

Susan Solarz  
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California Air Resources Board  
1001 "I" Street  
Sacramento, CA 95812

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Ms. Solarz,

As the nation's largest trade association representing U.S. ethanol producers, the Renewable Fuels Association (RFA) appreciates the opportunity to provide comments on the draft "Biofuel Producer Registration Form" released by the Air Resources Board (ARB) on January 12.

In general, we are concerned that the registration form may be soliciting information from biofuel producers that is unnecessary and/or redundant for the purposes of the Low Carbon Fuels Standard (LCFS) regulation. The LCFS regulation necessitates that biofuel producers disclose only (1) the carbon intensity (CI) value(s) of their biofuel(s); (2) the volume of biofuel(s) sold into California associated with the CI value(s); and (3) the physical pathways that those fuels follow to market. All requests for information that are unrelated to those three basic purposes are extraneous and should be removed from the form.

Further, we are concerned about the sensitive nature of the information that is being requested. ARB has not provided proper assurances that such information will be treated with the appropriate level of confidentiality. Who will have access to the information that is submitted via the registration forms? Will there be a "master registry" and will it be available to the public and competing biofuel producers, or only to the regulated parties responsible for reporting via the LCFS Reporting Tool? How will ARB safeguard the information that is submitted via the biofuel producer registration forms?

Notwithstanding our belief that the registration form is redundant in several places, we are offering specific comments and questions below on the individual elements of the proposed registration form.

### **Section 3. Facility Information**

Under section 3.2, biofuel producers are asked to enter information on "production capacity" and "annual production volume." What is the purpose of requesting this information? While the need for information on "annual sales volume to California" is logical (because reporting requirements apply to only the biofuels sold into California), information on a particular facility's capacity and production volume is not necessary and serves no purpose. We

recommend removal of “production capacity” and “annual production volume” from the form. Producers should only be required to report the volumes of biofuel that are sold, or could potentially be sold, into the California marketplace. If production capacity estimates are deemed necessary for informational purposes by ARB, they are already publicly available at <http://www.ethanolrfa.org/industry/locations/>.

#### **Section 4. Fuel Feedstock and Processing**

##### ***Feedstock Type***

It is not uncommon in certain geographies or under certain market conditions for grain ethanol producers to use grain sorghum as a feedstock in lieu of corn. An estimated 20 ethanol plants processed some amount of grain sorghum in 2009 and sorghum comprised 50% or more of the annual feedstock processed for at least eight of those plants. Nationally, 3-5% of grain ethanol is produced using sorghum as a feedstock annually. Yet, grain sorghum is not offered as an option under “feedstock type” in the registration form. We recommend that the form either offer grain sorghum as an option under “feedstock type” or, in the alternative, the form should expressly state that processors of grain sorghum should select “corn” as the “feedstock type.”

##### ***Feedstock Origin***

For corn ethanol, the form offers only two options for feedstock origin: “corn from U.S. Mid-West” or “others.” We recommend that ARB define what states comprise the “Mid-West” for the purposes of this regulation. Feed corn is grown commercially in many states outside the region traditionally referred to as the Midwest. Similarly, grain ethanol is produced in 29 states, many of which fall outside of the Midwest region. As such, a clear distinction of what states are part of the “Mid-West” for the purposes of this regulation is necessary. Also, it appears redundant to provide an option of “*corn from U.S. Mid-West*” under “feedstock origin” when the feedstock type was already specified in the field for “feedstock type.” In other words, the options for “feedstock origin” should simply state “U.S. Mid-West” or “Other.”

##### ***Type of Energy Used in Processing***

The registration form offers only two options that include the use of biomass for combustion. This is likely because ARB analyzed only one possible combination of biomass and natural gas use (80% natural gas/20% biomass) for the purposes of developing the Look-Up Table. What option should a producer select if the ethanol he sells into California was produced using more than 20%, but less than 100%, biomass for combustion? Would a producer using biomass for 50% of process heat requirements be required to fill out two forms (i.e. one form selecting 100% biomass for half the production volume and one form selecting 100% natural gas for the other half of production)?

##### ***Co-products***

Every grain ethanol process results in co-products. Therefore, the option for “none” should be removed so that biofuel producers don’t inadvertently select that option. Also, the wet mill ethanol process results in corn gluten feed, corn gluten meal, and corn oil—not distillers grains. Are wet mill producers required to select “other” and enter this information in the “Please Describe Co-Products Below” field? Or will wet mill co-products be added to the list of options?

Further, an increasing number of dry mills are now removing corn oil from distillers grains. An estimated 25-30 dry mill ethanol plants are practicing corn oil removal, so it is not proper to characterize this practice as unique or novel. As such, ARB should add “corn oil” to the list of co-product options.

As we have discussed with ARB staff, very few dry mill ethanol plants produce exclusively dried distillers grains or exclusively wet distillers grains. Further, the mix of WDGS versus DDGS a plant produces can change dramatically from year-to-year and even season-to-season based on market conditions. We are assuming that a plant that produces both wet and dried distillers grains would be required to fill out two forms (i.e., one sheet selecting “Dry DGS” for the corresponding volume of ethanol sold into California that resulted in DDGS production and one sheet selecting “Wet DGS” for the corresponding volume of ethanol sold into California that resulted in WDGS production). Is this assumption correct?

#### ***Redundancy of Section 4 and Section 5***

It appears that Section 4 and Section 5 are redundant. Why is the fuel and feedstock processing information required when that same information is provided implicitly when the producer selects the appropriate carbon intensity value in Section 5? We recommend that ARB consider removing Section 4 from the form, as the same information is provided via selection of a specific CI value in Section 5.

#### **Section 5. Carbon Intensity Value**

The instructions require producers to select the CA-GREET pathway that “most closely corresponds with the information provided in section 4...” What is the threshold for determining whether a producer’s fuel is “close enough” to a default pathway or whether he must complete a Method 2 application? Further, the instructions require producers to “...select the fuel pathway with the higher CI value if your facility’s process would yield a CI value between those identified on the form.” What is the rationale for this and why shouldn’t the producer be able to select the lower CI value?

#### **Section 6. Physical Pathway**

The physical pathway options listed in Field 6.1 under Section 6 offer only single modes of transportation. In some cases, a combination of delivery modes is used to deliver ethanol to the California marketplace. If ethanol is shipped to California via a combination of truck and rail, does that mean two forms must be filled out (i.e. one sheet selecting “PHY08” for the segment

of the pathway over which truck transportation was used and one sheet selecting “PHY02” for the segment using rail)?

What is the termination point of the physical pathway: the California border, the actual delivery point within the state, the point at which ownership is transferred, or some other point? Please clarify.

Under section 6.3 (supporting material for physical pathway), producers are required to present (1) a map showing the physical pathway and (2) documentation confirming the introduction to and removal from the pathway. While the latter requirement is logical, what is the purpose of providing a map? The requirement to provide a map showing the pathway is redundant to the requirements of section 6.2, which asks the producer to describe the pathway route including “highway number, railway company, and route.” We strongly recommend removal of the requirement to provide a map under section 6.3.

### **Conclusion**

Thank you again for the opportunity to comment on the draft “Biofuel Producer Registration Form.” We are open to discussing the contents of this letter in more detail with ARB staff should you have any questions or require additional clarification. Finally, we would greatly appreciate written responses to the questions we have raised in this letter, so that we may share those responses with the RFA member producers who raised the questions.

Sincerely,

Geoff Cooper  
Vice President, Research