



Legislative & Regulatory Action Center

COMPLIANCE BULLETIN

January 12, 2009

EXTENSION OF SHIPPING PAPER COMPLIANCE DEADLINE

DEVELOPMENT: The U.S. DOT Pipeline and Hazardous Material Safety Administration (PHMSA) is set to issue a final rulemaking that extends the compliance deadline for new shipping paper requirements for ethanol blends over 10 percent to October 1, 2010.

BACKGROUND: This deadline had been set for October 1, 2008. Ethanol transporters and shippers who complied with the October 1, 2008 deadline and switched to the new ethanol shipping paper entry are still in compliance and **do not** need to do anything further. *Those marketers who did not meet the October 1, 2008 deadline may continue to use their shipping paper entries for ethanol blends until October 1, 2010 when they must change to the new entry.*

COMPLIANCE DEADLINE EXTENSION: U.S. DOT final rulemaking HM-215J extends the compliance period for new HAZMAT shipping paper requirements for ethanol blends. The Pipeline and Hazardous Materials Safety Administration (PHMSA) finalized the new ethanol shipping paper requirements last year on **January 28, 2008**.

That rule, HM-218D made two important changes affecting ethanol transporters.

1. *HM-218 established "Ethanol and gasoline mixture, 3, UN3475, PG II" as the new shipping name for all ethanol blends over E-10. Blends with 10 percent ethanol or less were not subject to the new ethanol shipping paper entry.*
2. *HM-218D required new placards for gasoline blended with ethanol in concentrations over 10 percent.*

Prior to HM-218D, PHMSA allowed cargo tanks vehicles with multiple compartments containing different fuels to display a single placard representing the fuel with the lowest flashpoint. Generally, the placard "1203" is used to cover all petroleum distillates contained within a multi-compartment cargo tank. ***Under HM218-D, the 1203 placard will no longer be permitted for ethanol blended with gasoline in concentrations over 10 percent after October 1, 2010. Instead, compartments with ethanol blends over 10 percent must be individually marked with a "3475" placard.***

IMPORTANT: Ethanol transporters may still display a single placard for the fuel with the lowest flashpoint in a multiple compartment vehicle if the gasoline blend being transported is 10 percent ethanol or less. In addition, marketers may still use the 1203 placard for the remaining compartments with blends of under 10 percent as long as the 3475 placard is used on the higher concentration compartment. While the compliance date for the placarding rule was set for October 1, 2010, under HM-218D, compliance with the new ethanol shipping paper entries was set for a full two years earlier on October 1, 2008. Initially, PHMSA planned to set the shipping paper compliance date 30 days after the rule was published but Regulatory Counsel Mark S. Morgan, Esq argued in comments that the date should be set at October 1, 2010. PHMSA compromised and provided the October 1, 2008 instead.

Moving forward to the pending HM-215J rulemaking. In this rulemaking, PHMSA decided to adopt Morgan's recommendations and move the shipping paper compliance deadline to October 1, 2010. Here is where things stand now: Those who have already changed shipping paper entries for ethanol blends over 10 percent on October 1, 2008, may continue to use the new "Ethanol and gasoline mixture, 3, UN3475, PG II" shipping name. For those petroleum marketers who missed the deadline, you are not required to comply with the new ethanol entry until October 1, 2010.

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Blends	Shipping Paper Entry Before October 1, 2008	Shipping Paper Entry After October 1, 2010
Gasoline up to 10% ethanol content	Gasohol, 3, NA1203, PG II	Gasohol, 3, NA1203, PG II Gasoline, 3, UN1203, PG II
Gasoline over 10% & up to 20 percent Ethanol	Gasohol, 3, NA1203, PG II	Ethanol and Gasoline Mixture, 3, UN 3475, PG II
E-85	Flammable liquid, n.o.s., 3, UN1993, PG, II	Ethanol and Gasoline Mixture, 3, UN 3475, PG II
Alcohol up to 5% Gasoline	Alcohols, n.o.s., 3, UN1987, PG II	Alcohols, n.o.s., 3, UN1987, PG II Denatured Alcohol, 3, NA1987, PG II Ethanol and Gasoline Mixture, 3, UN3475, PG II

If you have additional questions, contact Regulatory Counsel Mark S. Morgan, Esq. at mark@nefi.com, or contact the NEFI Legislative & Regulatory Action Center at (617) 923-5022.

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