

## NCWM L&R Items 2302-7 and 2307-2 Ethanol Flex Fuel Labeling

Please support for the ethanol labeling modification, Item No. 2302-7 and 2307-2, to be retained as published in the National Conference of Weights and Measures, Laws and Regulations Committee Report, 2017 Interim Meeting Report simply referencing the Federal Trade Commission (FTC) regulations without modification.<sup>1</sup>

### Item 2302-7 and 2307-2 Ethanol Flex Fuel Labeling:

Ethanol flex fuel **shall be identified and labeled in accordance with the Federal Trade Commission Automotive Fuel Ratings, Certification and Posting Rule, 16 CFR 306, as amended.**  
**(Amended 20XX)**

This proposal follows the NIST Handbook form and style to reference Federal regulations where appropriate now that FTC has developed specific requirements for ethanol flex fuels.

16 CFR 306.0(o) Ethanol flex fuels means a mixture of gasoline and ethanol containing more than 10 percent but not greater than 83 percent ethanol by volume.

### KEY POINTS

- FTC provides labeling requirements for ethanol flex fuel.
- EPA does not have labeling requirements for ethanol flex fuel.

Any addition or reference to EPA labeling requirements to the section on ethanol flex fuel is not pertinent since EPA has no labeling requirements for ethanol flex fuel.

#### Background:

In 2014, the Federal Trade Commission (FTC) updated the Automotive Fuel Ratings, Certifications and Posting requirements ethanol flex fuels and E85. This update to Title 16 CFR, Part 306 required an update to NIST Handbook 130 Uniform Laws and Regulations in the Areas of Legal Metrology and Engine Fuel Quality, Sections listed below. Addressing this new update, KMoore proposed in April of 2016 to update the pertinent sections of the Handbook. Through the regional and national meetings, there were additional improvements received from state regulators and a final version accepted during the 2017 January Interim meeting. The update to ethanol labeling is now listed as a voting item for the 2017 July Annual National Conference of Weights and Measures meeting.

Item 2307-2	
NEW PROPOSED HANDBOOK 130 LANGUAGE	CURRENT HANDBOOK 130 LANGUAGE (2017)
<p><b>G. Uniform Engine Fuels and Automotive Lubricants Regulation, Section 3. Classification and Method of Sale</b></p> <p><b>3.8. Ethanol Flex Fuel.</b></p> <p><b>3.8.1. How to Identify Ethanol Flex Fuel.</b> – Ethanol flex fuel shall be identified as Ethanol Flex Fuel or EXX Flex Fuel.</p> <p><b>3.8.2. Labeling Requirements.</b></p>	<p><b>3.8.2. Labeling Requirements.</b></p> <p>(a) Ethanol flex fuel with an ethanol concentration no less than 51 and no greater than 83 volume percent shall be labeled “Ethanol Flex Fuel, minimum 51 % ethanol.”</p> <p>(b) Ethanol flex fuel with an ethanol concentration less than or equal to 50 volume percent shall be labeled “EXX Flex Fuel, minimum YY % ethanol,” where the XX is the ethanol concentration in volume percent and YY is XX minus five (– 5). The actual ethanol concentration of the</p>

<p>(a) Ethanol flex fuel <u>shall be identified and labeled in accordance with the Federal Trade Commission Automotive Fuel Ratings, Certification and Posting Rule, 16 CFR 306, as amended. (Amended 20XX)</u></p>	<p>fuel shall be XX volume percent plus or minus five (<math>\pm 5</math>) volume percent. (Added 2014)                  (e) A label shall be posted which states “For Use in Flexible Fuel Vehicles (FFV) Only.” This information shall be clearly and conspicuously posted on the upper 50 % of the dispenser front panel in a type at least 12.7 mm (1/2 in) in height, 1.5 mm (<math>\frac{1}{16}</math> in) stroke (width of type). A label shall be posted which states, “CHECK OWNER’S MANUAL,” and shall not be less than 6 mm (1/4 in) in height by 0.8 mm (<math>\frac{1}{32}</math> in) stroke; block style letters and the color shall be in definite contrast to the background color to which it is applied. (Amended 2007, 2008, and 2014)</p>
<p><b>Item 2302-7</b> NEW PROPOSED HANDBOOK 130 LANGUAGE</p>	<p>CURRENT HANDBOOK 130 LANGUAGE (2017)</p>
<p><b>B. Uniform Regulation for the Method of Sale of Commodities, Section 2.30 Ethanol Flex Fuel</b></p> <p>2.30. Ethanol Flex Fuel.  <b>2.30.1 Labeling Requirements.</b>                  (a) Ethanol flex fuel <u>shall be identified and labeled in accordance with the Federal Trade Commission Automotive Fuel Ratings, Certification and Posting Rule, 16 CFR 306, as amended. (Amended 20XX)</u></p>	<p><b>2.30.1. How to Identify Ethanol Flex Fuel.</b>— Ethanol flex fuel shall be identified as “Ethanol Flex Fuel or EXX Flex Fuel.”  <b>2.30.2. Labeling Requirements.</b>                  (a) Ethanol flex fuel with an ethanol concentration no less than 51 and no greater than 83 volume percent shall be labeled “Ethanol Flex Fuel, minimum 51 % ethanol.” (Amended 2014)                  (b) Ethanol flex fuel with an ethanol concentration less than or equal to 50 volume percent shall be labeled “EXX Flex Fuel, minimum YY % ethanol,” where the XX is the target ethanol concentration in volume percent and YY is XX minus five (<math>- 5</math>). The actual ethanol concentration of the fuel shall be XX volume percent plus or minus five (<math>\pm 5</math>) volume percent. (Added 2014)                  (e) A label shall be posted which states “For Use in Flexible Fuel Vehicles (FFV) Only.” This information shall be clearly and conspicuously posted on the upper 50 % of the dispenser front panel in a type at least 12.7 mm (1/2 in) in height, 1.5 mm (<math>\frac{1}{16}</math> in) stroke (width of type). A label shall be posted which states, “CHECK OWNERS MANUAL,” and shall not be less than 6 mm (1/4 in) in height by 0.8 mm (<math>\frac{1}{32}</math> in) stroke; block style letters and the color shall be in definite contrast to the background color to which it is applied. (Amended 2014)                  (Added 2007) (Amended 2014)</p>

Please reject any modifications to the final version at it appears in the 2017 Interim Meeting Report (Pub 16.) For example, at the spring Weights and Measures meetings, the proposed modification to the above proposals creates the illusion that EPA has labeling requirements for ethanol flex fuels.

Legal Disclaimer: This information as prepared by KMoore Consulting LLC is believed to be accurate at the time of publication and should not be considered legal advice. KMoore Consulting LLC does not make any warranty, expressed or implied, or assumes any legal liability or any reliance upon the information contained herein by the reader or responsibility for the accuracy, completeness, or applicability of the information presented in this document.

<sup>i</sup> <http://www.ncwm.net/resources/e30d:omyqm2-m/files/75729906zd9c4d1db/fn/3-LR-Web.pdf>