COMMENTS OF THE CALIFORNIA BIODIESEL ALLIANCE ON
RENEWABLE FUEL STANDARD PROGRAM: STANDARDS FOR 2014, 2015, AND 2016 AND BIOMASS-BASED DIESEL VOLUME FOR 2017;
Proposed Rule, 80 Fed. Reg. 33,100 (June 10, 2015)
Docket ID EPA-HQ-OAR-2015-0111

The California Biodiesel Alliance (CBA) appreciates the opportunity to comment on the 2014, 2015, 2016 and 2017 Standards for the Renewable Fuel Standard Program, proposed rule, 80 Fed. Reg. 33, 100 (June 10, 2015) (referred to herein as "RFS Proposal"). CBA is California's not-for-profit biodiesel industry trade association, representing over 50 businesses and stakeholders, including all of the state's biodiesel producers. Our comments here are intended to be supplemental to the detailed comments submitted by the National Biodiesel Board.

First, we would like to express our thanks to the EPA for withdrawing the NPRM that was issued in 2013. In our public comment in response to the 2013 draft proposal, CBA predicted that a mandate of only 1.28 billion for biomass-based diesel for 2014/2015 would be devastating to our burgeoning biodiesel market. The biodiesel industry had demonstrated its ability to produce 1.8 billion in 2013, and obligated parties were holding substantial RIN carryovers. Unfortunately, we were right to be concerned. In 2014, as a result of the poor market conditions created by the lack of a strong biodiesel mandate, four of California's eleven biodiesel plants closed their doors.[1] Other plants scaled back production, laid off workers, deferred expansion projects and lost investment opportunities.

The vast majority of biodiesel produced in California is made from ultra-low carbon feedstocks such as used cooking oil, animal fats and non-food grade corn oil. When the market is too small, as it was in 2014, lower carbon fuels are squeezed out of the market by the more established higher carbon renewable fuels made. This unfortunate consequence is not only contrary to Congress' intent to promote the continued growth of the lower carbon advanced biofuels, it is also detrimental to California's comprehensive carbon reduction program. The State of California's Low Carbon Fuel Standard ("LCFS") calls for a substantial reduction of the carbon intensity of transportation fuels by 2020, and a recent executive order strengthened this goal to 40% below 1990 levels by 2030. The ultra-low carbon fuels such as biodiesel produced in California are critical to meet these carbon reduction goals.

The new RFS proposal, while an improvement over the 2013 one, still discourages further investment in advanced biofuels, including biomass-based diesel, by setting a mandate that is substantially lower than what the industry can achieve.

<u>2014</u>
For 2014, the EPA proposed to use its waiver authority to reduce the 3.75 billion statutory mandate set by Congress for the advanced category, and rather, set the advanced and biomass-based diesel based on

[1] The four plants that closed are: Yokayo Biofuels, Blue Sky Biofuels, Promethean Biofuels and Bently Biofuels

"available RIN supply." CBA disagrees with this approach for the reasons spelled out in the NBB comments (Inappropriate use of waiver authority, EPA's lack of consideration of the prior-year RINS, improper consideration of "RIN supply" as opposed to "actual production," etc.) Based on the *actual production* of biomass-based diesel, EPA should set the 2014 biomass-based diesel RVO at 1.8 billion and should hold the statutory volume for advanced at 3.75 billion.

2015-2017

CBA is very concerned with the RFS proposal for advanced and biomass-based diesel for 2015- 2017. The biodiesel industry has consistently demonstrated its ability to expand production, year after year. In fact, EPA acknowledges in the RFS Proposal that the proposed volumes for biomass-based diesel *through 2017* remain well below *domestic* capacity.[2] In 2013, the biodiesel industry produced approximately 1.8 billion gallons of fuel, and would have easily produced 2.1 billion in 2014 but for the EPA's action in 2013. 2015 was off to a poor start as a result of EPA's continued delay, but in May and June, the two months since the announcement of the current RFS proposal, the industry produced or imported 169 and 176 million, respectively, which can be annualized to 2.1 billion gallons.

Again, CBA objects to EPA's methodology for the reasons set forth by NBB in its comprehensive comments (Improper encouragement of "competition" amongst advanced biofuels, cost of compliance, incorrect interpretation of "nesting" provision, arbitrary assessment of 6 factors, etc.) It is particularly troubling that the EPA purports to set the standards based on "maximum achievable" volumes elsewhere in the RFS program, and then set the biomass-based diesel volume at a *minimum* volume, arguing somehow that doing so would actually benefit the overall program. The opposite is true. Since the industry already has capacity to more than meet the proposed increases, there is simply little incentive to continue to invest in an uncertain, and clearly slow moving, future.

Furthermore, it does not appear that the EPA considered the increasing renewable fuel imports when setting the biomass-based diesel volumes. Between the recently approved pathway for Argentinian biodiesel and the yearly ramp up of the LCFS program, it is more than likely that imports will exceed the 100 million gallon "increase" for 2015 alone, and will only increase over the next few years. The effect of adding hundreds of millions of gallons of new imported biodiesel on top of the proposed already smaller market place would create a disastrous marketplace for California biodiesel producers.

The biomass-based diesel program has arguably been one of the most successful parts of the RFS Program, yet it received a less than favorable ramp up. We have already seen what happens when there is a small biodiesel market—investment stops, plants close down, people lose jobs, and the lowest carbon fuels are affected first, and more dramatically. It is EPA's job to ensure that there is a growing market for advanced biofuels, including biomass-based diesel. And this growing market is crucial in order to meet the increasing carbon reduction goals of the LCFS. This RFS Proposal does not do that.

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[2] 80 Fed. Reg. at 33,116 ("There currently exists only about 2.8 billion gallons of registered biodiesel production capacity in the U.S., though total production capacity considering unregistered facilities may be as high as 3.6 billion gallons.")

We ask that you reconsider the biodiesel volumes in your May proposal and finalize stronger standards, particularly for 2016 and 2017. The biodiesel industry has previously requested volumes of 2.4 billion gallons in 2016 and 2.7 billion gallons in 2017. While we continue to believe those volumes are readily achievable and sustainable, particularly with rising imports, I ask now that you set the standards for not less than 2 billion gallons for 2016 and 2.3 billion gallons for 2017.

Sincerely,

Curtis Wright,
Chairman
California Biodiesel Alliance

Cc: California Air Resources Board

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