



October 9, 2018

TO: National Conference of Weights and Measures
Submitted via email: info@ncwm.net

CC: Northeastern Weights and Measures Association
Southern Weights and Measures Association
Central Weights and Measures Association

RE: Opposition to FLR-8 Section 3.2.5. Prohibition of Terms

The National Association of Convenience Stores (“NACS”) and the Society of Independent Gasoline Marketers of America (“SIGMA”), write in opposition to the recent proposal (FLR-8 Section 3.2.5 Prohibition of Terms) from the Petroleum Marketers Association of America (PMAA) regarding the labeling of motor fuels with ethanol blends greater than 10 percent. This proposal would result in excessive and duplicative labeling of fuel dispensers at fuel retail stations, would only serve to restrict consumer choice at the pump, and would undermine existing federal policy.

Currently, fuel retailers are already required by statute and regulation to label fuel dispensers with both the octane rating and the ethanol content of the fuel sold. The Petroleum Marketing Practices Act requires retailers to display “in a clear and conspicuous manner, at the point of sale to ultimate purchasers of automotive fuel, the automotive fuel rating of such...fuel.”¹ The Federal Trade Commission (FTC) has further regulated these labels by providing not only stipulations on the size and appearance of the labels, but also specifying where retailers ought to post these labels.²

With regard to ethanol content, EPA regulations provide rules for the labeling of ethanol blends between 10 and 15 percent.³ FTC regulations provide rules for the labeling of other blends of ethanol.⁴ Under the FTC’s regulations, the labels—both octane and ethanol content—must be maintained and replaced “as needed to make sure consumers can easily see and read them.”⁵

Given that retailers are already required to label both the octane rating and ethanol content of fuels—and keeping in mind that there is limited “real estate” for posting labels on fuel pumps—

¹ 15 U.S.C. §2822(c)

² See 16 C.F.R. §306.10 regarding where to label and 16 C.F.R. §306.12 regarding the size and appearance of such labels.

³ 40 C.F.R. §80.1501

⁴ See 16 C.F.R. §306.10(f)(2) regarding percent of ethanol content and 16 C.F.R. §306.12 regarding the size and appearance of labels.

⁵ 16 C.F.R. §306.10(e)(1)

it is unnecessary and unjustified to insist upon an additional label that is a combination of already-existing labels. This is burdensome for retailers, who already must comply with a variety of labeling requirements and face penalties if fuel is mislabeled.

More important, however, is that this proposal is bad for consumers. It will complicate fuel pump displays, making it harder, not easier, for consumers to understand what fuel they are choosing. The proposal, if adopted, also will make it harder for retailers to sell and consumers to buy E15 and other higher-level ethanol blends, thereby restricting consumer choice. Ethanol is currently the cheapest oxygenate in the market, meaning that consumers can often save at the pump by purchasing ethanol blends. Adding complexity to the labeling regime, as this proposal would do, is simply an attempt to keep higher ethanol blends out of the market by pushing consumers away from these products.

Imposing artificial restrictions on the market is antithetical to the long-held position of fuel retailers. NACS' and SIGMA's members are agnostic about fuels sold—their only goal is to legally sell the fuels that consumers want to buy. Given the potentially beneficial price and emissions characteristics of ethanol, many consumers are interested in ethanol blends and it makes no sense to place unnecessary restrictions on these fuels by making them harder to sell.

Finally, it should not be the practice of the National Conference of Weights and Measures (NCWM) to attempt to override existing federal policy via standard setting. Higher-level ethanol blends are allowed—under federal law—to be sold as long as retailers adhere to certain statutory and regulatory guidelines. NCWM should not seek to undermine existing federal policy by creating standards, the practical effects of which would be at odds with congressional and agency intent.

NACS and SIGMA ask you to reject PMAA's proposal as it is bad for both retailers and consumers, and undermines federal policy.

Sincerely,



Paige Anderson
Director of Government Relations, NACS



R. Timothy Columbus
Counsel to SIGMA