

April 7, 2008

Federal Trade Commission/Office of the Secretary  
Room H-159 (Annex F)  
600 Pennsylvania Avenue, NW  
Washington DC 20580  
(<https://secure.commentsworks.com/ftc-biodiesel>)

On behalf of the Illinois Soybean Association (ISA) which is the lead organization in Illinois regarding biodiesel-related matters, I appreciate the opportunity to offer comments on the Notice of Proposed Rulemaking on “*Biodiesel Labeling*” (*Matter No. R811005*).

Illinois is the largest biodiesel user of any state in the country. Of all of the biodiesel that was produced in the United States in 2007 and not exported, ISA projects that half of the total amount was sold in Illinois – approximately 125 million gallons.

In August of 2007, Illinois Governor Rod Blagojevich signed PA 95-0381 into law, which states that effective July 1, 2008, the state of Illinois will require labeling on all retail diesel fuel pumps containing between 6% and 20% biodiesel. For the past several months, the ISA has worked with the Illinois Petroleum Marketers Association as well as the Illinois Bureau of Weights and Measures, Midwest Truckers Association and other key stakeholders to develop a label that is agreeable to everyone. Consequently, the ISA is submitting the following comments to allow for smooth and seamless compliance to both state and federal labeling requirements. In general, the ISA agrees with the determination that consumers should and need to know they are using a 6-20% blend of biodiesel. There are three important issues we wish to address in our comments: 1) the need for a clearly distinguishable label for biodiesel that is separate from biomass-based diesel; 2) general label color requirements; 3) label recognizing blends B6-B20% instead of “between 5 and 20%.”

#### **A Need for Separate Labeling**

In terms of chemical analysis and fuel properties, there is a significant difference between biodiesel and biomass-based diesel fuel; consequently they should be labeled separately. Biodiesel is a defined fuel with a specific ASTM standard – D6751. Biodiesel blends are currently indicated with a B and a number, which is the percentage of biodiesel blended with petroleum diesel fuel which also has an ASTM specification – D975.

Biomass-based diesel fuel is a category of fuels, and could contain a number of different feedstocks and products, none of which currently have an ASTM specification. The ISA

recognizes the opportunity to expand renewable diesel fuels beyond biodiesel in the future, and in fact, encourages a broader portfolio of renewable fuels. However, it is imperative that a diesel pump labeled “contains biodiesel or contains a biodiesel blend” actually contains parent fuelstocks that meet ASTM D975 and ASTM D6751 before they are blended. Otherwise, it is defeating the purpose of having a label to inform consumers about what is in the fuel they are purchasing.

Further, if a retail pump displays a label indicating the fuel is a biodiesel blend up to and including 5.5%, the state agencies responsible for monitoring fuel quality and components - generally a state’s Weights and Measures Bureau – know which ASTM standard to test against. ASTM is scheduled to consider passage of a B6-B20 specification in June, 2008. Since biomass-based diesel fuels have yet to achieve a standard, the regulatory agency has no reference for testing.

### **Label Color Requirements**

Since the FTC has the flexibility to choose any color for the label, ISA would recommend blue so that the label we have already created does not need to be redesigned and reprinted. If the label is light blue, the lettering should be black. If the label is navy blue, the lettering should be white. ISA recommends the label requirements be kept at a minimum and general in nature, similar to that for ethanol inclusion in Illinois. This would allow for consistent wording from state to state, but also some flexibility to develop a recognizable brand biodiesel, such as the “biodiesel star” that Illinois has adopted. This helps identify the product to both the retailer as well as the ultimate consumer.

Our association has invested over \$500,000 to design and launch a branding campaign for our upcoming pump labeling deadline of July 1, 2008. We believe that branding biodiesel with the same icon that is incorporated in billboards, truck wraps, signs and many other promotional efforts will help consumers identify the product more quickly than a text-only label.

### **Labeling Language**

The ISA supports the notion that diesel fuel pumps containing biodiesel blends between 6% (as defined by the National Council on Weights and Measures or NCWM) and 20% be labeled as follows: “Contains 6 – 20% Biodiesel.”

ISA believes that a label beginning at 6% will exclude all biodiesel blends up to and including 5.5%, which was the intent of the NCWM. If 5% is listed anywhere on the label, such as “contains biodiesel blends between 5% and 20%,” consumers may question if the labeled pump dispenses B5. There are still a few engine manufacturers who have a recommended biodiesel use of “up to and including B5.” ISA believes that clearly labeling the product as a minimum of B6 will eliminate any confusion about B5. (Note: NCWM rounds percentages to the half-percent, so B5.5 and below is considered B5 and should not be labeled).

Further, there is no need for a specific percentage designation on the label. Blends at all levels up to 20% have similar performance and quality characteristics, and consumers do not need to know specific levels. If pumps have specific blend levels, such as B5, B7, etc., it becomes virtually impossible to monitor and maintain labeling that is a true indicator of what blend level is being sold, since commingling of fuel tanker loads are common practice, and variances between loads frequently occur.

Finally, most major engine companies have stated formally that the use of blends up to B20 will not void their parts and workmanship warranties as long as the parent fuels (petroleum diesel and biodiesel) meet ASTM standards prior to blending. This includes all blends at or below 20% biodiesel. In Illinois, B11 (11% biodiesel, 89% petroleum diesel) is the most commonly blended fuel because of a state sales tax exemption for blends above 10% (same as for ethanol). It has proven to be a practical fuel that can be used in any diesel engine with few or no changes compared to the use of petrodiesel.

### *Summary*

The Illinois Soybean Association supports labeling of biodiesel blends between 6 and 20%.

We hope the FTC will consider the following changes to the proposed rule:

- 1) a separate and distinct label for biodiesel and biodiesel blends (ASTM D6751 and D975)
- 2) a light or dark blue background for the label
- 3) using “contains 6-20% biodiesel” for labeling language

I appreciate the opportunity to comment on this proposed rule and the FTC’s efforts to develop and implement the rule in the most consumer-friendly and least disruptive manner possible. If you have questions or need additional information, you may contact Rebecca Richardson at our headquarter office, 309-663-7692 or e-mail [RichardsonR@ilsoy.org](mailto:RichardsonR@ilsoy.org).

Sincerely,

David P. Hartke  
Chairman