?

A. Refiners, producers, importers, distributors and retailers of automotive fuel must keep records of delivery tickets, certification letters, or tests upon which they based the automotive fuel rating that they certified or posted for one year. These records must be available for inspection by FTC staff or other authorized persons.

Q. Where can I report Rule violations or any allegedly fraudulent activity regarding the sale of automotive fuel?

A. If you suspect non-compliance, contact your state or local weights and measures office. In addition, please file a report online at ftc.gov/complaint. FTC attorneys and investigators – and hundreds of other law enforcement agencies – use complaints to bring cases against companies and people that violate the law. For more information, contact the FTC's Division of Enforcement, Bureau of Consumer Protection at 202-326-2996.

Your Opportunity to Comment

The National Small Business Ombudsman and 10 Regional Fairness Boards collect comments from small businesses about federal compliance and enforcement activities. Each year, the Ombudsman evaluates the conduct of these activities and rates each agency's responsiveness to small businesses. Small businesses can comment to the Ombudsman without fear of reprisal. To comment, call toll-free 1-888-REGFAIR (1-888-734-3247) or go to www.sba.gov/ombudsman.

[Note: Edited March 2018 to reflect [Inflation-Adjusted Civil Penalty Maximums](#).]

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