



## Memorandum

**To:** President-elect Obama Transition Team  
**From:** Bob Dinneen, President & CEO  
**Re:** Pending Regulatory Biofuels Issues  
**Date:** November, 2008

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Energy is a top priority for President-elect Barack Obama. The emerging U.S. renewable fuels industry will play an important role in our nation's energy and economic security and will secure a more sustainable energy and environmental future. Renewable fuels will have an immediate impact on growing our nation's economy and creating green jobs here at home. As the Transition Team begins to review open and ongoing issues related to biofuels, the Renewable Fuels Association (RFA) would like to bring to your attention two issues: the release of the Notice of Proposed Rulemaking (NOPR) of the Renewable Fuel Standard (RFS) included in the Energy Independence and Security Act of 2007 (EISA) and higher level blends of ethanol beyond "E10". We look forward to discussing these issues critical to the U.S. biofuels industry in the near future.

### **RFS Notice of Proposed Rulemaking and Lifecycle Analysis**

The U.S. Environmental Protection Agency (EPA) has drafted a NOPR for implementation of the RFS that was included in EISA, or "RFS2". The draft NOPR is currently at the Office of Management and Budget (OMB) for review. The NOPR is generating a great deal of controversy because it includes specific estimates of the greenhouse gas (GHG) impact of various biofuels, including the indirect effects of increased biofuels production. By the EPA's own admission, however, the methodology and assumptions used to determine the indirect effects, particularly with regard to "international" indirect effects is quite speculative at this point. But that's the problem. By publishing international indirect land use numbers that portend to show GHG impacts, which in some cases compare unfavorably to gasoline because of those speculative international effects, the EPA could unwittingly cause a serious setback to the commercialization of cellulosic and other advanced biofuels.

The RFA believes the inclusion of *international* land use changes, as currently interpreted by EPA in the draft NOPR, would undermine Congress' intention in expanding the RFS2 in EISA. The EPA's focus on indirect emissions has largely driven its analysis, primarily its inclusion of international land use changes. The RFA supports considering "significant indirect emissions" attributed to the renewable fuel use, as provided in the statute. However, the RFA strongly believes that EPA should not rely upon its analysis of international land use changes as part of its core analysis due to its highly speculative nature.



No matter how preliminary, the data presented in the NOPR could potentially establish a prejudiced view of biofuels that is difficult to overcome, even as better data and methodologies become available in the future. The EPA's core analysis should focus on its lifecycle estimates without international land use, based on a 2 percent discount rate and 100 year analysis. In the alternative, the EPA can present its analysis of international land use changes separate from its main discussion of lifecycle emissions with a thorough and complete explanation of the great uncertainty in its estimates regarding international land use changes.

The RFA is not advocating that EPA exclude all land use changes, but EPA must give meaning to the term "significant" in the statutory directive to consider "significant indirect emissions"— and EPA may not rely on speculation and assumptions laden with a very high degree of uncertainty and controversy.

Other biofuels stakeholders are urging the EPA to take similar action. A letter sent by agriculture professors from Michigan State University, Iowa State University and Auburn University, as well as the president and CEOs of technology developers Mendel and Ceres, asked the EPA to delay the indirect land use requirement in the NOPR, saying the provision is "premature." The National Corn Growers Association issued a statement echoing the concerns raised in the letter from agriculture professors. The Biotechnology Industry Organization, in efforts led by DuPont Danisco, General Motors, and Monsanto, expressed their concerns in a letter to the EPA stating, "Given the exceptional degree of complexity, uncertainty and the absence of consensus in the scientific community on the methodology of estimating emissions from ILUC [indirect land use changes], a published estimate of potential indirect emissions from EPA at this time would be premature and ill-advised." Further, Senator Kit Bond is leading the effort on a bipartisan letter from senators noting that EPA's draft NOPR contains incomplete information which may be detrimental to the biofuel industry. In essence, by piecing several studies together the EPA has come to the conclusion that biofuels are responsible for all global land use change, without accounting for other factors such as urbanization, dietary changes, market economics, and hardwood prices.

The environmental community has also weighed in noting that the EPA cannot ignore potentially large effects, even if the data is uncertain. The RFA believes our position, that indirect land use effects be considered, but the much more speculative international land use effects be removed from the core analysis is sensitive to both viewpoints.

### **Expanding Ethanol Blend Market Beyond E10**

The implementation of EISA and the RFS2 will require the use of ethanol beyond the traditional 10 percent blends. Moving beyond E10 is essential to achieve our nation's goals of reducing dependence on foreign oil and to foster the growth of a robust, domestic renewable fuels industry. Cellulosic ethanol and other advanced biofuels will largely represent the renewable fuels supply beyond the blend market. Because U.S. ethanol production capacity continues to grow steadily and is nearing an amount equivalent to 10 percent of U.S. annual gasoline consumption, there is a sense of urgency surrounding the need for approval of blends that include more than 10 percent ethanol.

On October 7<sup>th</sup>, the U.S. Department of Energy (DOE) released preliminary results of studies being conducted by the Vehicle Technologies and Biomass Programs to determine the viability of higher blends of ethanol in gasoline. The DOE preliminary results revealed few, if any, problems when E15 or E20 are used in today's engine technology. These preliminary results are consistent with the results of earlier scoping research projects such as the one done by the State of Minnesota and point to the need for continued testing necessary to certify ethanol blends in excess of 10 percent for use in America's vehicle fleet.



Under current law, only up to 10 percent ethanol blends can be sold legally in the U.S. The RFA is working to obtain authorization for greater than 10 percent blends to be sold legally in the U.S. Recently, the RFA has approached EPA regarding issuing a new “substantially similar” determination for E12. Once a “substantially similar” determination is obtained, the RFA would then seek a Section 211(f)(4) waiver for a higher blend as not having adverse effects on emissions control devices or systems.

The RFA also continues discussions with motor engine and vehicle manufacturers, as well as non-road engine and vehicle manufacturers, and will continue to work to secure their support for higher level blends of ethanol to be used.