



National Biodiesel Board
1331 Pennsylvania Ave., NW
Washington, DC 20004
(202) 737-8801 phone

National Biodiesel Board
605 Clark Avenue
Jefferson City, MO 65110
(800) 841-5849 phone

March 22, 2016

Ms. Ursula Lai
Lead Staff, Verification
California Air Resources Board
1001 I Street
Sacramento, CA 95812

Re: Comments on March 8 workshop on a mandatory verification and enforcement program.

Dear Ms. Lai:

Thank you for the opportunity to comment on this workshop and potential regulation. We continue to appreciate the wonderful job that ARB staff do on behalf of our industry and all Californians.

As you may know, the National Biodiesel Board (NBB) serves as the trade association for the U.S. biodiesel and renewable diesel industries. The NBB represents more than 90 percent of domestic biodiesel and renewable diesel production. In addition to governmental affairs activities, the association coordinates the industry's research and development efforts.

Due to the importance and complexity of this prospective regulation, NBB staff are actively engaged with members to develop a comprehensive set of recommendations. While that process is ongoing, several key principles have surfaced that we wish to share.

Potential for fraudulent activity is higher for foreign fuels.

In addition to the fact that foreign entities are not subject to the U.S. legal system and therefore have little to lose if found guilty of fraudulent activity, those with expertise in this arena maintain that the potential for fraud is, on balance, proportional to the total distance the feedstock and finished fuels travel. The U.S. Environmental Protection Agency (EPA) recognized this principle in its Quality Assurance Plan (QAP) rulemaking by requiring bonding for foreign fuels roughly equal to one cent per gallon¹. The agency's final rule also includes enhanced qualifications for foreign QAP auditors.

While we believe EPA should have gone further—and they very well still may—we certainly appreciate the fact that the agency has appropriately distinguished between the threat levels associated with domestic and foreign fuels. In our view, the Air Resources Board (ARB) should follow this precedent by requiring bonding for foreign fuels—albeit at a much higher level than EPA—and requiring all personnel related to the verification and enforcement process to be citizens

¹ http://www.ecfr.gov/cgi-bin/text-idx?SID=c33e20436650c702cf175ad591212c15&mc=true&node=se40.17.80_11466&rgn=div8

of the United States. Foreign producers of fuel and providers of verification services **must** have something at risk—financially, legally, or both as is the case with domestic producers and auditors.

Conflicts of Interest.

While EPA did take sensible steps to limit conflicts of interest for QAP providers and auditors, we believe more could be done. Service providers must be truly unbiased third-parties and not quasi extensions of the businesses they audit. Moreover, EPA has relied extensively on contractors for enforcement functions. In our view, the more of this work that ARB staff conduct, the better the program will be. We feel ARB staff should maintain primary responsibility for this area rather than simply providing an oversight role for contractors and approved third-parties.

Cooperation Between Jurisdictions.

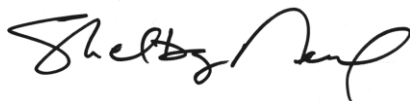
The fact that three jurisdictions on the West Coast have now successfully implemented LCFS policies is an incredibly positive development. However, the proliferation of these policies has also increased the potential for fraudulent activity, especially since mass balancing with palm and palm-based products is allowed. In short, if California, Oregon, and British Columbia are not sharing information, the same low carbon intensity feedstocks can be sold three times. Compliance information simply must be shared to ensure that feedstock accounting balances.

Physical Verification of Feedstocks.

The system should not be solely reliant on paper trails, which can be forged quite easily. Nor should it be predictable. In addition to regular on-the-ground inspections, we believe ARB should, like EPA, maintain the authority to conduct unannounced field audits at the expense of foreign producers. As part of the NBB member process noted above, we expect to have a complete set of procedures related to physical verification of feedstocks to recommend after the next public workshop.

Thank you, in advance, for your consideration of our views on these important matters. If I may be of any assistance, please feel free to contact me at any time at (573) 635-3893.

Sincerely,

A handwritten signature in black ink, appearing to read 'Shelby Neal', with a stylized, cursive script.

Shelby Neal
Director of State Governmental Affairs

Cc: Sam Wade