

From: <JKochanek@excelda.com>
To: <MDUNCAN@oce.usda.gov>
Date: 9/19/2006 4:37:38 PM
Subject: public comment regarding RIN 0503-AA31, Proposed designation of items

Marvin,

One other comment I would like to make is that of the 7 oils tested, they ranged from 6 to 77% biobased content. Such a broad range (71%) between products would be a strong indicator, that the products tested are most likely not on the same quality and performance level.

I believe it is impossible for any oil with 77% biobased content to obtain any ISO, API or JASO credentials.

John Kochanek
7th Gear Performance Lubricants Brand Manager
john@7thgear.net
810.534.1010

>>> "Marvin Duncan" <MDUNCAN@oce.usda.gov> 9/19/2006 12:38:41 PM >>>
Tuesday, September 19, 2006

Dear John:

I did receive your public comment via e-mail. We appreciate receiving your comment and will take it into consideration in drafting the final rule. Thank you for your interest.

Marv Duncan
202-401-0532

>>> "John Kochanek" <JKochanek@excelda.com> 9/19/2006 12:12:17 PM >>>
Marvin,

During our phone conversation yesterday you mentioned you would call me or reply back to this email to ensure that you did receive it successfully.

I am writing this comment with great concern in regard to the first product listed "2 cycle engine oils" in this RIN of proposed items. I do not believe you have chosen the proper performance standards, for products in this category to be judged by.

It states on page 47595 of the federal register, in the fifth paragraph of the second column " While other applicable performance standards may exist, applicable industry performance standards against which these products have been typically tested, as identified by manufacturers of products with in this item, include:"

It is my opinion that you have been seriously misled by the "manufacturers of products with in this item" in regards to the "standards against which these products have been typically tested".
You

then list 12 different bench tests, which cover viscosity, flash point, base number, pour point, cloud point, miscibility with gasoline, biodegradability, hydrolytic stability, foaming, rust prevention, viscosity index and glow discharge. These tests are only bench or lab tests and do not have limits. Any test with out limits is useless.

Many of these tests are absolutely irrelevant to the actual performance of how a 2 stroke oil will work in a two stroke engine.

You mention on page 47594 of the federal register in the second column, " that items are developed... for designation... by asking questions about the products", and ask three key questions. The second question listed is "Do they meet performance standards?" The list of tests you compiled does not, will not and can not properly answer that question.

To prove this point, If you read the warranty requirements from the manufacturers of any of the equipment this oil will be used in, no where will it mention any of these tests. What the warranty requirements will mention are PERFORMANCE specifications from one of four (or all four) different organizations, who have established specs with pass/fail requirements.

These four organizations are the National Marine Manufacturers Association (NMMA), American Petroleum Institute (API), Japanese Automobile Standards Organization (JASO), and International Standards Organization (ISO). The NMMA is only relevant for 2 stroke outboard engines. I will include two different attachments to this email. One is a document that is designed for consumers (in this instance the US government) to easily understand the specs and more importantly what it means to them. The second document outlines the specific and harsh criteria of which an oil needs to pass to obtain each spec. Feel free to call or email me if you would like a more in depth explanation.

My fear is that your purchasing agents will buy a biobased product on the approved list, that does not meet the ISO, API or JASO standards and destroy a bunch of 2 stroke engines. From then on the biobased 2 stroke oils will get a bad reputation and purchasing agents will revert back to conventional products. When the only reason why biobased oils failed is because they did not meet any of the ISO, API and JASO performance specs. Again, by using the 12 bench tests listed on the current proposal, the possibility of a catastrophic engine failure greatly, greatly increases. As you will read, JASO FD and ISO-L-EGD are the two toughest specs to obtain for non-outboard 2 stroke engines. The use of products that obtain these specs will greatly reduce the chance of oil related engine failure. Any further research you do will also show this to be true.

I believe only products that meet or exceed ISO, API or JASO criteria should be added to the approved product list. And that the level of criteria (ex. JASO FB , JASO FD) must be included, so that purchasers can buy products according to the level of performance needed.

John Kochanek
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810.534.1010

2

To: Marvin Duncan
From: John Kochanek
Date: September 19, 2006
Re: public comment regarding RIN 0503-AA31, Proposed designation of items

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bench tests listed on the current proposal, the possibility of a catastrophic engine failure greatly, greatly increases.

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In short ISO, API and JASO specs are the industry standard used to quantify the actual performance of two stroke oil. Only products that meet or exceed ISO, API or JASO criteria should be added to the approved product list. And that the level of criteria (ex. JASO FB, JASO FD) must be included, so that purchasers can buy products according to the level of performance needed.



John Kochanek
7th Gear Brand Manager
12785 Emerson Dr.
Brighton, MI 48116
810.534.1010
john@7thgear.net



WHEN 4 GEARS
AREN'T ENOUGH

Specifications for Two Stroke Oil

NMMA TC-W3 – two cycle water-cooled, third generation. TC-W3 obsoletes TC-W & TC-WII. Oils with this spec do not use metal based additives, and are ashless. *This is an outboard specific spec.*

API TC – only API spec established for two cycle engines. It regulates lubricity, detergency, ash content & pre-ignition. Oils with this spec are typically using metal based, ash producing additives.

JASO FA – original spec established regulating lubricity, detergency, initial torque, exhaust smoke and exhaust system blocking.

JASO FB – increased lubricity, detergency, exhaust smoke and exhaust system blocking requirements over FA.

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ISO-L-EGB – same tests and requirements as JASO FB.

ISO-L-EGC – same tests and slightly higher detergency requirements (piston varnish) as JASO FC.

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- National Marine Manufacturers Association (NMMA) is based in the USA.
- American Petroleum Institute (API) is based in the USA.
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	API	JASO	ISO
		FA	
<i>Good</i>		FB	EGB
<i>Better</i>	TC	FC	EGC
<i>Best</i>		FD	EGD

These specs are established by different governing bodies located in various parts of the world. They all serve the same purpose; to give consumers a quantifiable way to measure the quality of 2 stroke oil.

What does all this mean for your 2 stroke engine?

The toughest spec currently obtainable for two stroke oil is JASO FD/ISO-L-EGD. Any oil listing an JASO FD/ISO-L-EGD rating is preferred for a non-outboard 2 stroke engine. Common sense should tell you, using an oil (including OEM oil) that does not list a rating usually means it does not obtain these ratings, otherwise why would they not want to list on their product.

Moss-Magnuson Warranty Act

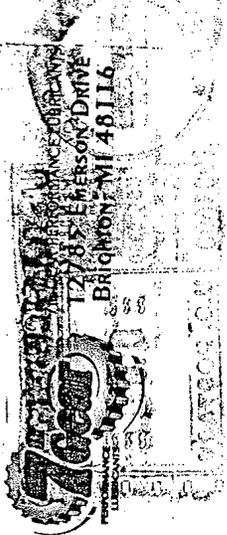
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Small Engine Specifications

JASO vs. ISO

ISO category			EGB		EGC		EGD
JASO category	FA	FB		FC		FD	
Lubricity (LIX)	90 min	95 min	95 min				
Torque (TIX)	98 min	98 min					
Detergency (DIX)	80 min	85 min	85 min	98 min	98 min	125 min *	125 min *
Varnish (VIX)				85 min	90 min	95 min	95 min
Smoke (SIX)	40 min	45 min	45 min	85 min	85 min	85 min	85 min
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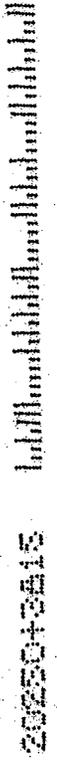
* three hour test



DETROIT MI 482
20 SEP 2006 PM 2



Marvin Duncan, USDA Office of the Chief Economist
Office of Energy Policy & New Uses - Room 4059 South Building
1400 Independence Ave SW., MS 3815
WASHINGTON, DC 20250-3815



3

From: "John Kochanek" <JKochanek@excelda.com>
To: <mduncan@oce.usda.gov>
Date: 9/19/2006 12:24:21 PM
Subject: public comment regarding RIN 0503-AA31, Proposed designation of items *revised*

Marvin,

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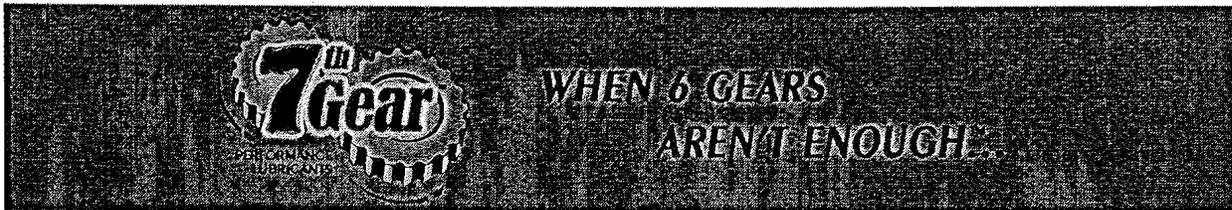
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Smoke (SIX)	40 min	45 min	45 min	85 min	85 min	85 min	85 min	85 r
Blocking (BIX)	30 min	45 min	45 min	90 min	90 min	90 min	90 min	90 r

* three hour test

(4)

From: "Joshua Hutchinson" <jhutchinson@biobased.net>
To: <fb4p@oce.usda.gov>
Date: Tue, Aug 22, 2006 4:24 PM
Subject: RIN #0503-AA30 "Proposed Designation of Items"

In product category 2 of CFR part 2902 you cover Insulating Foam for wall construction and have set the minimum bio content at 8%. We understand the need to try and ensure that there are numerous products in this category but feel it is simple enough to reach 10% that this minimum level should be raised up to 10%. Our first efforts and creating a bio-based foam came in above 10% and we feel anyone who is truly interested in manufacturing bio-based foam insulations should be able to reach the 10% mark.

We also were wondering why it was necessary to do both the E84-05 and E84-05e1. We have never seen anyone test 05e1 and were wondering if it can not be required or what is the reasoning behind the extra requirement?

Also in the life cycle summary of the foam insulation you state that both the environmental score and the life cycle costs in the sense of it being a square foot in most cases foam insulation is measured in board feet which is 1ft. by 1ft. at 1 inch depth. This is important because \$1.10 a square foot is hard to measure without knowing the depth of this insulation. For example our foam installed runs about .40 cents a board foot so at 3 inches deep your costs are \$1.20 for every square inch at 3 inch depth.

The rest of the rule looks pretty good keep up the good work.

Joshua L. Hutchinson

BioBased Insulation

1315 N.13th St.

Rogers, AR 72756

479-636-8585

From: <jhutchinson@biobased.net>
To: <fb4p@oce.usda.gov>
Date: Wed, Aug 23, 2006 9:07 AM
Subject: Insulating Foam for Wall Construction

To Whom It May Concern:

In product category 2 of CFR part 2902 you cover Insulating Foam for wall construction and have set the minimum bio content at 8%. We understand the need to try and ensure that there are numerous products in this category but feel it is simple enough to reach 10% that this minimum level should be raised up to 10%. Our first efforts and creating a bio-based foam came in above 10% and we feel anyone who is truly interested in manufacturing bio-based foam insulations should be able to reach the 10% mark. Thank you for your time on this program and the rest of the rule looks great.

Thank you,

Joshua L. Hutchinson

Director of Government Affairs

BioBased Insulation

www.biobased.net <<http://www.biobased.net/>>

479-636-8585

5

From: "Keith Edwards" <keith.edwards@basf.com>
To: <fb4p@oce.usda.gov>
Date: Wed, Sep 6, 2006 3:22 PM
Subject: RIN 0503-AA30 proposed designation of items

The Biodegradable Containers designation is proposed to only incorporate materials that are 98% biobased. This would severely limit the product selection and material selection options for containers, as suitable containers with 45-80% biobased content are under development and should be commercially viable in 2007. These include the new Ecovio® products from BASF that will be 45-60% biobased and will be extrudable and thermoformable, blow moldable and foamable like traditional plastics. This new class of material, while not yet commercially available, is well suited to biodegradable/compostable containers. Also under development are other additives for PLA based solutions that incorporate 5-10% of a non biobased material to add toughness. These new solutions, while offering enhanced performance and potentially lower cost, would not be allowable under the current proposed designation for Biodegradable Containers.

I would propose the USDA refrain from making the Biodegradable Containers a 98% biobased product in favor of setting the biobased content at a lower level, thereby increasing the number of potential products and materials that would be available. By implementing the 98% limit proposed, the only current material would be PLA, which is in very short supply and is very limited in terms of usage because of heat resistance and impact resistance.

Keith A. Edwards
Styroflex® / Ecoflex® / Ecovio® Product Manager
BASF Corporation
Ph: 513-895-0446
Fx: 513-895-0448

Visit our website for more product information -
www.plasticsportal.com, call our Infopoint Hotline
@ 1-800-238-4075 or email [BASF_INFOPOINT @ basf.com](mailto:BASF_INFOPOINT@basf.com)

CC: <smojo@galatech.org>

6

From: <Kelly.Cooper@bracewellgiuliani.com>
To: <FB4P@oce.usda.gov>
Date: Tue, Oct 17, 2006 8:36 AM
Subject: RE: RIN Number 0503-AA30 - "Proposed Designation of Items"

Mr. Duncan,

Thank you for your swift reply. Your email confirms that you are in receipt of the email and attached letter filed on behalf of Agriboard Industries. You now have all documents filed by us on behalf of our client.

Should you have any questions or concerns, please feel free to contact me.

Best regards,
Kelly Cooper

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

From: Federal Biobased Product Preferred Procurement Program
[mailto:FB4P@oce.usda.gov]
Sent: Monday, October 16, 2006 4:37 PM
To: Cooper, Kelly
Subject: Re: RIN Number 0503-AA30 - "Proposed Designation of Items"

Monday, October 16, 2006

Dear Ms. Cooper:

I have received, opened, and printed your e-mail of Monday, October 16, and the three page accompanying letter signed by Mr. Tim Evans. Do I have everything you intended to include in the e-mail? If so, there is no need to reply.

Marv Duncan
Office of Energy Policy and New Uses
USDA

>>> "Cooper, Kelly" <Kelly.Cooper@bracewellgiuliani.com> 10/16/2006 4:03:23 PM >>>

Please find attached comments filed on behalf of Agriboard Industries on:
RIN 0503-AA30 Proposed Designation of Biobased Items for Federal Procurement, Composite Panels.

Kelly Cooper
Legal Secretary
Bracewell & Giuliani LLP
2000 K Street, NW
Suite 500
Washington, DC 20006
202.419.3759 Tel
202.223.1225 Fax
kelly.cooper@bracewellgiuliani.com

AdmID:8F781C4AFAB5FBF243465985F3C54E4C



A Division of Ryan Development Company, L.C.

8301 E. 21st Street North * Suite 320 * Wichita, KS 67206

Phone: (866) 247-4267 * Fax: (316) 636-9255

<http://www.agriboard.com>

October 16, 2006

Marvin Duncan
U.S. Department of Agriculture
Office of the Chief Economist
Office of Energy Policy and New Uses
Room 4059, South Building
1400 Independence Avenue, SW, MS-3815
Washington, DC 20250-3815

Submitted Via E-Mail To:
fb4p@oce.usda.gov

Re: *Comments Regarding RIN 0503-AA30 Proposed Designation of Biobased Items for Federal Procurement § 2902.19 Composite Panels*

Dear Mr. Duncan:

Agriboard Industries hereby submits comments on the Proposed Designation of Biobased Items for Federal Procurement, Composite Panels, 71 Fed. Reg. 47,566 (August 17, 2006) (to be codified at 29 C.F.R. § 2902.19).

Agriboard Industries produces unique biobased building materials from wheat and rice straw. Our products are both biobased as well as a quicker and more cost-effective alternative to traditional building materials. Agriboard transforms renewable agricultural resources into sustainable, biobased and environmentally engineered structural insulated panels. Agriboard can cut down on construction time and reduce the amount of waste materials produced at a job site. Additionally, Agriboard is energy efficient, mildew resistant, fire safe, and termite and insect resistant.

Agriboard strongly supports the U.S. Department of Agriculture's ("USDA") efforts in this rulemaking to establish guidelines for designating biobased products and establishing eligibility for procurement preferences in certain situations. As a producer of a valuable biobased product, Agriboard applauds this and many other USDA undertakings designed to educate end-users and increase the use of biobased products.

Specifically of interest to Agriboard is Section IV.C.4. of the rulemaking, which would set the minimum biobased content at 26% for composite panels under 29 C.F.R. §2902.19. We believe that this level falls below the minimum goals set for the biobased products procurement program and actually could create a disincentive for expanding biobased product use. Based on the available data in the rulemaking and on our knowledge of our own product, Agriboard recommends setting the minimum content standard at a higher level. We also recommend that

USDA utilize the future rulemaking on a labeling program to move more quickly to create incentives to achieve higher biobased product content levels.

Federal Biobased Products Procurement Program Goals

The Farm Security and Rural Investment Act of 2002 ("2002 Farm Bill") requires the USDA to develop and implement a biobased product procurement program designed to increase demand for agricultural commodities by increasing demand for biobased products. Pub. L. No. 107-171, § 9002, 116 Stat. 134, 476 (2002) (codified as amended at 42 U.S.C. §8102). The Secretary's Memorandum Establishing the USDA Biobased Products Procurement clearly identifies the mission of the USDA: to promote "the increased purchase and use of biobased products" as part of the USDA's responsibilities to "provide leadership on agriculture, natural resources conservation, and related issues based on sound public policy, the best available science, and efficient management." USDA Memorandum 1042-003 (January 19, 2005).

In this rulemaking, USDA identifies the goal of stimulating the production of new biobased products and energizing emerging markets for those products. 71 Fed. Reg. 47,566, 47,570 (August 17, 2006). Additionally, USDA seeks to "spur development of the industrial base through value-added agricultural processing and manufacturing in rural communities." *Id.* Finally, USDA intends through this rule to discourage products with *de minimus* biobased content from being purchased as a means of satisfying the requirements of Section 9002. 71 Fed. Reg. 47,570, 47,581 (August 17, 2006).

Biobased Content Set Above 26% for Composite Panels Would Best Achieve These Goals

Achieving these objectives of expanding markets and encouraging maximum biobased content is possible, but USDA should set the biobased content standard at a higher level than is proposed in the rule. After considering 51 biobased composite panels (and testing 8), USDA proposed in its rule to set the minimum biobased content level for composite panels at 26%, or three (3) percentage points below the product tested with the least amount of biobased content. A 26% standard was adopted in spite of the test results showing a mean content of all products tested of 71%. This standard reflects the content of the lowest 12% of the products tested. Setting the standard below the level of content of the product with the lowest biobased content is inconsistent with the goal of discouraging the use of products with *de minimus* biobased content to satisfy the requirements of Section 9002. Rather, setting a higher level truly would encourage expanded use of agricultural products in biobased products. A higher biobased content level would also have a greater positive impact on rural communities by providing new and expanded markets for agricultural producers and expanding the manufacturing base in those communities.

Testing More Products Would Provide Representative Data for USDA's Decision

Agriboard is also concerned that in its rulemaking, USDA considers 51 products but tests only 8. The Administrative Procedures Act and related authorities require that the record fully support the Secretary's decision. 5 U.S.C. § 500 *et. seq.* (2000). Because such few products – less than 16% of all products considered – were tested, the testing is not likely to be representative of the

other products available. With the median of tested products at 71% content, and 4 products testing at >90% content, it is realistic to expect that other products, if tested, would provide important additional support for setting the content standard at a higher level than the product with the lowest content. Further, the fact that 75% of the products tested at >50% content clearly demonstrates that products with the necessary performance-based characteristics can be developed and procured for the stated federal purposes with a level of biobased content substantially higher than 26%.

Recommendations

The USDA should seek to set a level of biobased content for composite panels above 26% to meet its own mission of providing leadership to agricultural communities as well as the goals of the Federal Biobased Products Procurement Program. Only a higher level will achieve Congress's goals in the 2002 Farm Bill to encourage expanded use of agricultural products and encourage higher levels of biobased content in manufactured products.

In addition, Agriboard recommends that these matters be addressed when USDA establishes the labeling option authorized by the 2002 Farm Bill. Pub. L. No. 107-171, § 9002, 116 Stat. 134, 476 (2002) (codified as amended at 42 U.S.C. § 8102). That legislation authorizes the Secretary to establish a voluntary program to permit producers of biobased products to use the label "USDA Certified Biobased Product." Agriboard urges USDA to reserve the label for higher-content products or alternatively to require manufacturers, as a condition of using the label, to identify the specific percentage of biobased content of the product. As Congress intended, the labeling option should be used as a method to create incentives to encourage the maximum amount of biobased content in products.

Agriboard appreciates this opportunity to comment on the proposed rule. We look forward to continuing to work with USDA to expand markets for agricultural products and support natural resource conservation through the increased use of biobased products in the U.S. and other nations. If you have any questions, please do not hesitate to contact me.

Sincerely,



Tim Evans
Vice President, Sales and Marketing
Agriboard Industries

From: "Cooper, Kelly" <Kelly.Cooper@bracewellgiuliani.com>
To: <fb4p@oce.usda.gov>
Date: Mon, Oct 16, 2006 4:05 PM
Subject: RIN Number 0503-AA30 - "Proposed Designation of Items"

①

Please find attached comments filed on behalf of Agriboard Industries on:
RIN 0503-AA30 Proposed Designation of Biobased Items for Federal Procurement, Composite Panels.

Kelly Cooper
Legal Secretary
Bracewell & Giuliani LLP
2000 K Street, NW
Suite 500
Washington, DC 20006
202.419.3759 Tel
202.223.1225 Fax
kelly.cooper@bracewellgiuliani.com



A Division of Ryan Development Company, L.C.

8301 E. 21st Street North * Suite 220 * Wichita, KS 67206

Phone: (660) 287-0067 * Fax: (616) 636-9288

<http://www.agriboard.com>

October 16, 2006

Marvin Duncan
U.S. Department of Agriculture
Office of the Chief Economist
Office of Energy Policy and New Uses
Room 4059, South Building
1400 Independence Avenue, SW, MS-3815
Washington, DC 20250-3815

Submitted Via E-Mail To:
fb4p@oce.usda.gov

Re: *Comments Regarding RIN 0503-AA30 Proposed Designation of Biobased Items for Federal Procurement § 2902.19 Composite Panels*

Dear Mr. Duncan:

Agriboard Industries hereby submits comments on the Proposed Designation of Biobased Items for Federal Procurement, Composite Panels, 71 Fed. Reg. 47,566 (August 17, 2006) (to be codified at 29 C.F.R. § 2902.19).

Agriboard Industries produces unique biobased building materials from wheat and rice straw. Our products are both biobased as well as a quicker and more cost-effective alternative to traditional building materials. Agriboard transforms renewable agricultural resources into sustainable, biobased and environmentally engineered structural insulated panels. Agriboard can cut down on construction time and reduce the amount of waste materials produced at a job site. Additionally, Agriboard is energy efficient, mildew resistant, fire safe, and termite and insect resistant.

Agriboard strongly supports the U.S. Department of Agriculture's ("USDA") efforts in this rulemaking to establish guidelines for designating biobased products and establishing eligibility for procurement preferences in certain situations. As a producer of a valuable biobased product, Agriboard applauds this and many other USDA undertakings designed to educate end-users and increase the use of biobased products.

Specifically of interest to Agriboard is Section IV.C.4. of the rulemaking, which would set the minimum biobased content at 26% for composite panels under 29 C.F.R. §2902.19. We believe that this level falls below the minimum goals set for the biobased products procurement program and actually could create a disincentive for expanding biobased product use. Based on the available data in the rulemaking and on our knowledge of our own product, Agriboard recommends setting the minimum content standard at a higher level. We also recommend that

USDA utilize the future rulemaking on a labeling program to move more quickly to create incentives to achieve higher biobased product content levels.

Federal Biobased Products Procurement Program Goals

The Farm Security and Rural Investment Act of 2002 ("2002 Farm Bill") requires the USDA to develop and implement a biobased product procurement program designed to increase demand for agricultural commodities by increasing demand for biobased products. Pub. L. No. 107-171, § 9002, 116 Stat. 134, 476 (2002) (codified as amended at 42 U.S.C. §8102). The Secretary's Memorandum Establishing the USDA Biobased Products Procurement clearly identifies the mission of the USDA: to promote "the increased purchase and use of biobased products" as part of the USDA's responsibilities to "provide leadership on agriculture, natural resources conservation, and related issues based on sound public policy, the best available science, and efficient management." USDA Memorandum 1042-003 (January 19, 2005).

In this rulemaking, USDA identifies the goal of stimulating the production of new biobased products and energizing emerging markets for those products. 71 Fed. Reg. 47,566, 47,570 (August 17, 2006). Additionally, USDA seeks to "spur development of the industrial base through value-added agricultural processing and manufacturing in rural communities." *Id.* Finally, USDA intends through this rule to discourage products with *de minimus* biobased content from being purchased as a means of satisfying the requirements of Section 9002. 71 Fed. Reg. 47,570, 47,581 (August 17, 2006).

Biobased Content Set Above 26% for Composite Panels Would Best Achieve These Goals

Achieving these objectives of expanding markets and encouraging maximum biobased content is possible, but USDA should set the biobased content standard at a higher level than is proposed in the rule. After considering 51 biobased composite panels (and testing 8), USDA proposed in its rule to set the minimum biobased content level for composite panels at 26%, or three (3) percentage points below the product tested with the least amount of biobased content. A 26% standard was adopted in spite of the test results showing a mean content of all products tested of 71%. This standard reflects the content of the lowest 12% of the products tested. Setting the standard below the level of content of the product with the lowest biobased content is inconsistent with the goal of discouraging the use of products with *de minimus* biobased content to satisfy the requirements of Section 9002. Rather, setting a higher level truly would encourage expanded use of agricultural products in biobased products. A higher biobased content level would also have a greater positive impact on rural communities by providing new and expanded markets for agricultural producers and expanding the manufacturing base in those communities.

Testing More Products Would Provide Representative Data for USDA's Decision

Agriboard is also concerned that in its rulemaking, USDA considers 51 products but tests only 8. The Administrative Procedures Act and related authorities require that the record fully support the Secretary's decision. 5 U.S.C. § 500 *et. seq.* (2000). Because such few products – less than 16% of all products considered – were tested, the testing is not likely to be representative of the

other products available. With the median of tested products at 71% content, and 4 products testing at >90% content, it is realistic to expect that other products, if tested, would provide important additional support for setting the content standard at a higher level than the product with the lowest content. Further, the fact that 75% of the products tested at >50% content clearly demonstrates that products with the necessary performance-based characteristics can be developed and procured for the stated federal purposes with a level of biobased content substantially higher than 26%.

Recommendations

The USDA should seek to set a level of biobased content for composite panels above 26% to meet its own mission of providing leadership to agricultural communities as well as the goals of the Federal Biobased Products Procurement Program. Only a higher level will achieve Congress's goals in the 2002 Farm Bill to encourage expanded use of agricultural products and encourage higher levels of biobased content in manufactured products.

In addition, Agriboard recommends that these matters be addressed when USDA establishes the labeling option authorized by the 2002 Farm Bill. Pub. L. No. 107-171, § 9002, 116 Stat. 134, 476 (2002) (codified as amended at 42 U.S.C. § 8102). That legislation authorizes the Secretary to establish a voluntary program to permit producers of biobased products to use the label "USDA Certified Biobased Product." Agriboard urges USDA to reserve the label for higher-content products or alternatively to require manufacturers, as a condition of using the label, to identify the specific percentage of biobased content of the product. As Congress intended, the labeling option should be used as a method to create incentives to encourage the maximum amount of biobased content in products.

Agriboard appreciates this opportunity to comment on the proposed rule. We look forward to continuing to work with USDA to expand markets for agricultural products and support natural resource conservation through the increased use of biobased products in the U.S. and other nations. If you have any questions, please do not hesitate to contact me.

Sincerely,



Tim Evans
Vice President, Sales and Marketing
Agriboard Industries

From: "Jacqueline L. Garmier" <jgarmier@renewablelube.com>
To: "Marvin Duncan" <FB4P@oce.usda.gov>
Date: Mon, Oct 16, 2006, 3:52 PM
Subject: RIN for Round 3 is 0503-AA31

8

Dear Marvin, These are my Comments to Round 3. Thank you for the fine work that you are performing on the designated items. These comments are only to help all biobased manufactures succeed in the market of selling to the government. Giving an unfair advantage to the petroleum companies will not help biobased manufactures of biobased lubricants sell in the future and stay in business.

Metalworking Fluids - Products formulated for use in a re-circulating fluid system to provide cooling, lubrication, and corrosion prevention when applied to metal feedstock during operations such as grinding and machining.

2-Cycle engine oils - Lubricants formulated to provide clean-burning lubrication, decreased spark plug fouling, reduced deposit formation, and reduced engine wear in 2-cycle gasoline engines. This needs to be modified to make better understanding.

This product is totally lost into the environment. In Marine applications the 2-Cycle oil is directly discharged into the water.

Why not just use a full petroleum product and save your money? This low of a content will ruin biobased manufactures in the market. The petroleum companies will just add enough veg oil to meet the minimum and we loose our product advantage to the big petroleum companies. The EU Two Cycle oils are at least biodegradable. 7% biobased content will not even pass the ASTM-5865 Biodegradation Classification

This is a quote from the industry and describes the products used in Montana years ago.
"(Castrol) Formula XPS synthetic two-stroke oil (a synthetic biodegradable lube with solvent) which is biodegradable and produces lower particulate emissions; and TORCO Synthetic Smoke-Less 2-Cycle Oil, a fully synthetic lube oil that is low particulate but not biodegradable."

Stationary equipment hydraulic fluids - Hydraulic fluids formulated for use as a mechanical power transmission medium (and to provide wear, rust, and oxidation protection) in the hydraulic systems of stationary equipment. This needs to be modified to make better understanding.

Greases - Lubricants composed of oils thickened with soaps or other thickeners to a semisolid or solid consistency.

This needs to be modified to make better understanding.

Food grade grease - Lubricants that are designed for use on food-processing equipment as a protective anti-rust film, as a release agent on gaskets or seals of tank closures, or on machine parts and equipment in locations in which there is exposure of the lubricated part to food. Used where the lubricants may have incidental contact with the Food.

Too High of a biobased content Lower to 40%

We will not be able to get the proper EP additives to make NLGI EP Grease #2 When formulating a grease the additives and thickeners are not biobased at this time. In order to formulate a high performance FG grease we need to use these additives. This higher content will keep us under the biobased content when formulating a NLGI # 2 and # 1.

Multipurpose grease - Lubricants that are designed for general use. This could have a better definition. This needs to be modified to make better understanding.

Multipurpose Grease content is Too High of a biobased content Please Lower to 40%

We will not be able to get the proper EP additives to make NLGI EP Grease #2. When formulating a grease the additives and thickeners are not biobased at this time. In order to formulate a high performance Multipurpose grease we need to use these additives. This higher content will keep us under the biobased content when formulating a NLGI # 2 and # 1.

Rail track grease - Lubricants that are designed for use on railroad tracks or heavy crane tracks. This needs to be modified to make better understanding. Very low at least 50% TOTAL lost in the environment

Truck grease - Lubricants that are designed for use on the fifth wheel of tractor trailer trucks onto which the semi-trailer rests and pivots. Too High of a biobased content Lower to 50%. We will not be able to get the proper additives to make NLGI EP Grease #2

Greases not elsewhere specified - Lubricants that meet the general definition of greases as defined in the rule, but are not one of the specifically defined greases in the rule. This needs to be modified to make better understanding.

Too High of a biobased content Lower to 50%. We will not be able to get the proper additives to make NLGI EP Grease #2

RLI suggested content

Metalworking fluids

40%

2-Cycle engine oils

7% Very low at least 50% TOTAL Lost

Stationary equipment hydraulic fluids

46%

Food grade grease

42% High 40%

Multipurpose grease

73% Very High 40%

Rail track grease

30% Low at least 50% TOTAL Lost

Truck grease

72% Very high 50%

Greases not elsewhere specified

75% Very high 50%

Marvin, Perhaps you need another Stakeholder Meeting to clear up some of the definitions and the biobased content. Having read the definitions I think we you should go back to the OEM definitions of for example Two Cycle Engine oil.

Please call if you have any questions.

Best regards,

Jackie

Jacqueline L. Garmier, President
Renewable Lubricants, Inc.
476 Griggy Rd. N.E., P.O. Box 474
Hartville, OH 44632-0474
Voice: 330-877-9982
Fax: 330-877-2266
Mobile: 330-704-1239
Web: www.renewablelube.com

CC: "Marvin R. Duncan" <Mduncan@oce.usda.gov>

9

From: <kstanton@sдахq.org>
To: <fb4p@oce.usda.gov>
Date: ~~Mon, Oct 16, 2006 3:36 PM~~
Subject: 0503-AA31: Proposed Designation of Items

Please find attached below our comments on the amendments to 7 CFR part 2902, Guidelines for Designating Biobased Products for Federal Procurement.

Please contact me with any questions,
Kathleen Stanton
Associate Director, Scientific Affairs
The Soap and Detergent Association
1500 K Street, NW
Suite 300
Washington, DC 20005
P 202.662.2513 (direct dial)
F 202.347.4110

(See attached file: SDA comments on USDA's proposed rule on biobased glass cleaners 101606.pdf)



The Soap and Detergent Association

October 16, 2006

Marvin Duncan
U.S. Department of Agriculture (USDA)
Office of the Chief Economist
Office of Energy Policy and New Uses
Rm 4059, South Building
1400 Independence Avenue, SW, MS-3815
Washington, DC 20250-3815

RE: RIN number 0503-AA31: Proposed Designation of Items

Dear Dr. Duncan:

The Soap and Detergent Association (SDA) appreciates the opportunity to comment on U.S. Department of Agriculture's (USDA) notice on *Designation of Biobased Items for Federal Procurement* published in the August 17, 2006 Federal Register.

The Soap and Detergent Association is a 100 plus-member national trade association representing the formulators of soaps, detergents and general cleaning products used in household, industrial, institutional and commercial settings, and the companies that supply ingredients and packaging for these products. SDA members produce products covered by the notice, as well as supply their ingredients.

We are concerned that industry groups representing manufacturers of the covered products, such as SDA, were not contacted during the industry investigation phase. SDA has provided our contact information, along with that of other trade organizations representing these manufacturers. From reading the background information, it appears that the web-based searches targeted only those companies or organizations that claim to have biobased products. SDA member also formulate with raw materials from animal and plant sources. In fact, almost all of the fats and oils used to produce soaps and many surfactants come from oleochemicals. SDA recommends that USDA reevaluate the criteria with which they conducted their industry investigation to use terms which would not exclude SDA members' products without scientific reason.

While SDA does not do inventories of all our members' products, a survey in 2003 by the California Air Resources Board (ARB) provides an example of the extent of products overlooked by USDA. That survey identified 127 aerosol glass cleaners sold in the state of California alone. We are therefore highly concerned that USDA's data collection methods are deficient. We recommend that a very thorough evaluation of glass cleaners be undertaken before finalizing the designation of biobased products. Logic also follows that the assessments performed (both BEES and biobased content) may not be representative of all products on the market; rather, they

represent a small subset of products. These assessments should also be expanded to be representative of the market for these products.

We are particularly concerned that, even though three of seven products have biobased content under 1%, the minimum biobased material content is 23%. Because the biobased testing standard is based on carbon, ammonia (NH₃)-based glass cleaners percentages will be very low, even though it is produced naturally by the conversion of a gas (i.e. methane). The rulemaking should demonstrate that the products evaluated are representative of the total market.

SDA also recommends that the ASTM active standard D6866-06 (standard test methods for determining the biobased content of natural range materials using radiocarbon and isotope ratio mass spectrometry analysis) replace the historical D6866-04.

We recommend that the standard for performance should not be restricted to the US Navy #NASEA 6840 and Green Seal GS-37 methods but must include other methods such as the EPA Design for the Environment (DfE) performance standards, or other science-based performance criteria. All test methods should be thoroughly researched and evaluated and, if relevant, included in the proposed rule.

Within the products that were identified as Glass Cleaners, some do not seem accurate to the proposed definition. One is described as a "... (product) is for use on bathroom mirrors, goggles, or any lens surface where confined areas tend to mist or fog. Forms an invisible shield, or film, that keeps mirrors, car windows, glass, goggles, lenses and plastic, free from mist, steam, or fogging." We recommend the category be clearly defined and restricted to glass cleaners only.

Summary and Conclusions

We thank the USDA for providing us the opportunity to comment on the proposed rule. SDA recommends that a more thorough investigation be conducted by USDA prior to the publication of a final rule. SDA also recommends the definition of the category be refined based on our input, and that analyses be carried out on products that represent the full range of the product category and appear to have been overlooked in USDA's initial investigation.

The Soap and Detergent Association invites USDA to contact us with any further questions.

Sincerely,

Kathleen Stanton

Kathleen Stanton
Associate Director, Scientific Affairs

Industry Contacts: Glass Cleaners

The Soap and Detergent Association (SDA)
1500 K Street, NW, Suite 300
Washington, DC 20005
Telephone: 202.347.2900 Fax: 202.347.4110
www.sdahq.com
Contact Person: Kathleen Stanton

Consumer Specialty Products Association (CSPA)
1101 17th Street, NW, Suite 300
Washington D.C. 20036
Telephone: 202.331.1770 Fax: 202.331.1969
www.ctfa.org

From: <kstanton@sdaq.org>
To: <fb4p@oce.usda.gov>
Date: Mon, Oct 16, 2006 3:35 PM
Subject: 0503-AA30: Proposed Designation of Items

10

Please find attached below our comments on the amendments to 7 CFR part 2902, Guidelines for Designating Biobased Products for Federal Procurement.

Please contact me with any questions,
Kathleen Stanton
Associate Director, Scientific Affairs
The Soap and Detergent Association
1500 K Street, NW
Suite 300
Washington, DC 20005
P 202.662.2513 (direct dial)
F 202.347.4110

(See attached file: SDA comments on USDA's proposed rule on biobased hand sanitizers and cleaners 101606.pdf)



The Soap and Detergent Association

October 16, 2006

Marvin Duncan
 U.S. Department of Agriculture (USDA)
 Office of the Chief Economist
 Office of Energy Policy and New Uses
 Rm 4059, South Building
 1400 Independence Avenue, SW, MS-3815
 Washington, DC 20250-3815

RE: RIN number 0503-AA30: Proposed Designation of Items

To Whom It May Concern:

The Soap and Detergent Association (SDA) appreciates the opportunity to comment on U.S. Department of Agriculture's (USDA) notice on *Designation of Biobased Items for Federal Procurement* published in the August 17, 2006 Federal Register.

The Soap and Detergent Association is a 100 plus-member national trade association representing the formulators of soaps, detergents and general cleaning products used in household, industrial, institutional and commercial settings, and the companies that supply ingredients and packaging for these products. SDA members produce products covered by the notice, as well as supply their ingredients.

We are concerned that industry groups representing manufacturers of the covered products, such as SDA, were not contacted during the industry investigation phase. SDA has provided our contact information, along with that of other trade organizations representing these manufacturers. From reading the background information, it appears that the web-based searches targeted only those companies or organizations that claim to have biobased products. Because of the very chemistry of soapmaking, many SDA members also formulate with raw materials from animal and plant sources. In fact, almost all of the fats and oils used to produce soaps and many surfactants come from oleochemicals. SDA recommends that USDA reevaluate the criteria with which they conducted their industry investigation to use terms which would not exclude SDA members and products without scientific reason.

While SDA does not do inventories of all our members' products, a survey in 2003 by the California Air Resources Board (ARB) identified 291 antimicrobial hand or body cleaners or soaps, 43 antimicrobial dry hand washes, 497 general hand or body cleaners or soaps, 26 hand wipe towelettes, and 87 products in a category of other hand cleaners, sanitizers, and soaps sold in the state of California alone. We are therefore highly concerned that your data collection methods are deficient. We recommend a very thorough evaluation of both the hand cleaners and sanitizers. Logic also follows that the assessments performed (both BEES and biobased content) may not be representative of all products on the market; rather, they represent a small subset of products. The rulemaking should demonstrate that the products evaluated are representative of the market.

1500 K Street, N.W., Suite 300, Washington, D.C. 20005 • (202) 347-2900 • (202) 347-4110 • www.cleaning101.com

SDA recommends that USDA create subcategories within the item currently designated "hand cleaners and sanitizers". Beyond the differences in product forms (e.g., bar soap, gels, foams, towelettes), practices (use with or without water), or use scenarios (home, food preparation, healthcare, etc), SDA recommends the category be broken into cleaners and products that make antimicrobial claims, such as sanitizers. Cleaners are formulated to remove dirt, oils or anything else that may be on the surface of the skin. These products get their cleaning action from soap, other surfactants, or a combination of the two. Sanitizers are formulated to kill microorganisms. This distinction should be reflected in the ruling, by sub-categorizing products and defining the categories accordingly. Also, the ruling should follow FDA formulation specifications for specific uses.

USDA currently acknowledges three performance standards (namely ATCC 11229, ATCC 6358, and ATCC 6539). These measure the sanitizing action of disinfectants (via kill or inhibition) and do not address removal (which is what hand cleaners are designed to do). SDA recommends adding skin surface removal standards to the rulemaking.

Within the products that were identified as Hand Cleaners and Sanitizers, some do not seem accurate to the proposed definition, or separate definitions for hand cleaners and sanitizers. One is described as a "whole body shampoo" for skin and hair. We recommend the category be restricted to hand cleaners and sanitizers.

Summary and Conclusions

We thank the USDA for providing us the opportunity to comment on the proposed rule. SDA recommends that a more thorough industry investigation be conducted prior to the publication of a final rule. SDA also recommends the definition of the category be refined based on our input, and that more analyses are carried out on products not found in the initial investigation.

The Soap and Detergent Association invites USDA to contact us with any further questions.

Sincerely,

Kathleen Stanton

Kathleen Stanton
Associate Director, Scientific Affairs

Industry Contacts

The Soap and Detergent Association (SDA)
1500 K Street, NW, Suite 300
Washington, DC 20005
Telephone: 202.347.2900 Fax: 202.347.4110
www.cleaning101.com
Contact Person: Kathleen Stanton

The Cosmetic, Toiletries and Fragrance Association
1101 17th Street, NW, Suite 300
Washington D.C. 20036
Telephone: 202.331.1770 Fax: 202.331.1969
www.ctfa.org

11

From: "McNeill, Mike A (HQ-LD020)" <mike.a.mcneill@nasa.gov>
To: <fb4p@oce.usda.gov>
Date: Mon, Oct 16, 2006 3:10 PM
Subject: RIN number 0503-AA30 , "Proposed Designation of Items"

The National Aeronautics and Space Administration (NASA) appreciates the opportunity to participate in reviewing and providing comments on this proposed rule. NASA has found two areas of concern which may limit the procuring agencies' effectiveness in carrying out this and future USDA proposed rules for biobased products: (1) obtaining complete data to perform a proper analysis and; (2) BEES lack of flexibility or differentiation in weighting factors in product analysis.

First, without access to complete data for purchasing analysis (e.g., product availability, relative price and performance, environmental and public health benefits), procuring agencies may incorrectly assess product attributes which may potentially result in unintended consequences---unsatisfactory procurement decisions. NASA recognizes USDA's challenge in providing complete information given that a biobased product market is still in its infancy. However, it seems ill-advised to proceed with designating products for which "...Information on the availability, relative price, performance, and environmental and public health benefits of individual products within each of these 10 items is not presented..." (quote from page 47568 of FedReg notice).

Secondly, NASA recommends re-evaluating the BEES weighing standards. The concern is applying weighing factors to the proposed designated products consistently can lead to counter-intuitive conclusions. In some cases, a differentiation of weighing factors needs to be considered. We are further concerned about how the BEES weighting factors were selected. They seem to be the same for all products. For example, the Eutricification weighting (5%) is the same for Fertilizers as it is for Metalworking Fluids, Carpets, etc. Similarly, we are concerned about the utility of the BEES analysis results, which seem to be unaffected by such a broad range of unit prices as \$17.64 and \$132.00 (Fertilizers) or \$89.06 and \$983.00 (Glass Cleaners). Before items are designated for procurement, more information about the supporting analysis must be disclosed.

If you have questions or desire clarification regarding these recommendations, please contact Mike McNeill, NASA Headquarters, Environmental Management Division at (202) 358-1886 or mike.a.mcneill@nasa.gov.

=====
Mike A. McNeill, P.E.
Environmental Engineer
Environmental Management Division
NASA Headquarters
Suite 5E39, Room 5A30
300 E Street SW
Washington, DC 20546-0001
(202) 358-1886 FAX (909) 380-8607

12

From: "McNeill, Mike A (HQ-LD020)" <mike.a.mcneill@nasa.gov>
To: <fb4p@oce.usda.gov>
Date: ~~Mon, Oct 16, 2006 3:11 PM~~
Subject: RIN number 0503-AA31 , "Proposed Designation of Items"

The National Aeronautics and Space Administration (NASA) appreciates the opportunity to participate in reviewing and providing comments on this proposed rule. NASA has found two areas of concern which may limit the procuring agencies' effectiveness in carrying out this and future USDA proposed rules for biobased products: (1) obtaining complete data to perform a proper analysis and; (2) BEES lack of flexibility or differentiation in weighting factors in product analysis.

First, without access to complete data for purchasing analysis (e.g., product availability, relative price and performance, environmental and public health benefits), procuring agencies may incorrectly assess product attributes which may potentially result in unintended consequences---unsatisfactory procurement decisions. NASA recognizes USDA's challenge in providing complete information given that a biobased product market is still in its infancy. However, it seems ill-advised to proceed with designating products for which "...Information on the availability, relative price, performance, and environmental and public health benefits of individual products within each of these 10 items is not presented..." (quote from page 47568 of FedReg notice).

Secondly, NASA recommends re-evaluating the BEES weighing standards. The concern is applying weighing factors to the proposed designated products consistently can lead to counter-intuitive conclusions. In some cases, a differentiation of weighing factors needs to be considered. We are further concerned about how the BEES weighting factors were selected. They seem to be the same for all products. For example, the Eutrification weighting (5%) is the same for Fertilizers as it is for Metalworking Fluids, Carpets, etc. Similarly, we are concerned about the utility of the BEES analysis results, which seem to be unaffected by such a broad range of unit prices as \$17.64 and \$132.00 (Fertilizers) or \$89.06 and \$983.00 (Glass Cleaners). Before items are designated for procurement, more information about the supporting analysis must be disclosed.

If you have questions or desire clarification regarding these recommendations, please contact Mike McNeill, NASA Headquarters, Environmental Management Division at (202) 358-1886 or mike.a.mcneill@nasa.gov.

=====

Mike A. McNeill, P.E.
Environmental Engineer
Environmental Management Division
NASA Headquarters
Suite 5E39, Room 5A30
300 E Street SW
Washington, DC 20546-0001
(202) 358-1886 FAX (909) 380-8607