



COMMENTS BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION
AGENCY

2011 Proposed Renewable Fuel Standard Volumes

August 19, 2010

Docket ID No. EPA-HQ-OAR-2010-0133

Air and Radiation Docket and Information Center
Environmental Protection Agency
Mailcode: 2822T
1200 Pennsylvania Ave., NW
Washington, DC 20460
asinfo@epa.gov
www.regulations.gov

Comments of the **Biotechnology Industry Organization** on the 2011 Proposed
Renewable Fuel Standard Volumes

Submitted by:
Brent Erickson
Executive Vice President
Industrial and Environmental Section
Biotechnology Industry Organization
1201 Maryland Ave, SW
Suite 900
Washington, DC 20024
(202)962-9200

COMMENTS OF THE BIOTECHNOLOGY INDUSTRY ORGANIZATION ON THE 2011 PROPOSED RENEWABLE FUEL STANDARD VOLUMES

Introduction

The Biotechnology Industry Organization (BIO) would like to thank the United States Environmental Protection Agency (EPA) for its support of industrial biotechnology and commercial biorefinery development and for the opportunity to provide comments on the 2011 Renewable Fuel Standard (RFS₂) proposed rule as issued.

BIO is the world's largest biotechnology organization, providing advocacy, business development and communications services for more than 1,200 members worldwide. In our Industrial and Environmental Section our companies represent the entire value chain of biofuels and biobased products, including dedicated energy crop and other feedstock producers, enzyme companies, commercial scale integrated biorefinery developers and large chemical, energy and oil companies.

BIO supports the RFS₂ volumes and believes that biofuels can and must contribute significantly to the objectives of reducing the carbon intensity of transportation fuels and reducing our reliance on petroleum and transportation fuels produced outside of the United States. A renewable low carbon transportation fuel future is not possible without biofuels. As such, BIO members are committed to achieving the vision of the Energy Independence and Security Act of 2007 (EISA) and support a strong role for the EPA in implementing the RFS₂. A credible, enforceable and transparent final rule will go a long way towards minimizing uncertainty in our industry and easing our investment plans to make the RFS₂ goals reality. The RFS₂ is among the most critical programs necessary to move the advanced biofuels industry into commercialization and produce the required volumes of renewable fuels needed to reduce our dependence on petroleum.

Proposed 2011 cellulosic biofuel volumes

The current proposed rule from EPA waives the cellulosic biofuel volume for 2011 to 5-17.1 million gallons (6.5-25.5 million gallons ethanol equivalent). BIO has tracked cellulosic biofuel projects since 2007 and made the results public through the Biofuels and Climate Change blog: <http://biofuelsandclimate.wordpress.com/about/>. According to our internal survey of biofuels members and the cellulosic biofuel community at large, EPA's proposed range appears to be a reasonable estimate of actual cellulosic biofuel likely to be produced and available for purchase and blending in 2011. However, the continual waiving and thus lowering of cellulosic biofuel volumes harms the entire advanced biofuel industry by significantly limiting the impact of the RFS as an indicator of enduring government support and driver of private financing for first-of-kind cellulosic biorefineries.

BIO recognizes that, due to the legislative construction of the RFS as passed in EISA, EPA is obligated to assess the potential volumes of cellulosic biofuels available to the US fuel blender market each year and then waive the required volumes down to meet those projections. But as a result, the cellulosic biofuel volumes fail to function as a true

mandate, and thus fail to provide the risk mitigation needed to secure private financing for biorefinery construction and commercial production.

This conclusion has been reinforced by the United States Department of Energy (DOE), which has concluded that the cellulosic volumes in the RFS₂ do not provide the necessary “reasonable assurance of repayment” required by the DOE loan guarantee program under section 1705 of the American Recovery and Reinvestment Act of 2009.

This result further perpetuates the delay in commercial production of cellulosic volumes and the continued waiver of RFS₂ volumes, frustrating the very intent of the RFS₂ program. BIO calls on Congress and the EPA to evaluate ways to ensure the cellulosic program serves the risk mitigation function intended by the overall program.

Continual evaluation of additional technologies and feedstocks

BIO is pleased to see that EPA has proposed methodology for evaluating the greenhouse gas emission reduction levels for additional feedstock options. We hope that EPA continues to expeditiously evaluate and publish methodology for new feedstocks and processing technologies, as this opportunity is essential in encouraging future innovation and growth in the advanced biofuels industry.

Pathway to produce renewable fuels from annual cover crops

BIO believes that cover crop and non-food rotational crop feedstocks such as camelina and winter barley clearly fall within the RFS₂ definition of annual cover crop, of which EPA has provided a new fuel pathway in RFS₂. We respectfully request that EPA clearly state that pathways using annual cover crop feedstocks for production of advanced biofuels as defined in the preamble of the final rule qualify as evaluated and approved pathways under the already published final rule.

While EPA clarifies the scope of “annual cover crop” (beginning on page 268 in the RFS₂ final rule preamble) as “crops planted on existing crop land such as winter cover crops and providing cellulosic material, starch or oil for biofuel production” and... “these secondary crops also have no land use impact since they are planted on land otherwise used for primary crop production”, other than winter barley, EPA provides no guidance as to other types of feedstocks that are eligible to qualify to generate advanced RINs. BIO encourages EPA to provide guidance on these other feedstocks and in the meantime, offer a temporary and limited means to produce renewable fuel and advanced biofuel from annual cover crops until EPA completes its review of the feedstocks included within the term “annual cover crops.” Under the proposed rule, EPA would afford renewable fuel producers using canola oil, grain sorghum, pulpwood, or palm oil this interim certainty by allowing them to generate “Delayed RINs” after they have produced and sold renewable fuel. Similar interim treatment allowing for Delayed RIN generation should be extended to renewable fuel producers using camelina and winter barley if EPA anticipates it will be unable to clarify “annual cover crop” feedstocks in the immediate future. While renewable fuels from dedicated energy crops should be able to generate advanced RINs

under the "annual cover crop" fuel pathway, until EPA can provide producers with clarity on the term, a Delayed RIN option provides some relief for fuel producers who are commercializing new and diverse crops. Otherwise, renewable fuel producers using cover crops will continue to face detrimental uncertainty as to which fuel pathway they qualify under in Table 1 to §80.1426.

Federal Register notice of incoming petitions

We caution EPA to ensure that the any plans to publish incoming petitions to the public via the Federal Register be constructed in a way that is not cumbersome or in any way inhibits or slows the process for evaluating and approving the petitions. We also caution EPA to take into consideration the request for any potentially proprietary or sensitive information in the petition application that would not be suitable for public viewing.

Conclusion

In conclusion, BIO commends EPA for administering the RFS in the most scientific and balanced way possible and therefore assisting in the commercialization of advanced biofuels technologies and construction of biorefinery facilities. We thank you for your consideration of these comments.

Sincerely,

A handwritten signature in black ink, appearing to read "Brent Er.", with a stylized flourish at the end.

Brent Erickson
Executive Vice President
Industrial and Environmental Section
Biotechnology Industry Organization