



U.S. Department
of Transportation

**Pipeline and Hazardous
Materials Safety
Administration**

1200 New Jersey Avenue, SE
Washington, D.C. 20590

FEB 28 2008

Mr. Mark Morgan, Esq.
Regulatory Counsel
Petroleum Transportation & Storage Association
4200 Wisconsin Avenue NW, Suite 106
Washington, DC 20016

Ref. No. 07-0235

Dear Mr. Morgan:

This responds to your December 20, 2007 email and provides further clarification of our November 28, 2007 letter (Ref. No. 07-100) concerning proper shipping names for certain petroleum distillate fuel and biodiesel blends under the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). Specifically, you ask the appropriate proper shipping names for blends of heating oil and biodiesel (i.e., Bioheat¹) and blends of kerosene and biodiesel.

It is our understanding that biodiesel refers to a non-hazardous (for purposes of the HMR) fuel derived from vegetable oils or animal fats. Biodiesel may be blended with various petroleum distillate fuels, such as No. 1 or No. 2 diesel, kerosene, and heating oil. Shippers of petroleum distillate fuels routinely describe the materials using the trade name of the material (e.g., diesel fuel, fuel oil, heating oil, kerosene). Shippers of biodiesel blends similarly use the same trade name to describe a biodiesel blend – thus, shippers typically will use the term “heating oil” to identify heating oil/biodiesel blends or “kerosene” to identify kerosene/biodiesel blends.

A hazardous material must be described using an appropriate proper shipping name from the Hazardous Materials Table (HMT) in § 172.101 of the HMR. In accordance with § 172.101(c)(10), a mixture or solution not identified by name in the HMT that is composed of a non-hazardous material and a hazardous material identified in the HMT by a technical name must be described using the proper shipping name of the hazardous material and the qualifying word “mixture” or “solution,” as appropriate. However, if a material can be appropriately described by a proper shipping name that suggests its intended application, the addition of the qualifying word “mixture” or “solution” is not required (see § 172.101(c)(10)(i)(F)).

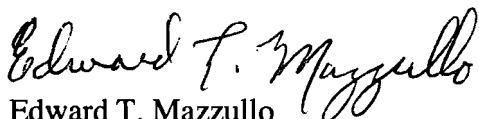
¹ Bioheat® is a registered trademark of the National Biodiesel Board.

It is the opinion of this office that a biodiesel fuel blend may be appropriately described using a proper shipping name that describes its intended application. Thus, a blend of heating oil and biodiesel may be described as "Heating oil;" a blend of fuel oil and biodiesel may be described as "Fuel oil," a blend of kerosene and biodiesel may be described as "Kerosene," and a blend of diesel fuel and biodiesel may be described as "Diesel fuel." Since these names describe the material's intended application, the addition of the qualifying word "mixture" or "solution" is not required. If an appropriate proper shipping name is not provided in the HMT, the most appropriate generic or n.o.s. description for the material must be used (e.g., "Petroleum distillates, n.o.s."). See § 172.101(c)(12)(ii).

This guidance differs from guidance provided in our November 28 response on this issue, and I apologize for any confusion that may result. As you know, a wide variety of biodiesel blends may be produced using an equally wide variety of petroleum distillate fuels, depending on consumer needs or state requirements. It is our understanding that these blends pose flammable or combustible hazards that are similar to the hazards of the original petroleum distillate fuels utilized in the blend. Therefore, describing these materials using proper shipping names that describe their intended application addresses the safety risks they pose and the emergency response procedures that should be used in the event of an accident. As the biofuels industry evolves, we will continue to consider how best to identify biofuel blends on shipping papers and how to communicate potential hazards to transport workers and emergency response personnel. We would welcome suggestions from the industry on this issue.

I hope this information is helpful.

Sincerely,



Edward T. Mazzullo
Director, Office of Hazardous Materials Standards

Cc: John L. Conley
National Tank Truck Carriers, Inc.

Richard Moskowitz
American Trucking Association

Michael Ritchie
Minnesota Department of Transportation

Der Kinderen
§172.101
Proper Shipping Name
07-0235

Drakeford, Carolyn <PHMSA>

From: DerKinderen, Dirk <PHMSA>
Sent: Thursday, December 20, 2007 2:11 PM
To: Drakeford, Carolyn <PHMSA>
Subject: FW: Bio-heat

Carolyn,

Can you enter this e-mail as an interp letter as well.

Thanks,
Dirk

From: Mazzullo, Ed <PHMSA>
Sent: Thursday, December 20, 2007 11:47 AM
To: DerKinderen, Dirk <PHMSA>
Cc: Gorsky, Susan <PHMSA>
Subject: FW: Bio-heat

Please develop a response.

From: Mark S. Morgan, Esq. [mailto:mmorganpntsa@cox.net]
Sent: Thursday, December 20, 2007 11:09 AM
To: Mazzullo, Ed <PHMSA>
Subject: Bio-heat

Ed:

Questions have arisen as a result of the Interpretation Letter on biodiesel blends. I feel like I have whacked a hornet's nest. Primarily, how should blends of bio-heat (mixture of heating oil and biodiesel) to be entered on shipping papers? These guys are really concerned that they have the right language. The blending percentages vary. Also, what about bio-diesel mixed with kerosene?

Thanks

Mark

Mark S. Morgan, Esq.
Regulatory Counsel

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New England Fuel Institute
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