

## PART 306—AUTOMOTIVE FUEL RATINGS, CERTIFICATION AND POSTING

### GENERAL

- Sec.  
 306.0 Definitions.  
 306.1 What this rule does.  
 306.2 Who is covered.  
 306.3 Stayed or invalid parts.  
 306.4 Preemption.

### DUTIES OF REFINERS, IMPORTERS, AND PRODUCERS

- 306.5 Automotive fuel rating.  
 306.6 Certification.  
 306.7 Recordkeeping.

### DUTIES OF DISTRIBUTORS

- 306.8 Certification.  
 306.9 Recordkeeping.

### DUTIES OF RETAILERS

- 306.10 Automotive fuel rating posting.  
 306.11 Recordkeeping.

### LABEL SPECIFICATIONS

- 306.12 Labels.

### APPENDIX A TO PART 306—SUMMARY OF LABELING REQUIREMENTS FOR BIODIESEL FUELS

AUTHORITY: 15 U.S.C. 2801 *et seq.*; 42 U.S.C. 17021.

SOURCE: 44 FR 19169, Mar. 30, 1979, unless otherwise noted.

### GENERAL

#### § 306.0 Definitions.

As used in this part:

(a) *Octane rating* means the rating of the anti-knock characteristics of a grade or type of gasoline as determined by dividing by 2 the sum of the research octane number plus the motor octane number.

(b) *Research octane number* and *motor octane number*. (1) These terms have the meanings given such terms in the specifications of ASTM International (“ASTM”) entitled “Standard Specification for Automotive Spark-Ignition Engine Fuel (published November 2010)” designated D4814-10b and, with respect to any grade or type of gasoline, are determined in accordance with test methods set forth in either:

(i) ASTM D2699-09, “Standard Test Method for Research Octane Number of Spark-Ignition Engine Fuel (published

November 2009)” and ASTM D2700-09, “Standard Test Method for Motor Octane Number of Spark-Ignition Engine Fuel (published November 2009)”;

(ii) ASTM D2885-10, “Standard Test Method for Determination of Octane Number of Spark-Ignition Engine Fuels by On-Line Direct Comparison Technique (published March 2010).”

(2) The incorporations by reference of ASTM D4814-10b, ASTM D2699-09, ASTM D2700-09, and ASTM D2885-10 in paragraph (b)(1) of this Section, and in § 306.5(a), were approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies of ASTM D4814-10b, ASTM D2699-09, ASTM D2700-09, and ASTM D2885-10, may be obtained from ASTM International, 100 Barr Harbor Drive, West Conshohocken, PA 19428, or may be inspected at the Federal Trade Commission, Public Reference Room, Room 130, 600 Pennsylvania Avenue, NW., Washington, DC, or at the National Archives and Records Administration (“NARA”). For information on the availability of this material at NARA, call 202-741-6030, or go to: <http://www.archives.gov/federal-register/cfr/ibr-locations.html>.

(c) *Refiner* means any person engaged in the production or importation of automotive fuel.

(d) *Producer* means any person who purchases component elements and combines them to produce and market automotive fuel.

(e) *Distributor* means any person who receives automotive fuel and distributes such automotive fuel to another person other than the ultimate purchaser.

(f) *Retailer* means any person who markets automotive fuel to the general public for ultimate consumption.

(g) *Ultimate purchaser* means, with respect to any item, the first person who purchases such item for purposes other than resale.

(h) *Person*, for purposes of applying any provision of the Federal Trade Commission Act, 15 U.S.C. 41 *et seq.*, with respect to any provision of this part, includes a partnership and a corporation.

(i) *Automotive fuel* means liquid fuel of a type distributed for use as a fuel in

## § 306.0

## 16 CFR Ch. I (1–1–13 Edition)

any motor vehicle, and the term includes, but is not limited to:

(1) Gasoline, an automotive spark-ignition engine fuel, which includes, but is not limited to, gasohol (generally a mixture of approximately 90% unleaded gasoline and 10% denatured ethanol) and fuels developed to comply with the Clean Air Act, 42 U.S.C. 7401 et seq., such as reformulated gasoline and oxygenated gasoline; and

(2) Alternative liquid automotive fuels, including, but not limited to:

(i) Methanol, denatured ethanol, and other alcohols;

(ii) Mixtures containing 85 percent or more by volume of methanol, denatured ethanol, and/or other alcohols (or such other percentage, but not less than 70 percent, as determined by the Secretary of the United States Department of Energy, by rule, to provide for requirements relating to cold start, safety, or vehicle functions), with gasoline or other fuels;

(iii) Liquefied natural gas;

(iv) Liquefied petroleum gas;

(v) Coal-derived liquid fuels;

(vi) Biodiesel;

(vii) Biomass-based diesel;

(viii) Biodiesel blends containing more than 5 percent biodiesel by volume; and

(ix) Biomass-based diesel blends containing more than 5 percent biomass-based diesel by volume.

(3) Biodiesel blends and biomass-based diesel blends that contain less than or equal to 5 percent biodiesel by volume and less than or equal to 5 percent biomass-based diesel by volume, and that meet American Society for Testing and Materials (“ASTM”) standard D975-07b (“Standard Specification for Diesel Fuel Oils”), are not automotive fuels covered by the requirements of this part. The incorporation of ASTM D975-07b by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies of ASTM D975-07b may be obtained from ASTM International, 1916 Race Street, Philadelphia, PA, 19103, or may be inspected at the Federal Trade Commission, Public Reference Room, Room 130, 600 Pennsylvania Avenue, NW., Washington, DC, or at the National Archives and Records Administration

(NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to: ([http://www.archives.gov/federal\\_register/cfr/ibr\\_locations.html](http://www.archives.gov/federal_register/cfr/ibr_locations.html).)

NOTE TO PARAGRAPH (i): Provided, however, that biodiesel blends and biomass-based diesel blends that contain less than or equal to 5 percent biodiesel by volume and less than or equal to 5 percent biomass-based diesel by volume, and that meet ASTM standard D975-09b “Standard Specification for Diesel Fuel Oils (published August 2009),” are not automotive fuels covered by the requirements of this Part. The incorporation of ASTM D975-09b by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies of ASTM D975-09b may be obtained from ASTM International, 100 Barr Harbor Drive, West Conshohocken, PA 19428, or may be inspected at the Federal Trade Commission, Public Reference Room, Room 130, 600 Pennsylvania Avenue, NW., Washington, DC, or at NARA. For information on the availability of this material at NARA, call 202-741-6030, or go to: <http://www.archives.gov/federal-register/cfr/ibr-locations.html>.

(j) *Automotive fuel rating* means—(1) For gasoline, the octane rating.

(2) For an alternative liquid automotive fuel other than biodiesel, biomass-based diesel, biodiesel blends, or biomass-based diesel blends, the commonly used name of the fuel with a disclosure of the amount, expressed as the minimum percentage by volume, of the principal component of the fuel. A disclosure of other components, expressed as the minimum percentage by volume, may be included, if desired.

(3) For biomass-based diesel, biodiesel, biomass-based diesel blends with more than 5 percent biomass-based diesel, and biodiesel blends with more than 5 percent biodiesel, a disclosure of the biomass-based diesel or biodiesel component, expressed as the percentage by volume.

(k) *Biomass-based diesel* means a diesel fuel substitute produced from non-petroleum renewable resources that meets the registration requirements for fuels and fuel additives established by the Environmental Protection Agency under 42 U.S.C. 7545, and includes fuel derived from animal wastes, including poultry fats and poultry wastes, and other waste materials, or from municipal solid waste and sludges and oils derived from wastewater and

## Federal Trade Commission

## § 306.5

the treatment of wastewater, except that the term does not include biodiesel as defined in this part.

(l) *Biodiesel* means the monoalkyl esters of long chain fatty acids derived from plant or animal matter that meet: The registration requirements for fuels and fuel additives under 40 CFR part 79; and the requirements of ASTM standard D6751-10 "Standard Specification for Biodiesel Fuel Blend Stock (B100) for Middle Distillate Fuels (published October 2010)." The incorporation of ASTM D6751-10 by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies of ASTM D6751B10 may be obtained from ASTM International, 100 Barr Harbor Drive, West Conshohocken, PA 19428, or may be inspected at the Federal Trade Commission, Public Reference Room, Room 130, 600 Pennsylvania Avenue, NW., Washington, DC, or at NARA. For information on the availability of this material at NARA, call 202-741-6030, or go to: [http://www.archives.gov/federal\\_register/cfr/ibr\\_locations.html](http://www.archives.gov/federal_register/cfr/ibr_locations.html).

(m) *Biodiesel blend* means a blend of petroleum-based diesel fuel with biodiesel.

(n) *Biomass-based diesel blend* means a blend of petroleum-based diesel fuel with biomass-based diesel.

[58 FR 41372, Aug. 3, 1993, as amended at 69 FR 18803, Apr. 9, 2004; 73 FR 40162, July 11, 2008; 76 FR 19690, Apr. 8, 2011]

### § 306.1 What this rule does.

This rule deals with the certification and posting of automotive fuel ratings in or affecting commerce as "commerce" is defined in the Federal Trade Commission Act, 15 U.S.C. 41 et seq. It applies to persons, partnerships, and corporations. If you are covered by this regulation, breaking any of its rules is an unfair or deceptive act or practice under section 5 of that Act. You can be fined up to \$10,000 (plus an adjustment for inflation, under §1.98 of this chapter) each time you break a rule.

[58 FR 41373, Aug. 3, 1993, as amended at 61 FR 54549, Oct. 21, 1996; 61 FR 55840, Oct. 29, 1996]

### § 306.2 Who is covered.

You are covered by this rule if you are a refiner, importer, producer, distributor, or retailer of automotive fuel.

[58 FR 41373, Aug. 3, 1993]

### § 306.3 Stayed or invalid parts.

If any part of this rule is stayed or held invalid, the rest of it will stay in force.

[44 FR 19169, Mar. 30, 1979. Redesignated at 58 FR 41372, Aug. 3, 1993]

### § 306.4 Preemption.

The Petroleum Marketing Practices Act ("PMPA"), 15 U.S.C. 2801 et seq., as amended, is the law that directs the FTC to enact this rule. Section 204 of PMPA, 15 U.S.C. 2824, provides:

(a) To the extent that any provision of this title applies to any act or omission, no State or any political subdivision thereof may adopt or continue in effect, except as provided in subsection (b), any provision of law or regulation with respect to such act or omission, unless such provision of such law or regulation is the same as the applicable provision of this title.

(b) A State or political subdivision thereof may provide for any investigative or enforcement action, remedy, or penalty (including procedural actions necessary to carry out such investigative or enforcement actions, remedies, or penalties) with respect to any provision of law or regulation permitted by subsection (a).

[58 FR 41373, Aug. 3, 1993]

## DUTIES OF REFINERS, IMPORTERS AND PRODUCERS

### § 306.5 Automotive fuel rating.

If you are a refiner, importer, or producer, you must determine the automotive fuel rating of all automotive fuel before you transfer it. You can do that yourself or through a testing lab.

(a) To determine the automotive fuel rating of gasoline, add the research octane number and the motor octane number and divide by two, as explained by ASTM D4814-10b, "Standard Specifications for Automotive Spark-Ignition Engine Fuel," (incorporated by reference, see §306.0(b)(2)). To determine the research octane and motor octane numbers you may either: