

sistent with such fuel's automotive fuel rating as certified to or determined by such person under the foregoing provisions of this section.

**(f) Additional statutory considerations respecting certification, display, or representation of automotive fuel rating of automotive fuel**

For purposes of this section, the automotive fuel rating of any automotive fuel shall be considered to be certified, displayed, or represented by any person consistent with the rating certified to, or determined by, such person—

(1) in the case of automotive fuel which consists of a blend of two or more quantities of automotive fuel of differing automotive fuel ratings, only if the rating certified, displayed, or represented by such person is the average of the automotive fuel ratings of such quantities, weighted by volume; or

(2) in the case of fuel which does not consist of such a blend, only if the automotive fuel rating such person certifies, displays, or represents is the same as the automotive fuel rating of such fuel certified to, or determined by, such person.

**(g) Nonapplicability of statutory requirements**

The foregoing provisions of this section shall not apply—

(1) to any representation (by display at the point of sale or by other means) of any characteristics of any automotive fuel other than its automotive fuel rating; or

(2) to the identification of automotive fuel at the point of sale (or elsewhere) by the trademark, trade name, or other identifying symbol or mark used in connection with the sale of such fuel.

**(h) Display or representation of automotive fuel requirement of motor vehicle not to create express or implied warranty under State or Federal law respecting knocking characteristics of automotive fuel**

Any display or representation, with respect to the automotive fuel requirement of any motor vehicle, required to be made under any rule prescribed under subsection (d) shall not create an express or implied warranty under State or Federal law that any automotive fuel the automotive fuel rating of which equals or exceeds such automotive fuel requirement—

(1) may be used as a fuel in all motor vehicles of the same class as that motor vehicle without knocking; or

(2) may be used as a fuel in such motor vehicle under all operating conditions without knocking.

(Pub. L. 95-297, title II, §202, June 19, 1978, 92 Stat. 334; Pub. L. 102-486, title XV, §1501(c)(2), Oct. 24, 1992, 106 Stat. 2997.)

**Editorial Notes**

**AMENDMENTS**

1992—Pub. L. 102-486 amended section as follows: substituted “Automotive fuel rating” for “Octane” in section catchline; substituted “automotive fuel rating” and “automotive fuel ratings” for “octane rating” and “octane ratings”, respectively, wherever appearing; in subsecs. (a) and (b), substituted “fuel” for “gasoline” wherever appearing; in subsec. (c), substituted “auto-

motive fuel” for “gasoline” wherever appearing except that “fuel” substituted for second reference to “gasoline”; in subsec. (d), substituted “automotive fuel” for “octane”; in subsec. (e), substituted “fuel” for “gasoline” wherever appearing and substituted “fuel’s” for “gasoline’s”; in subsecs. (f), (g), and (h), substituted “fuel” for “gasoline” wherever appearing; and in subsec. (h), substituted “automotive fuel requirement” for “octane requirement” wherever appearing.

**Statutory Notes and Related Subsidiaries**

**EFFECTIVE DATE OF 1992 AMENDMENT**

Amendment by Pub. L. 102-486 effective at end of one-year period beginning Oct. 24, 1992, see section 1501(d)(1) of Pub. L. 102-486, set out as a note under section 2821 of this title.

**EFFECTIVE DATE**

Pub. L. 95-297, title II, §205, June 19, 1978, 92 Stat. 337, provided that:

“(a) Sections 202(a)(1) [subsec. (a)(1) of this section] and 203(b) [section 2823(b) of this title] shall take effect on the first day of the first calendar month beginning more than 6 months after the date of the enactment of this Act [June 19, 1978].

“(b) Subsections (a)(2), (b), (c), and (e) of section 202 [subsecs. (a)(2), (b), (c), and (e) of this section] shall take effect on the first day of the first calendar month beginning more than 9 months after such date of enactment [June 19, 1978].

“(c) Rules under section 202(d) [subsec. (d) of this section] may not take effect earlier than the beginning of the first motor vehicle model year which begins more than 9 months after such date of enactment [June 19, 1978].”

**STUDIES**

Section 1503 of Pub. L. 102-486 directed Administrator of Environmental Protection Agency to carry out a study to determine whether the anti-knock characteristics of nonliquid fuels usable as a fuel for motor vehicles could be determined and further directed Federal Trade Commission to carry out a study to determine the need for a uniform national label on devices used to dispense automotive fuel to consumers that would consolidate all information required by Federal law to be posted on such devices, with reports of the results of the studies to be submitted to Congress within one year of Oct. 24, 1992, together with recommendations and a description of the administrative and legislative actions needed to implement the recommendations.

**§ 2823. Administration and enforcement provisions**

**(a) Procedural, investigative, and enforcement powers of Federal Trade Commission**

The Federal Trade Commission shall have procedural, investigative, and enforcement powers, including the power to issue procedural rules in enforcing compliance with the requirements of this subchapter and rules prescribed pursuant to the requirements of this subchapter, to further define terms used in this subchapter, and to require the filing of reports, the production of documents, and the appearance of witnesses, as though the applicable terms and conditions of the Federal Trade Commission Act [15 U.S.C. 41 et seq.] were part of this subchapter.

**(b) Testing, certification, and notice requirements of Environmental Protection Agency; interagency enforcement agreements between Federal Trade Commission and Environmental Protection Agency and other Federal agencies**

(1) The Environmental Protection Agency—

(A) may conduct field testing of the automotive fuel rating of automotive fuel, comparing the tested automotive fuel rating of fuel at retail outlets with the automotive fuel rating posted at those outlets;

(B) shall certify the results of such tests and comparisons to the Federal Trade Commission; and

(C) shall notify the Federal Trade Commission of any failure to post the automotive fuel rating.

(2) The Federal Trade Commission may enter into interagency agreements with the Environmental Protection Agency and such other agencies of the United States as the Commission determines appropriate for the purpose of assuring enforcement of the provisions of this subchapter in a manner which is consistent with—

(A) minimizing the cost of field inspection and related compliance activities; and

(B) reducing duplication of similar or related field compliance activities performed by agencies of the United States.

**(c) Promulgation of rules by Federal Trade Commission; contents; requirements for compliance with rules**

(1) Not later than 6 months after June 19, 1978, the Federal Trade Commission shall, by rule, prescribe and make effective—

(A) a uniform method by which a person may certify to another the automotive fuel rating of automotive fuel; and

(B) a uniform method of displaying the automotive fuel rating of automotive fuel at the point of sale to ultimate purchasers.

(2) Effective on and after the effective date of the rule prescribed under paragraph (1), any person—

(A) shall be considered to satisfy the requirements of subsection (a) or (b) of section 2822 of this title, as the case may be, only if such person complies with the requirements established pursuant to paragraph (1)(A); and

(B) shall be considered to satisfy the requirements of section 2822(c) of this title only if such person complies with the requirements established pursuant to paragraph (1)(B).

(3) The Federal Trade Commission may, by rule, prescribe procedures for determination of the automotive fuel rating of automotive fuel which varies from that prescribed in section 2821 of this title. In prescribing such rule, the Commission—

(A) shall consider—

(i) ease of administration and enforcement, and

(ii) industry practices in the distribution and marketing of automotive fuel; and

(B) may permit adjustments in such automotive fuel rating to take into account the effects of altitude, temperature, and humidity.

(4) The Federal Trade Commission may, by rule, prescribe and make effective a method of determining the automotive fuel rating of automotive fuel which consists of a blend of two or more quantities of automotive fuel of different automotive fuel ratings if the Federal Trade Commission finds that the method prescribed

more accurately reflects the automotive fuel rating of such blend than the weighted-average method set forth in section 2822(f)(1) of this title. Effective on and after the effective date of such rule, any person shall be considered to satisfy the requirements of section 2822(f)(1) of this title only if such person utilizes the method prescribed in such rule (in lieu of the method set forth in section 2822(f)(1) of this title).

**(d) Statutory provisions applicable for promulgation of rules**

(1) Except as provided in paragraph (2), rules under this subchapter shall be prescribed in accordance with section 553 of title 5, except that interested persons shall be afforded an opportunity to present written and oral data, views, and arguments with respect to any proposed rule.

(2) Rules prescribed under subsection (c)(3) and section 2822(d) of this title shall be prescribed on the record after opportunity for an agency hearing.

(3) Section 18 of the Federal Trade Commission Act (15 U.S.C. 57a) shall not apply with respect to any rule prescribed under this subchapter.

**(e) Acts or practices constituting violations**

It shall be an unfair or deceptive act or practice in or affecting commerce (within the meaning of section 5(a)(1) of the Federal Trade Commission Act [15 U.S.C. 45(a)(1)]) for any person to violate subsection (a), (b), (c), or (e) of section 2822 of this title, or a rule prescribed under subsection (d) of section 2822 of this title. For purposes of the Federal Trade Commission Act [15 U.S.C. 41 et seq.] (including any remedy or penalty applicable to any violation thereof) such a violation shall be treated as a violation of a rule under such Act respecting unfair or deceptive acts or practices.

(Pub. L. 95-297, title II, §203, June 19, 1978, 92 Stat. 335; Pub. L. 102-486, title XV, §§1501(c)(3), 1502(b), (c), Oct. 24, 1992, 106 Stat. 2997, 2998.)

**Editorial Notes**

**REFERENCES IN TEXT**

The Federal Trade Commission Act, referred to in subsecs. (a) and (e), is act Sept. 26, 1914, ch. 311, 38 Stat. 717, which is classified generally to subchapter I (§41 et seq.) of chapter 2 of this title. For complete classification of this Act to the Code, see section 58 of this title and Tables.

**AMENDMENTS**

1992—Subsec. (b)(1). Pub. L. 102-486, §1502(c), struck out “shall” after “Agency” in introductory provisions, inserted “may” before “conduct” in subpar. (A), inserted “shall” before “certify” in subpar. (B), and in subpar. (C) inserted “shall” before “notify” and struck out before period at end “discovered in the course of such field testing”.

Pub. L. 102-486, §1501(c)(3)(A), (B), substituted “automotive fuel rating” for “octane rating” and “fuel” for “gasoline” wherever appearing.

Subsec. (c). Pub. L. 102-486, §1501(c)(3), substituted “automotive fuel rating” for “octane rating” and “fuel” for “gasoline” wherever appearing, “section 2821” for “section 2821(1)” in par. (3), and “automotive fuel ratings” for “octane ratings” in par. (4).

Subsec. (e). Pub. L. 102-586, §1502(b), struck out before end of second sentence “; except that for purposes of

section 5(m)(1)(A) of such Act, the term ‘or knowledge fairly implied on the basis of objective circumstances’ shall not apply to any violation by any gasoline retailer of the requirements of section 2822(c) or (e) of this title”.

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by section 1501(c)(3) of Pub. L. 102-486 effective at the end of the one-year period beginning Oct. 24, 1992, see section 1501(d)(1) of Pub. L. 102-486, set out as a note under section 2821 of this title.

##### EFFECTIVE DATE

Subsec. (b) of this section effective on first day of first calendar month beginning more than 6 months after June 19, 1978, see section 205(a) of Pub. L. 95-297, set out as a note under section 2822 of this title.

#### § 2824. Relationship of statutory provisions to State and local laws

(a) To the extent that any provision of this subchapter 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 subchapter.

(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).

(Pub. L. 95-297, title II, §204, June 19, 1978, 92 Stat. 337; Pub. L. 102-486, title XV, §1502(a), Oct. 24, 1992, 106 Stat. 2997.)

#### Editorial Notes

##### AMENDMENTS

1992—Pub. L. 102-486 amended section generally. Prior to amendment, section read as follows: “To the extent that any provision of this subchapter applies to any act or omission, no State or any political subdivision thereof may adopt, enforce, or continue in effect any provision of any law or regulation (including any remedy or penalty applicable to any violation thereof) with respect to such act or omission, unless such provision of such law or regulation is the same as the applicable provision of this subchapter.”

#### SUBCHAPTER III—SUBSIDIZATION OF MOTOR FUEL MARKETING

#### § 2841. Study by Secretary of Energy

##### (a) Consultation with Chairman of Federal Trade Commission, Attorney General, and other agencies deemed appropriate by Secretary

The Secretary of Energy, in consultation with the Chairman of the Federal Trade Commission and the Attorney General and other agencies as the Secretary deems appropriate, shall conduct a study of the extent to which producers, refiners, and other suppliers of motor fuel subsidize the sale of such motor fuel at retail or wholesale with profits obtained from other operations.

##### (b) Scope

Such study shall examine—

(1) the role of vertically integrated operations in facilitating subsidization of sales of motor fuel at wholesale or retail;

(2) the extent to which such subsidization is predatory and presents a threat to competition;

(3) the profitability of various segments of the petroleum industry;

(4) the impact of prohibiting such subsidization on the competitive viability of various segments of the petroleum industry, on prices of motor fuel to consumers and on the health and structure of the petroleum industry as a whole; and

(5) such other matters as the Secretary considers appropriate.

##### (c) Notice to interested parties and opportunity to present written and oral data, views and arguments

In conducting the study required by this section, the Secretary shall give appropriate notice and afford interested persons an opportunity to present written and oral data, views and arguments concerning such study.

##### (d) Report to Congress; contents and time for submission; Presidential promulgation of rules establishing interim measures; submission date and duration of interim measures; Congressional approval of interim measures

(1) The Secretary shall report the results of the study required by this section, together with such recommendations for legislative action and such statistical evidence as he deems appropriate to the Congress on or before the expiration of the eighteenth month after June 19, 1978.

(2) If the President determines that interim measures are necessary and appropriate to maintain the competitive viability of the marketing sector of the petroleum industry during Congressional consideration of the recommendations contained in the report submitted under paragraph (1), he shall prescribe, by rule, in accordance with the procedures set forth in section 6393(a) of title 42 such interim measures.

(3) No interim measure proposed by the President under this section may be submitted after January 1, 1980, and the effect of such measure if approved by the Congress under paragraph (4) may not extend beyond 18 months after such Congressional approval.

(4) Such interim measure shall not take effect unless approved by both Houses of Congress as if it were a contingency plan under section 6422 of title 42: *Provided*, That the 60-day period referred to in such section shall be extended to 90 days for purposes of this section.

##### (e) Authorization of appropriations

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

(Pub. L. 95-297, title III, §301, June 19, 1978, 92 Stat. 337.)

#### CHAPTER 56—NATIONAL CLIMATE PROGRAM

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