



Lawmakers, trade groups call Renewable Fuel standard a mixed bag

By Sara Wyant

© Copyright Agri-Pulse Communications, Inc.

Washington, Feb. 4. The Obama Administration's long-awaited announcement of the final Renewable Fuel Standard (RFS2) rule yesterday was roundly applauded by several lawmakers and major farm organizations for creating a workable glide path for future development of the renewable fuels industry. Finally, they say, producers will have a clear picture of the regulatory environment for renewable fuels.

At the same time, renewable fuel and farm groups describe the inclusion of international indirect land use changes (ILUC) in the Environmental Protection Agency's rule as an unfair and unscientific standard. Including ILUC assumes that growing more corn means planting corn on a proportionately greater amount of acreage and will impact other crops or natural resources in other parts of the globe.

Environmental groups, who pushed for a stronger ILUC standard, were more cautious in their criticism of the Obama Administration, but continued their calls for more focus on cellulosic ethanol and less use of food crops for producing renewable energy.

"Typical of most decisions made in Washington, there is some good and some bad in the Renewable Fuel Standard final rule announced today. I am pleased that ethanol and biodiesel will qualify as advanced biofuels under the RFS," said House Agriculture Committee Chairman Collin Peterson (D-MN). "However, I am concerned about some provisions in the final rule that fail to use science-based standards. To think that we can credibly measure the impact of international indirect land use is completely unrealistic, and I will continue to push for legislation that prevents unreliable methods and unfair standards from burdening the biofuels industry."

Chairman Peterson joined House Armed Services Chairman Ike Skelton (D-MO) and Representative Jo Ann Emerson (R-MO) to introduce a bill this week to prevent the Environmental Protection Agency (EPA) from regulating greenhouse gas emissions under the Clean Air Act. The bill, H.R. 4572, also includes provisions that would stop the EPA from using international indirect land use calculations in biofuels regulations and would expand the definition of renewable biomass. Rep. Stephanie Herseth-Sandlin is also a co-sponsor. (See the 2-3-10 edition of the Agri-Pulse newsletter)

Here's a summary of some of the reactions to the RFS2 and the President's Clean Energy Plan:

Senators Chuck Grassley, John Thune, and Mike Johanns provided the following reaction:

"This action will provide much needed certainty for today's ethanol and biodiesel producers, as well as for those developing next-generation and advanced biofuels, but it's irresponsible for the EPA to ignore the intent of Congress concerning the inclusion of 'international' land use changes in calculating the indirect greenhouse gas emissions from biofuels," said Grassley. "By using this unproven and murky theory, the EPA has done a disservice to America's renewable fuel producers by diminishing their benefit to the environment. It's especially disheartening that the EPA is using this modeling because it's contrary to President Obama's numerous pledges to base all decisions on sound science."

"EPA is penalizing domestic ethanol production by insisting on quantifying international indirect land use changes that may be associated with ethanol production," said Thune. "Congress wrote the RFS with the intention of elevating the importance of biofuels, but punishing domestic fuels for land use decisions in other countries based on erroneous models is a step back for our country's effort to reduce its reliance on oil imports. South Dakota is in a unique position to help meet our nation's energy needs while creating jobs with homegrown fuels, but the EPA regulators are putting the brakes on necessary development. I am committed to working with my colleagues to ensure that domestic biofuels are treated fairly relative to imported oil under the new RFS rules, and that the biofuels industry continues to be an economic pillar of rural America."

Johanns said, "I am deeply disappointed that the Administration remains fixated on their flimsy, untested, and unreliable theory that holds our farmers and ethanol producers responsible for land use decisions made half way around the world. I am additionally disappointed that with all of today's announcements, there was no mention of E-15. Increasing the percentage of ethanol in gasoline to as much as 15 percent is the next logical step in the expansion of this nation's ethanol production capacity. It would not only benefit the economy, but also our nation's energy security."

Sen. Tom Harkin (D-IA) provided his reaction:

"I am very pleased that at long last the Administration has issued this rule. This keeps the nation on its trajectory of strongly expanding production and use of biofuels, including biodiesel, and gives the biofuel industry the assurance that the nation does support their efforts," said Harkin.

"EPA has concluded that the existing biofuels do meet the lifecycle greenhouse gas emission limits imposed as a part of the RFS2 in the 2007 Energy Independence and Security Act. This clarity is very important given the uncertainty over whether indirect land use change emissions calculations that had been included in the proposed rule issued last spring might make some biofuels ineligible for inclusion under the mandate.

"Despite this, I am disappointed that the Environmental Protection Agency continues to use questionable data and methods for calculating 'indirect land use changes' at all. These methods are not adequately developed, and thus should not be used in ways making it harder for ethanol

and biodiesel to meet requirements of the Energy Independence and Security Act of 2007. If we continue to do this, we'll exclude some good biofuels and stifle the investment that is so essential to our national renewable fuels strategy.”

Rep. Stephanie Herseth Sandlin (D-SD):

"The release of the final rule on the new Renewable Fuels Standard today is a mixed bag. While it appropriately includes ethanol and biodiesel as effective and necessary fuels to meet the RFS targets, unfortunately it also includes irresponsible international indirect land use calculations.

"I am pleased that the final rule recognizes corn ethanol's clear superiority over gasoline in terms of greenhouse gas emissions and am pleased that all corn ethanol will qualify toward conventional biofuels mandates in the RFS.

"However, the EPA's inclusion of international indirect land use calculations as part of the final rule, and then unfairly applying these flawed calculations only to corn-based ethanol is unacceptable and will require corrective legislative action. I have consistently worked with my colleagues on the House Agriculture Committee to implore EPA not to use such speculative science when drafting the final rule. I have repeatedly said that the EPA should base the final rule on fact, not fiction, and they should not include land use changes in foreign countries when considering the lifecycle greenhouse gas emissions of renewable biofuels produced in the U.S. This proposal for calculating indirect emissions in foreign countries threatens the progress our nation has made over many years in advancing biofuels and fails to take into full consideration the innovations of U.S. agricultural producers and biofuels producers, who are pushing yields per acre up and enhancing the ethanol production processes.

Renewable Fuels Association President Bob Dinneen:

“EPA was right to recognize that ethanol from all sources provides significant carbon benefits compared to gasoline,” said Renewable Fuels Association President Bob Dinneen. “As structured, the RFS is a workable program that will achieve the stated policy goals of reduced oil dependence, economic opportunity, and environmental stewardship.”

“The RFS is the public policy building block upon which America’s renewable fuels industry will be built. Today’s industry and tomorrow’s ethanol producers require stable federal policy that provides them the market assurances they need to commercialize new technologies,” Dinneen continued. “To that end, EPA has achieved that goal.”

According to EPA’s modeling, corn-based ethanol achieves a 21% greenhouse gas reduction compared to gasoline when dubious ideas of international indirect land use change (ILUC) are included. Without ILUC, corn-based ethanol achieves a 52% GHG reduction. Cellulosic ethanol achieves GHG reduction of 72-130% depending upon feedstock and conversion process. All GHG reductions for ethanol exceed those mandated by the RFS2.

“EPA has correctly credited cellulosic and other next generation ethanol technologies with dramatic GHG improvements over gasoline,” said Dinneen. In addition, EPA rightly and justifiably adjusted some of its assumptions and modeling from its proposed rule to more accurately reflect the carbon profile of grain-based ethanol in the U.S. “These necessary corrections ensure that all grain-based ethanol will be eligible to meet the requirements and

achieve the stated goals of the RFS, though continue to shortchange grain-based ethanol's climate contributions," noted Dinneen.

Disappointingly, however, EPA continues to rely on oft-challenged and unproven theories such as international indirect land use change to penalize U.S. biofuels to the advantage of imported ethanol and petroleum."

Growth Energy CEO Tom Buis:

"Growth Energy commends the Obama White House and EPA Administrator Lisa Jackson for recognizing the value of domestic ethanol both as a low-carbon fuel and as a U. S. jobs creator. The expanded Renewable Fuels Standard released today rightly puts an emphasis on America's growth energy – ethanol – and that in turn will help our economic recovery, strengthen our national security and clean our skies," Tom Buis, CEO of Growth Energy, said.

The Association noted several improvements to the rule including the decision to make volume levels of domestic ethanol retroactive to the first of the year. Technically, the blending levels for 2010 were to have been announced back in November but the EPA held off on determining those levels until they completed the new rules.

"Further, we're pleased that EPA recognizes grain ethanol as a low-carbon fuel, and changed its indirect land use change penalty from its original proposal last year. However, while we appreciate that the EPA recognizes the uncertainty of ILUC, the fact remains that ILUC is still in the rule. This puts the cart before the horse, and our position is that ILUC should not be applied in regulation until we have a thorough, long-term study of the issue," continued Buis.

"Further, by using skewed ILUC calculations, the RFS gives Brazilian sugarcane ethanol preferred status as an advanced biofuel. I don't think that was the intent of Congress when it passed the Energy Independence and Security Act. It won't make the U.S. any more energy independent by switching our addiction from foreign oil to foreign ethanol."

National Corn Growers Association (NCGA) President Darrin Ihnen.

"We're pleased the U.S. Environmental Protection Agency recognizes that corn ethanol provides a distinct advantage over conventional gasoline when it comes to greenhouse gas emissions, with a reduction of more than 21 percent in some cases," said NCGA President Darrin Ihnen. "This means that all corn ethanol including existing grandfathered capacity and new production will qualify to meet the conventional biofuels targets in the RFS. "

NCGA continues to be disappointed that EPA chose to use the flawed theory of international indirect land use change in their calculations. Ihnen stressed that the EPA should reject the unproven theory of international indirect land use change, which assumes that growing more corn means planting corn on a proportionately greater amount of acreage and will impact other crops or natural resources on a global basis. Today's yield trends show this to be false. 2009's record corn yield was 165.2 bushels per acre, according to the U.S. Department of Agriculture, more than 11 bushels higher than 2008 and nearly 15 bushels higher than 2007.

"In 2009, corn growers were challenged with one of the worst growing seasons in generations, and we still brought in a record crop and yield," Ihnen, a corn grower in Hurley, S.D., said. "We

grew more corn than we did in 2007, the last record year, and we did so on nearly 7 million fewer acres.”

Further, the idea of international indirect land use is applied only in the case of corn ethanol. “This is the perfect example of bad science being applied unfairly,” Ihnen said. “Removing the impacts from the international indirect land use theory means that corn ethanol actually provides a 52 percent reduction in greenhouse gas emissions, compared to gasoline. The EPA is not considering similar indirect impacts of petroleum-based fuels, so why are they so stringent when it comes to green, renewable corn ethanol?”

American Farm Bureau Federation President Bob Stallman:

“America’s farmers and ranchers are encouraged that the rule announced today by the administration will help keep the nation’s renewable fuel standards on a path toward greater energy independence. By raising the volume of biofuels available for our nation’s transportation fuel supply, the administration is building on the strong bipartisan efforts that began years ago to provide a home-grown solution to the energy challenges facing our nation.

“We will be analyzing the rule in its entirety, but we are optimistic about the overall direction of support it offers renewable fuels.

“One area of continuing concern is the so-called measurement of indirect land use. Continuing to utilize indirect land use changes to calculate greenhouse gas emissions is unfair to domestic biofuels. Using it as a measurement of biofuels’ carbon impact is still highly controversial and scientifically unproven. We will continue our efforts with policymakers on both sides of the aisle and in the administration to assure that biofuels live up to their enormous potential.”

National Biodiesel Board CEO Joe Jobe:

“The U.S. biodiesel industry is pleased that the EPA has issued the final RFS2 rule,” said Joe Jobe, Chief Executive Officer of the NBB. “There are significant job creation, energy security and environmental benefits associated with expanded biodiesel use. Today’s rulemaking - in particular implementation of the Biomass-based Diesel program – will allow America to reap these benefits.”

EISA was enacted on December 19, 2007. The legislation expanded the Renewable Fuels Standard and for the first time specifically provided for a renewable component in U.S. diesel fuel. RFS2 requires the use of 500 million gallons of Biomass-based diesel in 2009, increasing gradually to 1 billion gallons in 2012. From 2012 through 2022, a minimum of 1 billion gallons must be used domestically, and the Administrator of the EPA is given the authority to increase the minimum volume requirement. To qualify as Biomass-based Diesel, the fuel must reduce greenhouse gas (GHG) emissions by 50 percent compared to petroleum diesel. Biodiesel is the only fuel available in commercial quantities in the U.S. that meets the definition of Biomass-based Diesel.

On May 26, 2009, the EPA issued the proposed rule to implement the RFS2 program. The proposed rule contained several significant flaws that were highlighted in NBB’s comments. Many of these concerns have been addressed in the final rule, including:

- Final rule accounts for 2009 and 2010 Biomass-based Diesel use requirements. Consistent with EISA's requirements, 1.150 billion gallons of biodiesel must be used domestically by the end of 2010. Biodiesel used domestically in 2009 and 2010 will count towards this total.
- EPA's lifecycle GHG emission calculations are significantly improved. NBB's comments noted significant shortcomings with EPA's initial lifecycle methodology, including inaccuracies pertaining to nitrogen fixing with soybeans; co-product allocation; energy balance; and agricultural efficiencies. Industry comments also noted significant flaws associated with EPA's initial international land use assumptions. The GHG methodology used in the final rule has been updated to reflect industry comments, and biodiesel produced from domestic soybean oil is assumed to reduce GHG emissions by 57 percent compared to petroleum diesel fuel, and the EPA's uncertainty analysis recognizes that the GHG reduction could be as high as 85 percent. Thus, biodiesel produced from soybean oil will qualify for the Biomass-based Diesel program, and the rulemaking provides pathways for biodiesel produced from other vegetable oils to qualify for the program. Though NBB continues to object to the use of international indirect land use change in EPA's GHG methodology, the methodology employed in the final rule represents a significant improvement over the proposed rule.

American Soybean Association President Rob Joslin:

“EPA's Final Rule demonstrates that soy biodiesel can achieve significant Greenhouse Gas (GHG) emissions relative to petroleum diesel. Even with the inclusion of questionable indirect land use variables, all soy biodiesel is deemed by EPA to exceed the 50 percent reduction threshold needed to qualify for the RFS2 biodiesel mandate,” ASA said in a statement.

“This favorable EPA ruling is absolutely critical to the continued success of soybeans as a homegrown renewable fuelstock,” said ASA President Rob Joslin, a soybean producer from Sidney, Ohio. “ASA and the biodiesel industry were able to demonstrate that some of EPA's initial calculations regarding direct and indirect emissions were significantly flawed, and that the agency had used questionable indirect land use assumptions.”

While stressing the importance of the EPA's RFS2 final rule to the biodiesel and soy industries, Joslin emphasized that biodiesel production likely won't resume until Congress extends the biodiesel tax incentive.

“The biodiesel tax incentive expired on December 31, 2009,” Joslin said. “Expiration of the tax incentive has essentially caused the production and use of biodiesel in the U.S. to cease and has placed the 23,000 jobs that are currently supported by the domestic biodiesel industry in immediate jeopardy. Companies have already started laying-off employees, and this situation is certain to worsen the longer the tax incentive is allowed to lapse.”

Iowa Soybean Association President Delbert Christensen:

“This is good news for Iowa as one of the leading biodiesel- and soybean-producing states,” said Delbert Christensen, ISA president and a soybean farmer from Audubon, Iowa. “Today's rule affects jobs in the biodiesel industry in addition to affecting soybean farmers by ensuring there will continue to be a baseline of demand for soybean oil. Studies show increased demand for soybean oil has helped bolster prices in recent years.”

25x'25 Policy Committee Chair Bart Ruth:

"The National 25x'25 Steering Committee applauds President Obama and the members of the Biofuels Interagency Working Group for the actions announced today recognizing the role of biofuels in a new, clean energy future. In a report issued by the working group this afternoon, the administration unveiled a plan that will boost the development of biofuels that could generate billions of dollars in additional revenue for rural America. The Steering Committee believes that administration proposals for a reinvigorated USDA-run Biomass Crop Assistance Program will spur the expansion of dedicated non-food crops for renewable energy and biofuel production. The final rule adopted by EPA to implement the Renewable Fuels Standard is a step forward, recognizing that first-generation ethanol can, and will continue, to contribute to reductions in greenhouse gas emissions. The Steering Committee welcomes the administration's recognition of the contributions that farmers, ranchers and forestland owners can make to enhance our energy independence, boost our economy and improve our environment. Today's announcements signal to investors that solutions from the land provide valuable and sustainable returns. However, we call on the White House and Congress to maintain the momentum of today's actions and quickly adopt a comprehensive, stable and long-term energy policy."

Sierra Club Executive Director Carl Pope:

"We are pleased that EPA followed both the law and science in crafting the final Renewable Fuel Standard rule. The emissions associated with indirect land use changes are indeed significant and it would have been irresponsible for EPA not consider them in its assessment of various fuels. It's essential that all renewable fuels actually result in lower overall emissions. EPA was under tremendous pressure from special interests and their Congressional allies and we applaud them for standing strong. It's very important that EPA be allowed to discharge its duties based on science and the law--not petty politics or parochial special interests.

"While today's announcement marks significant progress, it is simply not sustainable to continue using massive amounts of food for fuel. While EPA could not fix the law that grandfathers huge amounts of corn ethanol, this is a long-term problem that must be addressed.

"We support the administration's plans to widen the availability of alternative fuels; however, we must be sure that the implementation of these plans does not result in unintended negative consequences."

Nathanael Greene, Natural Resources Defense Council's director of renewable energy policy:

"The final rule confirms that some biofuels reduce global warming and some pollute more than gasoline and diesel. This proves how important it is to put policies in place to make sure public dollars go to support real renewable energy instead of going after options that do not work and could actually do more harm than good.

"With the tools that EPA has developed, we can finally start to hold biofuel corporations accountable.

"The only way to invest into biofuel programs correctly is to make sure the public gets real environmental protection for our climate, our water, our wildlife and our health.

“This rule will help us move beyond corn ethanol but it will not do it alone. Reforming the bio tax credits, focusing on government incentives for American innovation and jobs so we get the first billion gallons of the best biofuels into the market, and ultimately evolving to a Low Carbon Fuel Standard like the one adopted in California are the best next steps.”

Environmental Working Group Vice President Craig Cox:

”The EPA is right to stick with the scientifically sound approach to life-cycle assessment of biofuels and the impact that federal mandates will have on forests and grasslands here in the United States and in the developing world. A comprehensive assessment of the life-cycle greenhouse gas emissions of biofuels is a key component of the upfront assessment of economic, environmental and social impacts recommended by President Obama’s Biofuels Working Group, an idea the working group supports in its report.

Unfortunately, the RFS rule takes no action to limit the cynical and politically-driven exemptions in the 2007 energy bill that allow corn-ethanol plants to escape any greenhouse gas reduction standards, let alone the other economic, environmental, or social considerations recommended by the Working Group.

Further, the 2007 law and the new EPA rule in effect ensures a 12 billion gallon flood of corn-ethanol in 2010 in return for a weak trickle of 100 million gallons of advanced cellulosic ethanol in 2010.”

For more stories on clean energy developments, go to www.Agri-Pulse.com

#30