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April 7, 2008

Federal Trade Commission/Office of the Secretary
Room H-159 (Annex F)
600 Pennsylvania Avenue, N.W.
Washington, D.C. 20580

ConocoPhillips appreciates the opportunity to comment on the Federal Trade Commission's Notice of Proposed Rulemaking for Automotive Fuel Ratings, Certification and Posting.

ConocoPhillips is a major, integrated oil company with refining and marketing operations throughout the United States. ConocoPhillips markets diesel fuel and biomass-based diesel blends, therefore is directly impacted by this rulemaking. We are active members of the American Petroleum Institute, which also provided comments. We support the comments made by API and offer the following additional ConocoPhillips comments.

Labels (306.12)

The need for labels in the marketplace have been driven by the presence of methyl ester biodiesel blends in combination with engine manufacturers recommendations on maximum content for use in their engines. The Energy Independence and Security Act of 2007 (EISA07) appears to have expanded the current labeling practices, as contained in the National Council of Weights and Measures Handbook 130, to include biomass-based diesel as defined at EISA07 Section 205 rather than methyl ester biodiesel.

ConocoPhillips recommends having the label header be consistent with the inclusion of biomass based diesel, per the proposed rule definitions in Section 306.0. Rather than having the label headers read "B-100 Biodiesel" and "B20 Biodiesel Blend", we recommend these be changed to "B-100 Biomass Diesel" and "B-20 Biomass Diesel Blend".

Biomass based diesel includes renewable diesel, per the proposed rule definition in 306.0(k), which was taken directly from the EISA07 Section 205. Renewable diesel is produced at a refinery and renewable diesel blends meet ASTM D 975 specifications. Unlike the methyl ester biodiesel, there is no separate specification for renewable diesel as renewable diesel blends are essentially indistinguishable from ASTM D 975 defined diesel fuel.

Appropriately, renewable diesel mixtures containing 5% or less renewable diesel are not subject to Part 306, per the proposed Section 306.0(i)(3). However, methyl ester biodiesel could be blended on top of a renewable diesel mixture, causing the total biomass based diesel content to exceed 5%. For example, this would occur if a renewable diesel mixture containing 5% renewable diesel content, indistinguishable from normal hydrocarbon sourced diesel fuel, was produced and shipped from a refinery and subsequently blended with 5% B-100 methyl ester biodiesel at a terminal. The result would be a fuel with 10% total biomass based diesel content, 5% from renewable diesel and another 5% from the added methyl ester biodiesel.

While engine performance or customer information issues with this fuel are associated with the 5% methyl ester biodiesel, EISA07 will require labeling of these fuels in the higher category of B5 to B20. This labeling will create some consumer confusion relative to existing auto manufacturer warranty provisions regarding to methyl ester biodiesel and will require additional marketplace education efforts. Another example would be production of a renewable diesel mixture containing 10% renewable diesel content meeting ASTM D 975 specifications. Again, it appears this fuel

would require labeling, although there should be no customer concerns with using this fuel in their engines as it is essentially indistinguishable from ASTM D 975 defined diesel fuel.

As a producer of renewable diesel, ConocoPhillips would be happy to meet with FTC staff to further discuss these issues and potential resolutions in more detail.

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