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NBB Issue Brief on Biodiesel Pump Labeling

Section 205 of the Energy Independence and Security Act of 2007 (EISA) requires the Federal Trade Commission (FTC) to enact and distribute labeling requirements for biodiesel and biomass-based diesel pumps. **The labeling requirements become effective on December 16, 2008.** The purpose of the labeling is to inform “consumers of the percent of biomass-based diesel or biodiesel that is contained in the biomass-based diesel blend or biodiesel blend that is offered for sale, as determined by the FTC.” FTC released its final ruling on June 23.

The NBB has created labels consistent with this ruling, which can be found and ordered at www.allthingsbiodiesel.com

In addition to the directive provided by EISA, the FTC is updating its “Fuel Rating Rule” which was originally promulgated in 1979 in accordance with the Petroleum Marketing Practices Act (PMPA), and covers any alternative fuel distributed for use in any motor vehicle. The PMPA gives the FTC the authority to designate methods for fuel rating, fuel certification, and posting for alternative fuels at the point of sale.

The FTC labeling requirement together with the recent success of the biodiesel industry at ASTM International will provide easier access to the fuels marketplace for biodiesel. In fact, as we move forward biodiesel blends of 5 percent or less are simply considered part of the conventional diesel fuel pool and will meet the same ASTM D975 performance requirements.

Three categories of biodiesel blends or biomass-based diesel blends are addressed in the ruling:

- **No Label Required:**
 - Fuel blends containing no more than five percent biodiesel and no more than 5 percent biomass-based diesel and that meet ASTM D975.
- **Labels Required:**
 - Fuel blends containing more than five but no more than 20 percent biodiesel or biomass-based diesel.
 - Fuel blends containing more than 20 percent biodiesel or biomass-based diesel.

On March 11, 2008 the FTC published its “Notice of Proposed Rulemaking,” and both the National Biodiesel Board and the Illinois Soybean Association provided comments on behalf of the biodiesel industry.

Separate Labels for “Biodiesel” and “Biomass-Based Diesel”:

After reviewing comments from NBB and other organizations, the FTC backtracked from a one-label-fits-all approach and decided there would be separate labels for biodiesel and biomass-based diesel. Almost all comments noted that biodiesel and biomass-based diesel are significantly different and a shared label would cause consumer confusion. The Illinois Soybean Association noted that biomass-based diesel is a category of fuels, while biodiesel is a specifically defined fuel with an ASTM standard. NBB noted that several types of fuels conceivably could qualify as biomass-based diesel and since ASTM has not fully developed specifications for each possible renewable fuel in the diesel pool, it would be inappropriate to use a one label approach.

The NBB asserted that using the designation “BXX” for both fuels would cause confusion for consumers. Since the designation has already been defined by ASTM D6751 to specifically represent biodiesel blends, then the “BXX” designation should be reserved to mean biodiesel or biodiesel blends. The FTC took these recommendations to heart, and created a “blue” label for biodiesel and an “orange” label for biomass-based diesel.

Labeling Specifics: There are three different labeling requirements at 4 different concentration levels.

1. No label is required for blends B5 and lower. Retailers are not required to disclose the presence of biodiesel at these low concentrations, provided they meet the specifications in D975.
2. For fuel containing more than 5 percent biodiesel, up to B20, the text within the heading (black band) should display either:
 - a. The capital letter **B** followed by a numeric representation of the percentage of biodiesel and then the term “**Biodiesel Blend**”; or
 - b. The term “**Biodiesel Blend**.”

Retailers can provide the exact percentage of biodiesel in this range (B10, B15), but are not required to. Directly underneath the black band is the text “**contains biomass-based diesel or biodiesel in quantities between 5 percent and 20 percent.**”

3. For fuel concentrations higher than B20 and less than B100, a specific blend designation (e.g., **B25, B50, B99**, etc.) is required in the heading, followed by the term “**Biodiesel Blend**.” Directly underneath the black band is the text “**contains more than 20 percent biomass-based diesel or biodiesel.**”
4. For neat biodiesel (B100), the heading must display “**B100 Biodiesel**,” and below the black band is the text “**contains 100 percent biodiesel.**”
5. The provisions for biomass-based diesel fuel are similar to those of biodiesel, with the exception that no letter-number designation is used in the black heading. Fuels that contain more than 5 percent biodiesel and more than 5 percent biomass-based diesel fuel must have a label for both biodiesel and biomass-based diesel fuel of the appropriate type for the level of inclusion of biodiesel and biomass-based diesel.

Label Size, Font, and Format Requirements: The labeling requirements are consistent with those in place of other alternative fuels with exception of color. Biodiesel labels require a blue background (PMS 277 or its equivalent). The type within the black band is also blue (PMS 277 or its equivalent). The label is 3 inches (7.62 cm) wide x 2½ inches (6.35 cm) long. “Helvetica black” type is used and centered throughout. The black band at the top should measure 1 inch (2.54 cm) deep. Spacing of text in the band is ¼ inch (.64 cm) from the top of the label and 3/16 inch (.48 cm) from the bottom of the black band, centered horizontally within the black band. The script underneath the black band must be centered horizontally, with 1/8 inch (.32 cm) between each line. The bottom line of type is ¼ inch (.64 cm) from the bottom of the label. All type should fall no closer than 3/16 in (.48 cm) from the side edges of the label.

Examples - To illustrate the application of the revised labeling requirements, the FTC provided the following examples:

1) A fuel blend containing 5 percent biomass-based diesel and 5 percent biodiesel does not require any additional labeling because the Rule only applies to diesel blends containing more than five percent biodiesel and/or more than five percent biomass-based diesel.

2) A blend containing six percent biodiesel and five percent biomass-based diesel requires a blue label with either “B6 Biodiesel Blend” or “Biodiesel Blend” in the header and with the text “contains biomass-based diesel or biodiesel in quantities between 5 and 20 percent” below the header. The header of the label does not disclose the presence of biomass-based diesel because it comprises only five percent of the fuel.

3) A blend containing 21 percent biodiesel and five percent biomass-based diesel requires a blue label with “B21 Biodiesel Blend” in the header and with the text “contains more than 20 percent biomass-based diesel or biodiesel” below the header. The header of the label does not disclose the presence of biomass-based diesel because it comprises only five percent of the fuel by volume. Furthermore, because the fuel contains only five percent biomass-based diesel, retailers should not include it for the purposes of determining the specific blend designation.

For Additional Information:

The Rule: If you have questions about this issue brief or the implementation of the rule, then please contact Larry Schafer at Lschafer@biodiesel.org or go to www.biodiesel.org.

To order labels: Please contact Doug Whitehead at Dwhitehead@biodiesel.org or go to www.allthingsbiodiesel.com.

The Federal Trade Commission: A copy of the final rule and a complete record of the proceedings are available at <http://www.ftc.gov>.