

Biobased Diesel Companies Petition EPA For Rules Comparable to Traditional Diesel

Oct. 21 — Biodiesel fuel manufacturers submitted two petitions to the Environmental Protection Agency Oct. 21 asking it to give them the same exemption from reporting requirements as petroleum-based diesel manufacturers.

The Biobased and Renewable Products Advocacy Group (BRAG) filed the petitions in an attempt to be exempted through either of two mechanisms allowed under Toxic Substances Control Act rules.

Petroleum-derived diesel already is exempt from certain Chemical Data Reporting (CDR) rule requirements, BRAG wrote in both petitions.

That means the EPA's current rule provides regulatory relief to petroleum-derived diesel but not to the biobased chemicals that are used in conjunction with or as replacements for the petroleum-based compounds, BRAG's petitions say.

If the EPA rejects the petitions, biodiesel manufacturers will be subject to certain Chemical Data Reporting Rule requirements while manufacturers of the petroleum-derived versions of these fuels are not, Kathleen Roberts, BRAG's executive director, told Bloomberg BNA.

That means biodiesel producers would have to spend a significant amount of time and money gathering information and providing it to the EPA, she said.

The chemicals both types of manufacturers make are very similar, serve the same purpose and are managed in equivalent ways, BRAG's petitions said.

Chemical Data Reporting Rule

The Chemical Data Reporting rule requires manufacturers and importers to periodically submit production volume and other basic information concerning chemicals they make in or import into the U.S. The next CDR reports are due in 2016.

Chemical manufacturers already are preparing for those reports, because companies must provide the EPA with production volume data for 2012, 2013, 2014 and 2015.

Under the CDR, manufacturers that make or import 25,000 pounds or more of a chemical at a site during any of the years 2012-2015 will have to provide the agency with production volumes for all four years when they file their 2016 reports.

Processing, Use Information

In addition, companies that make or import 25,000 pounds or more of a chemical in 2015 must file processing and use information in 2016, the EPA said on a website describing the future requirements.

Processing and use information includes whether the chemical is used for industrial purposes or for consumer products and whether the chemical would be expected to be present in children's products.

Two Ways to Be Exempted

The CDR rule provides two ways chemicals can be exempted from the requirement that their manufacturers report processing and use information, BRAG's petitions said. The section of the regulation that provides these partial exemptions is called "chemical substances for which information is not required" 40 C.F.R. Section 711.6.

First, the EPA can issue a regulation authorized by Section 8 of TSCA and exempt one or more chemicals from reporting processing and use information, said the BRAG petition that asked the agency

to undertake such a rulemaking.

Companies making hundreds of chemicals do not have to file the processing and use information because the chemicals are included in the “Petroleum Process Streams” list that exempts them under 40 C.F.R. 711.6(b)(1).

Second, the EPA can add a chemical to its “partially exempt chemical substances” list found in 40 C.F.R. 711.6(b)(2)(iv), BRAG's second petition said.

Different Timelines for Each Mechanism

This second mechanism is quicker than the first, because the EPA is required to respond to requests to amend the partially exempted chemical substances list within 120 days, that petition said.

The first mechanism, which would require rulemaking authorized by Section 21 of TSCA, could take years to complete, BRAG said.

Time is critical, Roberts told Bloomberg BNA.

Processing and use information from calendar year 2015 must be reported in 2016, she said.

“Companies want to know whether they need to compile that information for biodiesel or not,” Roberts said.

Biobased Diesel Chemicals

BRAG intended for both petitions to address six chemicals:

- tallow, methyl ester (CAS No. 61788-61-2);
- soy oil, methyl ester (CAS No. 67784-80-9);

- canola oil, methyl ester (CAS No. 129828-16-6);
- fatty acids, corn-oil, methyl esters (CAS No. 515152-40-6);
- fatty acids, C16-18 and C18-unsaturated, methyl esters (CAS No. 67762-38-3); and
- fatty acids, C14-18 and C16-18-unsaturated, methyl esters (CAS No. 67762-26-9).

Canola oil was inadvertently omitted from one of the petitions, Roberts said.

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For More Information

BRAG's petition asking the agency to use its TSCA Section 21 authority to partly exempt biodiesel chemicals from Chemical Data Reporting rule requirements is available at <http://op.bna.com/env.nsf/r?Open=prio-9q4ru7>.

BRAG's petition asking the agency to add the chemicals to the list of compounds that are partially excluded from the CDR is available at <http://op.bna.com/env.nsf/r?Open=prio-9q4rjr>.

The EPA's website describing the 2016 reporting obligations is available at <http://www.epa.gov/oppt/cdr/tools/index.html>.

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