



National Biodiesel Board	National Biodiesel Board
605 Clark Ave.	1331 Pennsylvania Ave., NW
PO Box 104898	Suite 505
Jefferson City, MO 65110-4898	Washington, DC 20004
(800) 841-5849 <i>phone</i>	(202) 737-8801 <i>phone</i>
(573) 635-7913 <i>fax</i>	www.biodiesel.org

February 6, 2014

The Honorable Gina McCarthy
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., N.W.
Washington, D.C. 20460

Re: Follow up to our letter dated November 13, 2013 regarding the application by CARBIO, et. al. on behalf of biodiesel companies from Argentina related to the "Alternative Renewable Biomass Tracking Requirement" (40 C.F.R. § 80.1454(h))

Dear Administrator McCarthy:

We appreciate your recent comments in a speech to the National Association of State Departments of Agriculture in Reston, Va., where you hinted that the agency is reconsidering its 2014 RVO under the RFS2 program. According to Politico, you said, "I have heard loud and clear that you don't think we hit that right," Given all the feedback, you added, the final rule will be "in a shape that you will see that we have listened to your comments" and will continue to move the biofuels industry forward.

What you may not know is that under your proposal, the biodiesel industry will be hit harder than any other biofuel. Your comments are encouraging because the proposed rule will cut our production nearly in half from our production run rates in 2013. However, it is difficult to interpret just what your words mean, or the degree to which the agency may be reconsidering its proposal.

The combined pressures of the proposed rule related to the 2014-15 RVOs and the loss of production we are already facing magnifies the impact of every additional decision EPA is making that is related to biodiesel. Specifically, pending at EPA is an application from producers in Argentina that, if approved, would allow at least hundreds of millions of new gallons of imported biodiesel to come to the United States – these gallons would displace domestic biodiesel production. Also pending is your Quality Assurance Plan proposal and Pathways II Technical amendments that specifically address how EPA intends to address biofuel imports. Clearly the four issues are related.

We are concerned about every decision EPA makes that could negatively impact the domestic biodiesel industry and the decision on Argentina is one of those decisions. The discussions your team has undertaken related to the Argentina application without any input or discussion with the U.S. biodiesel industry is troubling. This is not a simple application process, nor should it be decided in a vacuum; but rather, a major policy decision that should be discussed with the domestic biodiesel industry, the U.S. Department of Agriculture, the U.S. Department of State, the U.S. Trade Representative and the White House. Additionally, the decision should be made within the context of the pending final rule related to the 2014-15 RVOs for Biomass-based Diesel and the pending final rules on Quality Assurance Plans and Pathways II.

Energy security and domestic jobs are two central goals often highlighted under the Energy Independence and Security Act of 2007 (EISA) and the RFS. As we have stated many times, the U.S. domestic biodiesel industry has the capacity and feedstocks available to produce dramatically more biodiesel than is used by the U.S. marketplace or that has been required under the RFS. For the past year we have encouraged EPA to incorporate into its annual RVO analysis a discussion related to imported volumes. Nevertheless, EPA's Notice of Proposed Rule Making

(NPRM) related to 2014-15 RVO's proposal did not consider the potential for biodiesel from Argentina to enter the market. Given EPA's proposed biomass-based diesel volume of 1.28 billion gallons for both 2014 and 2015, if EPA were to add additional foreign capacity to an already overfull domestic U.S. marketplace then domestic biodiesel producers would be further disadvantaged. In 2013, according to EMTS data, and without Argentina production qualifying, biomass-based diesel importers already generated more than 400 million RIN gallons.

Under the pending application, biodiesel companies from Argentina put forward a "survey plan" that supposedly would give EPA confidence that the companies are meeting the renewable biomass definition without having to map and track the feedstock as required by regulation. The survey plan would seek to establish that the feedstock (in this case soybean oil) actually comes from a field of soybeans grown in Argentina on land that was producing agricultural crops on or before December 19, 2007 (as opposed to soybeans from the United States or Brazil that are often shipped to Argentina to be further processed into meal and oil). The Argentinian biodiesel industry produces up to 1 billion gallons of biodiesel each year and much of that production comes from soybeans that are not grown in Argentina. Additionally, the Argentinian government props up its biodiesel production through a Differential Export Tax (DET) program. Where the export tax that Argentina has historically charged on the raw material (soy oil) has been higher than the tax charged on exports of biodiesel. In other words, Argentinian biodiesel producers are encouraged to ship finished biodiesel rather than raw soybean oil out of the country – and in fact that is what they do. The DET policy in Argentina and the pending application before EPA, if approved, will likely have a devastating impact on U.S. biodiesel producers. If the pending application from CARBIO is approved, then biodiesel from Argentina would make its way to the United States in volumes of at least 300-600 million gallons each year (which is the excess capacity of biodiesel not used in Argentina). This production will adversely affect domestic producers.

We know this to be true, because in Europe, after approval of Argentinian biodiesel under the European Renewable Energy Directive (RED) Argentinian biodiesel flooded the European marketplace and displaced biodiesel produced in Europe. Only in the last six months have the Europeans been able to take action to stem the volume of imports from Argentina. Specifically, on November 27, 2013, the European Union after a 6-month investigation imposed anti-dumping measures on Argentinian biodiesel producers because biodiesel producers from Argentina were dumping biodiesel into the European marketplace. If the Argentinians were dumping biodiesel into Europe, then if allowed to by the EPA, they will certainly dump the same product into the United States.

To arrange a meeting, please call Kirsten Skala at 202.737.8801 or by email to KSkala@biodiesel.org.

Sincerely,



Anne Steckel
Vice President of Federal Affairs , National Biodiesel Board

cc: The Honorable Tom Vilsack,
The Honorable Dan Utech
The Honorable Michael Froman
The Honorable John Kerry