



U.S. Department
of Transportation

**Pipeline and Hazardous
Materials Safety
Administration**

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

OCT 06 2015

Mr. Mark Babineck
Editor
Argus Petroleum Transportation North America
2929 Allen Parkway, Suite 700
Houston, Texas 77019

Reference No. 15-0147

Dear Mr. Babineck:

This is in response to your July 14, 2015 letter requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to the requirements for unrefined petroleum-based products. Specifically, you ask whether “stabilized condensates that qualify for export under Bureau of Industry and Security rules” meet the definition of an “unrefined petroleum-based product” and are therefore subject to the sampling and testing requirements as specified in new § 173.41. This new section was added under a final rule entitled “Hazardous Materials: Enhanced Tank Car Standards and Operational Controls for High-Hazard Flammable Trains,” and published on May 8, 2015 [80 FR 26644].

For the purposes of the HMR, the term, “unrefined petroleum-based products” would be any material that is petroleum based, and has not undergone refinement. Condensates refer to a wide range of products, and may include products from the treatment of crude oil for transportation or a product of refinement. In order to determine whether condensate meets the definition of an unrefined petroleum-based product, information about the specific processing and treatment of material prior to transportation is necessary. Heat treating to reduce vapor pressure or to remove the dissolved gasses in crude oil so that it may be transported for refinement would not meet the American Fuel & Petrochemical Manufacturers (AFPM) or other industry definitions of refining. However, AFPM includes the heating and separation of hot gasses through a distillation column as a refinement process.

The Department of Commerce (DOC) Bureau of Industry and Security (BIS) regulations for the export of petroleum products do not provide a definition for “stabilized condensates.” Under 15 CFR 754.2(a) of the BIS requirements, condensate which has “been processed through a crude oil distillation tower” may be considered a “petroleum product” and therefore subject to fewer export provisions.

These materials would be considered "refined" for the purposes of the HMR, and would not be subject to the requirements of § 173.41 for "unrefined" products.

I hope this satisfies your request.

Sincerely,

A handwritten signature in cursive script, reading "T. Glenn Foster". The signature is written in black ink and is positioned below the word "Sincerely,".

T. Glenn Foster
Chief, Regulatory Review and Reinvention Branch
Standards and Rulemaking Division

Lehman
§173.41
Petroleum-based products
15-0147

Dodd, Alice (PHMSA)

From: Geller, Shelby CTR (PHMSA)
Sent: Tuesday, July 14, 2015 12:45 PM
To: Hazmat Interps
Subject: FW: HMR interpretation request

Dear Shante and Alice,

Forwarded is a request for a formal letter of interpretation. Jordan spoke with Victoria Lehman in regards to this request for a formal letter.

Thanks,
Shelby

From: Mark Babineck [<mailto:mark.babineck@argusmedia.com>]
Sent: Friday, July 10, 2015 2:24 PM
To: INFOCNTR (PHMSA)
Subject: HMR interpretation request

Standards and Rulemaking Division
Pipeline and Hazardous Materials Safety Administration
Attn: PHH-10
US Department of Transportation, East Building
1200 New Jersey Ave. SE
Washington, DC 20590-0001

To whom it may concern:

I am seeking clarification on PHMSA's 1 May tank car standard rulemaking, Docket No. PHMSA-2012-0082 (HM-251). Specifically I'm looking for clarification on this line, found on page 226:

Specifying "unrefined petroleum-based products" refers to hazardous hydrocarbons that are extracted from the earth and have not yet been refined. This includes petroleum-based liquid and gas wastes and byproducts, such as condensates, which exhibit variability.

Does "condensates" in this instance include stabilized condensates that qualify for export under Bureau of Industry and Security rules? That agency has determined those liquids to be refined products, with predictable characteristics, and not analogous to crude.

Thank you,

Mark Babineck
Editor
Argus Petroleum Transportation North America

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