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NBB Submits RFS2 Comments to EPA

WASHINGTON, DC - - The National Biodiesel Board (NBB) today submitted formal comments to the Environmental Protection Agency (EPA) in response to the agency's proposed rule to implement the expanded Renewable Fuels Standard (RFS2) provided for in the *Energy Independence and Security Act of 2007 (EISA)*.

“There are significant energy security, environmental and economic benefits associated with domestic biodiesel production and use,” noted Joe Jobe, CEO of the NBB. “Successful implementation of RFS2 is in the nation's best interests, and NBB's comments provide the EPA with input, that if incorporated in the final rule, will allow for implementation of a workable RFS2 program.”

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% 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 contains several significant flaws that would impede successful implementation of the RFS2 program's Biomass-based Diesel and Advanced Biofuel volume requirements. NBB's comments highlight these shortcomings and provide guidance on how to constructively remedy these issues. NBB's comments highlight:

- *EPA's GHG methodology relies on outdated data that artificially penalizes U.S. biodiesel. GHG emission reductions associated with biodiesel produced from vegetable oils compared to petroleum will significantly exceed the 22 percent assumed by EPA in its proposed rule if the agency relies on scientifically valid analysis and practices. Even with EPA's assumptions and methodology, correcting the outdated data pertaining to nitrogen fixation, energy balance and co-product allocations would give biodiesel produced from vegetable oil a 62 percent GHG reduction compared to baseline petroleum. When just some of the major flawed assumptions from EPA's indirect analysis are corrected, the GHG emissions lifecycle*

reduction for biodiesel from vegetable oils is 99% percent lower than diesel fuel. This number includes penalties to biodiesel for international indirect land use change.

- *EPA should not include international indirect land use change in its GHG emission calculations.* EISA does not require the EPA to include speculative assumptions relating to international indirect land use change when determining a fuel's GHG emission profile. Further, the methodology employed by EPA does not rise to the level of certainty required to use for regulatory purposes. Lastly, EPA's modeling pertaining to international indirect land use changes has been severely compromised by inaccurate assumptions, lack of credible data on land use change, and methodological shortcomings. Additional research and data is required to produce a sound, science based estimate of the impact, if any, that U.S. biofuels production has on land use decisions abroad.
- *EPA should take interim steps to ensure that the 2009 and 2010 Biomass-based Diesel volume requirements are met.* Congress envisioned implementation of RFS2 on January 1, 2009. Delays associated with implementation of RFS2 have imposed significant hardship on the U.S. biodiesel industry, and the EPA should take interim steps to provide regulatory certainty and enforce the program's volume requirements.
- *The proposed rule should be modified to delete unnecessary regulatory and compliance burdens that do not further the goals of the RFS2 program.* Provisions in the proposed rule that essentially require identity preservation of crops and unnecessary reporting burdens should be deleted. EPA has the ability to ensure that environmentally sensitive lands are protected without imposing many of the new regulatory burdens called for in the proposed rule.

"I hope the EPA will review our comments with an open mind and constructively address the issues we have raised. We stand ready to work with the EPA to ensure that the RFS2 renewable goals are met," concluded Jobe.

Please see the attachment to review the NBB's cover letter to the EPA, highlighting these points in more detail.

The NBB is the national trade association of the biodiesel industry and is the coordinating body for biodiesel research and development in the U.S. NBB's membership is comprised of biodiesel producers and marketers, state, national, and international feedstock and feedstock processor organizations, and technology providers.

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Additional information about biodiesel is available online at www.biodiesel.org.