

Appendix E

Handbook 130

Engine Fuels and Automotive Lubricants Regulation

Section 3.15. Biodiesel and Biodiesel Blends

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Marathon Oil

From: George, Laurie [mailto:lageorge@marathonoil.com]

Sent: Friday, January 22, 2010 11:29 AM

Ron,

After review of the attached proposal, we offer the following comments:

- We support the revised 3.15.3 language as submitted by API. Disclosure should not be required on **all** transfer documents.
- We do not support any of the proposed revisions/additions to 3.15.4.
- 16 CFR 306.6 and 306.8 of the FTC Automotive Fuel Rating regulation require refiners, producers and distributors to certify the automotive fuel rating (i.e., the "alternative liquid automotive fuel" content) to any transferee of the fuel who is not an end user. However, blends containing 5% or less biodiesel or biomass-based biodiesel are excluded from the "alternative liquid automotive fuel" definition, and there is no requirement for the transferor to disclose biodiesel content of 5% or less to the transferee, whether on product transfer documentation or otherwise. We believe that NIST 130 should be consistent with these provisions of federal law.
- The FTC Automotive Fuel Rating regulation contains a federal preemption provision at 16 CFR 306.4. If NIST 130 is amended to impose requirements for blends containing 5 % or less biodiesel or biomass-based diesel when federal law specifically excludes such requirements, we believe that any state adopting such language into its state laws runs the risk of a legal challenge in state or federal court based on the doctrine of federal preemption.
- The proposed language would require unnecessary testing of biodiesel content along the diesel fuel distribution system.

We appreciate the opportunity to provide feedback on the proposal, and encourage the Fuels and Lubricants Subcommittee to have additional dialogue on the subject and allow ample time for review prior to balloting.

I will not be in attendance next week, but feel free to reference my comments in the meeting.

Best Regards,

Laurie George
Product Quality Manager
Marathon Petroleum Company LLC

Alliance of Automobile Manufacturers

From: Ellen Shapiro [mailto:ESHAPIRO@autoalliance.org]
Sent: Friday, January 22, 2010 11:56 AM
Subject: RE: Fuels and Lubricants Subcommittee - Biodiesel Labeling

Ron,

The Alliance supports developing language to help prevent biodiesel over-blending, and I think everyone agrees this issue needs to be addressed, but we are unable at this time to accept any of the proposals or to recommend alternative language. Also, I think the email exchanges show the subcommittee lacks consensus and would benefit from further discussion. We hope you will recommend postponing any L&R vote next week or at least indicate the desire to discuss this further within the subcommittee (the Alliance will not be represented next week). Meanwhile, we will continue to review the various proposals and try to offer suggestions in the near future.

The Alliance also has concerns about Section 3.15.2.4 that we would like to add to the subcommittee agenda. This provision requires labeling B20 and higher to advise the consumer to consult the vehicle manufacturer. As you may know, virtually all light duty vehicles currently in the market are warranted for use with biodiesel only up to B5. Some manufacturers are working to increase compatibility with higher blends, such as B20 (Ford recently announced a vehicle that will debut this year that can use B20, and a few years ago, Chrysler began selling a vehicle to captive fleets that was allowed to use mil spec B20), but the existing light duty diesel fleet (which has grown quite a bit the last couple of years) is still only compatible up to B5. It is very important, therefore, to start labeling pumps at B6 and above rather than starting at B20. Also, we are concerned that the prescribed font size is too small to be noticed by the consumer. At the risk of generating email reactions now (I suggest people wait at least until after the meeting next week, if not until the next subcommittee meeting), we propose the following changes (the label details are based on similar provisions elsewhere in the model rule):

3.15.2.4. Biodiesel Blends. – When biodiesel blends greater than **20 5** % by volume are offered by sale, each side of the dispenser where fuel can be delivered shall have a label **conspicuously placed** that states “Consult Vehicle Manufacturer Fuel Recommendations.”

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 (½ in) in height, 1.5 mm (1/16 in) stroke (width of type). The lettering of this legend shall not be less than 6 mm (¼ in) in height by 0.8 mm (1/32 in) stroke; using block style letters and the a color shall be that is in definite contrast to the background color to which it is applied.

Thanks for the opportunity to weigh in.

Regards,
Ellen Shapiro
Director, Automotive Fuels
Alliance of Automobile Manufacturers
1401 Eye St., NW Suite 900
Washington, DC 20005
202-326-5533
eshapiro@autoalliance.org

Michigan Department of Agriculture

-----Original Message-----

From: William Spitzley [mailto:spitzleyw@michigan.gov]
Sent: Thursday, January 21, 2010 2:53 PM
Subject: Re: Fuels and Lubricants Subcommittee - Biodiesel Labeling

The proposal does not adequately address the need to identify the Biodiesel concentration in blends containing less than 5 % Biodiesel which could result in the creation of a blend greater than 5 % not being properly identified. The section 3.15.4.3 should be eliminated from the proposal. Rob DeRubeis will be present at the meeting to represent Michigan views regarding other proposals.

Thank You

William Spitzley
Motor Fuels Quality Specialist
Michigan Dept. of Agriculture
Motor Fuels Quality
(517) 655-8202

To do business in Michigan, visit the Michigan Business One Stop. It's easy, fast and simple.

ConocoPhillips

From: Schuettenberg, Alex [mailto:Alex.Schuettenberg@conocophillips.com]

Sent: Thursday, January 21, 2010 5:26 PM

Subject: RE: Fuels and Lubricants Subcommittee - Biodiesel Labeling

If you're blending in biodiesel and know the percentage that you've blended in, regardless of how small a percentage you've blended, you should have to tell the buyer what percentage you've blended.

If you don't know the exact percentage you've blended but you know a range, you should have to disclose the range (e.g. "contains up to 3 % biodiesel").

Regards,
Alex Schuettenberg
ConocoPhillips

National Biodiesel Board (NBB)

From: Rebecca Richardson [mailto:rebeccar@mchsi.com]
Sent: Thursday, January 21, 2010 5:09 PM.
Subject: Comments on Biodiesel Labeling on PTD's

Ron and FALS members,
I have reviewed the proposed language Ron sent. NBB has some concerns with the new language.

For blend levels that fall within D975, (i.e. B5% and less) there should be no legal requirement for labeling the exact amount of biodiesel in any documents, labels or other notifications. Biodiesel meeting D6751 is now simply one of a myriad compounds that can make up diesel fuel. There is no requirement to mention the amount of light cycle oil in diesel fuel, or the amount of cat cracker stock, etc. The same should follow here. D975 is based on engine performance, and as long as the fuel and its components are covered in the scope of D975 and the resulting finished blend meets the parameters in Table 1 of D975, then there is no performance need to say whether its zero, 1%, or 5%--it will all meet the performance needs of engines.

NBB certainly understands that some petroleum companies purchasing their diesel fuel may want to know how much biodiesel is already in the fuel, particularly if there may be more biodiesel added downstream (i.e. if you want to make a B20 blend, you will need to know if there is already 5% biodiesel in the blend for instance). But that information should be part of commercial agreements between companies, not specified as part of any state or federal requirement. For those companies that are just buying diesel fuel and not planning to blend in any more biodiesel, the only thing that requiring the exact percent of biodiesel does is make for more paperwork and a more costly product without any corresponding benefit to the user.

The question of requiring the disclosure of the exact blend level was discussed during a past ASTM balloting process. Someone raised a concern that they believed the exact level of biodiesel should be reported. This concern was overwhelmingly put down with the rationale that ASTM D975 was a performance-based specification, and as long as the B100 met D6751 and the finished properties met D975 it was not important or germane whether it has 1% vs. 3% vs. 5%.

If this change is adopted, essentially, every time a diesel fuel is commingled or mixed, it would need to be reanalyzed for blend concentration. That would put a tremendous overall burden on the ENTIRE diesel fuel distribution system and increase costs for everyone—regardless of whether any biodiesel is being added.

Very few are currently adding biodiesel compared to those that are commingling diesel fuel, so the overall costs to the consumer will be much less if you do not require the exact blend of biodiesel on the product transfer document.

If the exact level was required less than B5, it would also negatively affect pipeline shipments of biodiesel blends below B5, which could increase the costs to the general consumer even more.

In summary, the National Biodiesel Board is concerned about the economic and logistical issues the proposed changes will bring to both the diesel and the biodiesel industry. Considering the issue has only very recently been brought forward, and there has been no dialogue at the national level on this issue, NBB hopes NCWM and the Fuels and Lubricants Subcommittee will encourage continued discussion on this topic and keep it informational until all interested parties have had ample opportunity to hear the proposal, consider the potential for the industries involved, and develop an informed decision before the item comes to a vote.

NBB does not believe that biodiesel blends up to and including 5% should require any special labeling or identification beyond the requirements specified in 40 CFR 80.590. With that exception and the actual

volume percentage being a labeling option in 3.15.3.2, 3.15.3.3 and 3.15.3.4, we support the language changes submitted by the American Petroleum Institute's Pat Kelly (see NBB's proposed changes to the API document) as a better alternative to the original.

I will be in attendance at the meeting in Nashville to participate in further discussion on the issue.

Respectfully submitted,
Rebecca Richardson

Proposal Continued on Next Page

National Biodiesel Board Proposal for Disclosure of Biodiesel Content in Diesel Fuel (*continued*)

3.15. Biodiesel and Biodiesel Blends.

3.15.1. Identification of Product. – Biodiesel shall be identified by the term “biodiesel” with the designation “B100.” Biodiesel blends shall be identified by the term “Biodiesel Blend.”

3.15.2. Labeling of Retail Dispensers.

3.15.2.1. Labeling of Grade Required. – Biodiesel shall be identified by the grades S15 or S500. Biodiesel Blends shall be identified by the grades No. 1-D, No. 2-D, or No. 4-D.

3.15.2.2. EPA Labeling Requirements Also Apply. – Retailers and wholesale purchaser-consumers of biodiesel blends shall comply with EPA pump labeling requirements for sulfur under 40 CFR § 80.570.

3.15.2.3. Automotive Fuel Rating. – Biodiesel and biodiesel blends shall be labeled with its automotive fuel rating in accordance with 16 CFR Part 306.

3.15.2.4. Biodiesel Blends. – When biodiesel blends greater than 20 % by volume are offered by sale, each side of the dispenser where fuel can be delivered shall have a label conspicuously placed that states “Consult Vehicle Manufacturer Fuel Recommendations.”

The lettering of this legend shall not be less than 6 mm (¼ in) in height by 0.8 mm (1/32 in) stroke; block style letters and the color shall be in definite contrast to the background color to which it is applied.

3.15.3. Documentation for Dispenser Labeling Purposes to Indicate Biodiesel Content in Biodiesel Blends. – ~~The retailer shall be provided, at the time of delivery of the fuel, a declaration of the volume percent biodiesel on an invoice, bill of lading, shipping paper, or other document. This documentation is for dispenser labeling purposes only; it is the responsibility of any potential blender to determine the amount of biodiesel in the diesel fuel prior to blending. Upon custody or title transfer of biodiesel blends, except when such fuel is dispensed to motor vehicles or other end users, the transferor must provide to the transferee a document indicating the percentage by volume of biodiesel in the biodiesel blend.~~

3.15.3.1. EPA Documentation Requirements also Apply – Transferors of biodiesel blends must comply with EPA Product Transfer Document (PTD) requirements as specified in 40 CFR 80.590.

3.15.3.2. Biodiesel Blends Greater than 20 % – The transferor of a biodiesel blend with a biodiesel concentration greater than 20 % by volume shall classify the fuel as such. The actual volume percentage or Language similar to the term “Biodiesel blend greater than 20 %” shall be transmitted to transferee on a Bill of Lading, Invoice, PTD, shipping paper, or other document.

3.15.3.3. Biodiesel Blends Greater than 5 % But Not More Than 20 %. – The transferor of a biodiesel blend with a biodiesel concentration greater than 5 % by volume but not more than 20% by volume shall classify the fuel as such. The actual volume percentage or Language similar to the term “Biodiesel blend greater than 5 % but not more than 20 %” shall be transmitted to transferee on a Bill of Lading, Invoice, PTD, shipping paper, or other document.

3.15.3.4. Biodiesel Blends 5 % or Less – The transferor of a biodiesel blend with a biodiesel concentration 5 % by volume or less shall classify the fuel as such. The actual volume percentage or Language similar to the term “Contains 5 % or less biodiesel” shall be transmitted to transferee on a Bill of Lading, Invoice, PTD, shipping paper, or other document.

~~**3.15.4. Exemption.—Biodiesel blends that contain less than or equal to 5 % biodiesel by volume are exempted from the requirements of Sections 3.15.1, 3.15.2, and 3.15.3. when it is sold as “diesel fuel” as required in Section 3.3.**~~

(Added 2005) (Amended 2008)

American Petroleum Institute (API)

From: Patrick Kelly [mailto:kellyp@api.org]
Sent: Wednesday, January 20, 2010 3:49 PM
Subject: RE: Fuels and Lubricants Subcommittee - Biodiesel Labeling

Ron and the FLS Members,

My biggest concern with the proposed language is the need to indicate an exact biodiesel concentration. This section should be consistent with FTC labeling requirements which segregate biodiesel blended fuels into 3 categories: 5% or less; greater than 5% to 20%; and greater than 20%. Fuels in distribution are commonly mixed within those ranges and the exact volume percentage is not always known after two batches are mixed.

I am also concerned about placing a requirement on ALL transfer documents. This will have a significant impact on computer systems that generate the forms. It is unnecessary and creates confusion as to what documents are considered "Transfer Documents". EPA requires a Product Transfer Document (PTD) which is a logical place to put the information. Depending on individual company practice, the BOL or invoice might make more sense and the shipper should be able to choose which document to disclose the information.

I've not seen a biodiesel blend de minimis percentage level mentioned before, and am unclear if the <1% figure has a precedent. I don't think this section is the place to establish a precedent for a minimum blend level to trigger compliance if federal agencies with biodiesel regulations do not specify the same level.

The attached draft is API's recommended changes to the existing Biodiesel and Biodiesel Blends section that incorporates these concerns, while fulfilling the L&R charge of disclosing biodiesel content that is technically correct and adequate to protect from over blending [and subsequent mislabeling]. Unfortunately, I am unable to attend the meeting next week, but I hope these concerns are taken into consideration.

Kind Regards,
Patrick Kelly
API

**New York State Department of Agriculture and Markets
Bureau of Weights and Measures**

From: Ross Andersen [mailto:Ross.Andersen@agmkt.state.ny.us]
Sent: Wednesday, January 20, 2010 2:41 PM
To: Hayes, Ron
Subject: RE: Fuels and Lubricants Subcommittee - Biodiesel Labeling

Ron,

I reviewed your draft but think a broader revision is in order in order to mirror EPA and ASTM changes. We now have 4 products, diesel fuel (<5% bio), 6-20% biodiesel blends, 21-99% biodiesel blends and B100 Biodiesel.

I think we should follow EPA and define both biodiesel and biomass based diesel fuels to clarify the significant differences.

Then we should separately define biodiesel blends and biomass diesel blends as any blend of the bio fuel with petroleum based diesel fuels. That sets the stage for the various labeling and disclosure requirements.

Then we need to decide if we can combine biodiesel and biomass based diesel in the same section 3.15.

I might suggest we fix 3.15.2.1. The present wording appears to indicate that blends do not have to comply with sulfur labeling requirements. Shouldn't it read "Biodiesel blends shall be identified by the grades No. 1-D, No. 2-D or No. 4-D combined with grades S15 or S500 as appropriate."?

I don't support requiring disclosure of biodiesel blends <5% by volume. My concern is that we would be adding a requirement to disclose between 1 and 5 % biodiesel to the retailer that does not exist in any of the federal rules. Why should we be requiring it when they don't. I suggest that 3.15.3. begin with the exemption for less than 5% just as suggested for 3.15.2. so that any blend over 5% is disclosed. The requirement that the blender determine the amount of bio fuel in the base fuel before blending takes care of everything from then on. I understand that biomass based diesel may not be as easy to detect as the esters in biodiesel but won't refiners doing that disclose it for tax purposes anyway. Nothing in the reg prohibits labeling <5% if they want to do it voluntarily.

Finally I find the exemption in 3.15.4. is out of place. I think it belongs at the start of 3.15.2. as in

3.15.2. Labeling of Retail Dispensers -Except for biodiesel blends containing less than 5% by volume of biodiesel or biomass based diesel that are sold as diesel fuel as required in Section 3.3., biodiesel blends shall be labeled as provided in Sections 3.15.2.1 to 3.15.2.4."

Or change title

3.15.2. Labeling of Retail Dispensers, Biodiesel and biodiesel blends containing more than 5% biodiesel or biomass based diesel.

Regards

Ross J Andersen, Director
New York State Department of Agriculture and Markets
Bureau of Weights and Measures
10B Airline Drive
Albany, NY 12235
(518) 457-3146 or FAX (518) 457-5693

E-mails:

Manuch Nikanjam – Chevron
Chuck Ulm – State of Maryland
Ron Leone – State of Missouri

Sent: Thursday, January 21, 2010 7:19 PM
To: Hayes, Ron
Subject: RE: Fuels and Lubricants Subcommittee - Biodiesel Labeling

Ron,

I generally support the response that was sent by the API.

Regards,

Manuch

From: CHUCK ULM [mailto:CULM@comp.state.md.us]
Sent: Thursday, January 21, 2010 11:46 AM
To: Hayes, Ron
Subject: Re: Fuels and Lubricants Subcommittee - Biodiesel Labeling

Thanks Ron. This looks good to me.

Chuck

Chuck Ulm
Assistant Director
Field Enforcement Division
Comptroller of Maryland
(410) 260-7278

From: Ronald J. Leone [mailto:ron@mpca.org]
Sent: Friday, January 22, 2010 10:34 AM
To: 'Rob Underwood'; 'Ann Hines'; 'tom palace'; 'Dan Gilligan'; 'Mark Morgan'; 'Sam Bell'; 'Michael Fields'; 'Tim Keigher'; 'dawn@pmcofiowa.com'; 'John Maynes'
Subject: RE: ADDITIONAL L&R LETTERS on biodiesel content disclosure

Rob:

1. Consumers: No notice or pump labels should be required at retail for B5 or less concentrations.

2. Rack/Terminal: Papers must be provided at the rack/terminal to indicate the exact amount (not a range but the exact amount) of bio in any load of diesel to ensure no "over-blending" occurs when marketers splash-blend with additional bio away from the terminal.

For example, if the load already contains B2, and my member splash-blends to reach B5, he is now at B6 or B7 which could lead to liability issues and could be a violation of state law including pump labeling.

Ron Leone, Missouri

July 7, 2010

Mr. Joe Benavides
Chairman, Laws and Regulations Committee
National Conference on Weights and Measures
Regulatory Branch Chief, Texas Department of Agriculture
P.O. Box 12847
Austin, Texas 78711

Dear Mr. Benavides:

The Petroleum Marketers and Convenience Stores of Iowa (PMCI) is a non-profit state trade association serving the needs of independent petroleum distributors, petroleum retailers and convenience store owners throughout the state of Iowa. While some of our members may display the logo of one of the major oil companies, they are independently owned and operated from the major oil company. Since 1937, one of PMCI's major goals is the maintenance of a competitive business climate that will encourage the growth of the independent petroleum marketing industry within the state. On behalf of our membership, PMCI would like to thank the National Conference on Weights and Measures for their thorough review of all issues relevant to the petroleum marketing industry.

I am writing you today to emphasize the need to modify the language contained in Item 237-3, Engine Fuels and Automotive Lubricants Regulation, Section 3.15 Biodiesel and Biodiesel Blends (Publication 16). PMCI is very concerned that Item 237-3 in Publication 16 will foster unintended consequences for petroleum marketers and consumers if the Item is approved without modifications that require the disclosure of the exact volume percentage of biodiesel contained in any diesel mixture involving a wholesale transaction.

Currently, biodiesel producers, oil companies and terminals are not required to disclose the exact volume percentage of biodiesel contained in a diesel mixture if blended at a rate of 5% or less. In 2009, 643 million gallons of diesel fuel were sold in Iowa. 205 million of those gallons contained biodiesel with 172 million of those gallons blended at a rate of 5% or less. All biodiesel gallons blended with diesel fuel in Iowa are blended below the pipeline or terminal level. If Item 237-3 in Publication 16 is approved without modification, petroleum marketers will unknowingly purchase product labeled as diesel fuel at a terminal which contains an undisclosed amount of biodiesel, subsequently blend that product with biodiesel, and have no assurance as to the actual blend percentage of the fuel. This is of very serious concern to petroleum marketers. Without full biodiesel content disclosure on product transfer documents, petroleum marketers and retailers face the following issues: mislabeling, product/equipment compatibility, and ultimately the breach of supply contract with customers. All of these issues threaten to create mistrust between business owners and their customers.

PMCI believes that terminal documents should be required to disclose the exact volume percentage of biodiesel on the invoice, bill of lading (BOL), and shipping paper, to ensure against over-blending. Proponents of this measure have cited the cost of adding this item to terminal documents as the primary reason for their support of it. Proponents have suggested that wholesalers blending biodiesel may simply test the fuel they receive for its biodiesel content. At an average cost of \$75-\$100 per sample, and with a turn-around time of roughly ten days, this testing solution is simply not feasible in the wholesale fuel distribution business. The simplest

solution to this issue is requiring full disclosure of biodiesel content on product transfer documents received at a terminal. Requiring this disclosure will allow petroleum marketers the transparency necessary to continue investing in, and marketing biodiesel blends.

On behalf of PMCI, I appreciate your attention to this critical issue. Petroleum marketers must know the amount of biodiesel in the product they receive from terminals to supply their customers with the exact type of product requested. By modifying Item 237-3 to resemble the language crafted by the Southern Weights and Measures Association, the NCWM will ensure this happens in the most cost effective manner. PMCI requests that you take these comments into consideration when the NCWM Laws and Regulations Committee convene in St. Paul, Minnesota in July 2010.

Sincerely,

A handwritten signature in black ink that reads "Dawn M. Carlson". The signature is written in a cursive, flowing style.

Dawn M. Carlson
President
Petroleum Marketers and Convenience Stores of Iowa

AOMA

Arkansas Oil Marketers Association, Inc.

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July 10, 2010

Mr. Joe Benavides, Chairman
Laws and Regulations Committee
National Conference on Weights and Measures
Regulatory Branch Chief
Texas Department of Agriculture
PO Box 12847
Austin, TX 78711

Dear Joe:

On behalf of the members of the Arkansas Oil Marketers Association, thank you for the courtesy that has been shown to us whenever we have appeared before the L & R Committee. I have been impressed with the Committee's knowledge about our industry and their attention to detail.

The Southern Weights and Measures L & R Committee has brought forward language that would require the exact volume percentage of biodiesel be disclosed on invoices, bills of lading and shipping papers to ensure that marketers are blending biodiesel safely and legally. The Arkansas Oil Marketers Association supports the proposed change. Petroleum marketers need to be able to supply the exact biodiesel products our customers want and need. And we need this disclosure in order to do that. While this proposed change is Informational for the 2010 Annual Meeting, we support the acceptance of this proposal.

There are 10 pipeline terminals in Arkansas with connections to 4 different pipelines. And our members who are in the border areas of the state pick up product in other states also. Tennessee requires the exact amount of biodiesel be noted on the product transfer documents. Arkansas does not. The AOMA members who pick up product at Valero in Memphis have an advantage in that they know what the blend is and if they have a customer who wants a 10% biodiesel blend, they can quickly determine how much biodiesel to add. While we like the Tennessee regulation, if a marketer is operating in multiple states, it helps if there are uniform language requirements.

We ask that you take these comments into consideration when the Laws and Regulations Committee meets in St. Paul.

Sincerely,



Ann Hines
Executive Vice President





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June 15, 2010

Mr. Joe Benavides
Chairman, Laws and Regulations Committee
National Conference on Weights and Measures
Regulatory Branch Chief, Texas Department of Agriculture
P.O. Box 12847
Austin, Texas 78711

Dear Mr. Benavides:

On behalf of the Petroleum Marketers Association of America (PMAA), I would like to thank you for your efforts to address important issues relevant to the petroleum marketing industry during the National Conference on Weights and Measures (NCWM) interim and annual meetings. I am writing you today to highlight the need to modify language in **Item 237-3, Engine Fuels and Automotive Lubricants Regulation, Section 3.15 Biodiesel and Biodiesel Blends** (Publication 16). PMAA is concerned that Item 237-3 in Publication 16 may have unintended consequences on petroleum marketers and consumers if the current language in Item 237-3 is approved without modifications to require the disclosure of the exact volume percent amount of biodiesel blends if containing less than five percent.

PMAA is a national trade association in the petroleum industry representing 8,000 independent petroleum marketing companies who own 60,000 retail fuel outlets such as gas stations, convenience stores and truck stops. Additionally, these companies supply motor fuels to 40,000 independently owned retail outlets and heating oil to seven million households and businesses.

Currently, biodiesel producers, oil companies and terminals are not required to disclose the exact volume percentage amount of biodiesel blends below five percent. For instance, petroleum marketers could unknowingly purchase a two percent biodiesel blend and then immediately blend an additional 5 percent biodiesel creating B-7. This is a very serious concern to marketers because some standards governing engines, burners and retail infrastructure only permit 5% biodiesel.

PMAA believes terminal documents should disclose the exact volume percentage of biodiesel on the invoice, bill of lading (BOL), and shipping paper, (not simply say "may contain up to 5% biodiesel") to ensure no over-blending off-site. Information must be accurate and disclosed at the terminal to ensure that customers are receiving the right mixture of product. Therefore, I urge you to modify the language for Item 237-3 in Publication 16 to resemble language crafted by the Southern Weights and Measures Association which would require that the exact volume percentage of biodiesel blend be disclosed on invoices, BOL and shipping papers to ensure that marketers are blending safely and legally. In regard to retail dispensers, we believe blends up to 5% biodiesel should be permitted without additional labeling or notices.

Petroleum marketers need to supply the exact biodiesel products requested by their customers. NCWM needs to ensure this happens in the most cost effective fashion and that is to require terminals to disclose any biodiesel content on invoices and product transfer documents.

PMAA urges you to take these comments into consideration when the L&R Committee meets in St. Paul, Minnesota in July 2010.

Sincerely,

A handwritten signature in black ink, appearing to read 'Dan Gilligan', is written in a cursive style.

Dan Gilligan
PMAA President



Missouri Petroleum Marketers & Convenience Store Association

205 East Capitol Avenue, Suite 200 • Jefferson City, Missouri 65101
Phone 573.635.7117 • Fax 573.635.3575 • www.mPCA.org

July 1, 2010

Mr. Joe Benavides
Chairman, Laws & Regulations (L&R) Committee
National Conference on Weights & Measures (NCWM)
Texas Department of Agriculture, Regulatory Branch Chief
P.O. Box 12847
Austin, Texas 78711

Re: Terminal Documents Must Specify The Exact Percentage Of Renewable Fuel In Every Load Of Fuel

Dear Mr. Benavides:

Please accept this letter as a part of the official record and as a formal comment to the National Conference on Weights & Measures (NCWM), Laws & Regulations (L&R) Committee, regarding the above detailed subject matter.

The Missouri Petroleum Marketers & Convenience Store Association (MPCA) is a 400+ member statewide trade association located in Jefferson City, Missouri, which represents the majority of the convenience stores, gas stations and petroleum marketers located in and around Missouri.

As you know, many fuel marketers across the U.S. blend renewable fuel into their transport loads of fuel at locations away from the terminal and thereafter sell the blended fuel at retail. This “away from the terminal blending” increases the use of renewable fuels, supports U.S. agriculture and decreases our dependence on fossil fuels from countries that are often hostile to the U.S. and our way of life.

I am writing to you today in your capacity as Chair of the L&R Committee to urge your Committee and the NCWM to require that terminal documents, including bills of lading, shipping papers and/or invoices, must specify the exact percentage of the renewable fuel (biodiesel, ethanol, etc.) contained in each and every load of fuel.

Reasons for my urgent request include:

1. Position holders at terminals are very precise with their inventories and thus can easily calculate and keep track of the renewable fuel percentages in every load of fuel they sell. It would be a simple process and thus no great burden for the position holder and/or the terminal to provide the fuel marketer with the exact percentage of the renewable fuel contained in each and every load of fuel.

2. Over-blending of renewable fuel at locations away from the terminal will result in retail mis-fueling and thus is bad for the consumer and their vehicles - engine damage, voiding engine warranties, increased general distrust of renewable fuels, etc.
3. Over-blending of renewable fuel at locations away from the terminal will exceed the “blend wall” - allowable federal and/or state renewable fuel percentages - and thus could be bad for the environment.
4. Over-blending of renewable fuel at locations away from the terminal will hurt the fuel marketer – huge EPA and state fines and penalties, liability for engine damage due to mis-fueling, decrease in sales, push consumers to their competitors, etc.
5. Fuel marketer uncertainty regarding the exact amount of renewable fuel in a load of fuel will result in less blending at locations away from the terminal which is bad for the renewable fuel industry, bad for U.S. agriculture and increases our dependence on fossil fuels from countries that are often hostile to the U.S. and our way of life.
6. In the near future, blender pumps may become more common and E-15 and higher biodiesel concentrations may be encouraged and permitted by the EPA. Thus, it’s imperative that fuel marketers know the exact percentage of renewable fuel in every terminal load to maintain and ensure proper fuel specifications and to never exceed the “blend wall”.
7. The NCWM, the Central Weights & Measures Association (CWMA), and W&M regulators in general are charged with ensuring accuracy, fairness, compliance, and full and open public disclosure and debate.

The percentage of renewable fuel in every terminal load of fuel should be fully disclosed and subject to the same goals to readily ensure accuracy and compliance.

8. Please note that general statements such as “may contain up to 5% biodiesel” or “may contain up to 10% ethanol” or “may contain up to 15% ethanol” are insufficient and do not provide the fuel marketer and/or the consumer with the information they need to make fully informed and fully compliant blending and/or fueling decisions.

9. Finally, MPCA fully supports and incorporates herein the 6/14/10 letter to Joe Benavides from Dan Gilligan, President of the Petroleum Marketers Association of America (PMAA).

Unfortunately, I will not be able to personally attend and testify at the 2010 NCWM Annual Meeting in St. Paul, MN. However, for all of the above reasons and more I strongly urge the NCWM to require that terminal documents, including bills of lading, shipping papers and/or invoices, must specify the exact percentage of the renewable fuel (biodiesel, ethanol, etc.) contained in each and every load of fuel.

Sincerely,

A handwritten signature in blue ink that reads "R. Leone". The signature is fluid and cursive, with the first name "R." and the last name "Leone" clearly legible.

Ronald J. Leone, Esq.
Executive Director
Missouri Petroleum Marketers & Convenience Store Association (MPCA)
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July 7, 2010

Mr. Joe Benavides, Chairman
NCWM Law & Regulations Committee
Regulatory Branch Chief – Texas Department of Agriculture
P.O. Box 12847
Austin, TX 78711

Dear Mr. Benavides,

The Fuel Merchants Association of New Jersey (hereafter FMA) represents *small businessmen and women* who distribute heating oil, gasoline and diesel fuel in the state. Our members distribute heating oil to residential, commercial and industrial customers and distribute branded and unbranded gasoline and diesel fuel to service stations they own, and to service stations they supply, as well as to state and local governments and commercial fleets. FMA's members also install and service central heating and air conditioning equipment.

On behalf of all FMA members I am writing to encourage you and the entire Laws & Regulations Committee to modify the language in item 237-3, Engine Fuels and Automotive Lubricants Regulation, Section 3.15 Biodiesel and Biodiesel Blends in Publication 16. FMA supports modified language that would require terminal documents to disclose the exact volume and percentage of biodiesel on the invoice, bill of lading (BOL) and shipping papers. The current language, "may contain up to 5% biodiesel" will cause over-blending and misrepresentation to the consumers you are trying to protect.

Furthermore, FMA believes the same requirement should be applicable for Bioheat® which is a mixture of 95-98% ASTM D396 heating oil and 2-5% ASTM D6751 biodiesel. A mixture not to exceed these percentages will work in all existing heating oil equipment. While we believe a higher mixture will work and our industry is actively pursuing what that mixture is, we cannot afford to have our members distribute fuel with more than 5% biodiesel at this time as it would be a non ASTM specification fuel and could void the equipment manufacturer's warranty on the heating system. That is why it is important for a heating oil distributor who is distributing Bioheat® to know if there is any biofuel in the fuel they are purchasing from their supplier.

If the main goal of the National Conference of Weights & Measures is to "achieve uniform and equitable weights and measures standards," the language crafted by the Southern Weights and Measures Association would achieve this goal by requiring the exact volume percentage of biodiesel blend be disclosed on invoices, BOL and shipping papers to ensure marketers are blending safely and legally.

L&R Committee 2010 Final Report
Appendix E – Biodiesel and Biodiesel Blends

Since petroleum marketers are required to adhere to the exact specifications of the customers' orders FMA believes biodiesel producers, refiners, terminals, and blenders should be held to the same standard.

In closing, to achieve a uniformed standard it is imperative the NCWM Laws & Regulations Committee adopt the language crafted by the Southern Weights & Measures Association.

Sincerely,



Kathleen R. Madaras
Associate Director