



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OFFICE OF
AIR AND RADIATION

January 27, 2015

Victor A. Castro, Executive Director
Camara Argentina de Biocombustibles (CARBIO)
Bouchard St, 454-piso 7 – (C1106ABF)
Ciudad Autonoma de Buenos Aires
ARGENTINA

Dear Mr. Castro:

On August 29, 2012, *Camara Argentina de Biocombustibles* (CARBIO) (also known as the Argentine Chamber of Biofuels), submitted a plan to the Environmental Protection Agency (EPA) pursuant to 40 CFR 80.1454(h) for approval of an alternative renewable biomass tracking program to fulfill the record keeping requirements of the renewable fuels standard program under §80.1454. Addenda to the plan were provided to the EPA and dated December 10, 2012, April 24, 2013, June 11, 2013, July 18, 2013, November 22, 2013, September 1, 2014, and November 26, 2014.

EPA approval of an alternative renewable tracking program is required under 40 CFR 80.1454(h) to replace the record keeping requirements in 80.1454(c)(1), (d) and (g). The alternative renewable biomass tracking plan that you submitted covers the whole soybean biodiesel supply chain from soybean production through intermediate processing, to biodiesel production and includes four sections: (1) annual compliance surveys, (2) land use compliance (3) chain of custody proof, and (4) data management to support compliance surveys.

As described in the enclosed decision document, it is our judgement that CARBIO's Alternate Biomass Tracking Program meets all the requirements outlined in 40 CFR § 80.1454(h), including elements determined by the EPA to be necessary to achieve the level of quality assurance required under 40 CFR §§ 80.1454(c)(1), (d), and (g). The EPA approves the CARBIO program as submitted, including the addenda, with Peterson Control Group as the independent surveyor. CARBIO must obtain EPA approval prior to implementing any modifications to this approved program, including any change in independent surveyor. This approval will remain in effect until such time as it is either revoked by the EPA, or CARBIO informs the EPA that it no longer wishes to implement the CARBIO Alternate Biomass Tracking Program. CARBIO may satisfy the requirement of 40 CFR 80.1454(h)(6)(i) by submitting to the EPA by September 1 of each year, a notice that it intends to continue to implement the approved plan in the forthcoming calendar year. No additional EPA approval will be necessary, unless CARBIO seeks the EPA's approval of amendments to its approved plan. CARBIO must satisfy 40 CFR 80.1454(h)(7)(i)

and (ii) on an annual basis, including ensuring annual receipt by the EPA of CARBIO's contract with its independent surveyor and proof that money necessary to carry out the survey plan for the forthcoming year has either been paid to the independent surveyor or placed into an escrow account. The EPA may revoke this approval at any time for cause, including an EPA determination that the approved survey plan has proved inadequate in practice or that it was not fully implemented.

Sincerely,

A handwritten signature in black ink, appearing to read "Byron Bunker".

Byron Bunker, Director
Compliance Division
Office of Transportation and Air Quality

Enclosure

United States Environmental Protection Agency

Decision Document: Approval of CARBIO's Alternative Biomass Tracking Program January 2015

Summary

Under the Renewable Fuel Standard (RFS) program regulations, any foreign or domestic renewable fuel producer or RIN-generating importer may meet the recordkeeping requirements in § 80.1454 with an alternative biomass tracking program that has been approved by the EPA. On August 29, 2012, *Camara Argentina de Biocombustibles* (CARBIO) (also known as the Argentine Chamber of Biofuels), submitted a plan to the EPA pursuant to § 80.1454(h)(6) for approval of an alternative renewable biomass tracking program to fulfill the recordkeeping requirements of § 80.1454. After review, the EPA is approving the CARBIO Alternate Biomass Tracking Program as submitted, including addenda dated December 10, 2012, April 24, 2013, June 11, 2013, July 18, 2013, November 22, 2013, September 1, 2014, and November 26, 2014 with Peterson Control Union as the independent surveyor. CARBIO must obtain EPA approval prior to implementing any modifications to this approved program, including any change in independent surveyor.

Background

Under the Renewable Fuel Standard (RFS) Program, renewable fuels are those fuels derived from renewable biomass, (including certain planted crops and waste materials) which are used as transportation fuel, home heating oil or jet fuel and achieve specified greenhouse gas emissions reductions as compared to conventional fossil fuels.¹ To accelerate use of fuels derived from renewable sources, Congress first established requirements under the Energy Policy Act of 2005 designed to encourage the blending of renewable fuels in the United States motor vehicle fuel supply. Congress modified the renewable fuels program under the Energy Independence and Security Act of 2007 to include specific annual volume standards for total renewable fuel and also for three renewable fuel subcategories (cellulosic biofuel, biomass-based diesel, and advanced biofuel). The revised program specifies renewable fuel requirements that must be met on an annual average basis for “transportation fuels,” including gasoline and diesel fuels intended for both onroad and nonroad vehicles and engines. However, credit under the program is also available for renewable fuels blended into home heating oil or jet fuel. Compliance is demonstrated through the acquisition by obligated parties (refiners or importers of gasoline or diesel fuel) of Renewable Identification Numbers (RINs) assigned by renewable fuel producers or importers to the renewable fuel they produce or import. Each year obligated parties and renewable fuel exporters submit compliance reports identifying the RINs they are relying on to demonstrate compliance with RFS requirements. Renewable fuel producers and importers, gasoline refiners and importers, diesel refiners and importers, renewable fuel exporters and other

¹ Baseline volumes of fuel from facilities that commenced construction prior to December 20, 2007, or of certain facilities that commenced construction prior to January 1, 2010, are exempt from the minimum 20% greenhouse gas reduction threshold applicable to renewable fuels. See § 80.1403.

parties involved in the RFS program are required to submit reports to the EPA of all transactions relating to RINs.

Under the RFS program regulations, there are also recordkeeping requirements for obligated parties, domestic or RIN-generating foreign producers of renewable fuels, importers and exporters of renewable fuels, and other parties that own RINs. Certain of these recordkeeping requirements are designed to ensure that renewable fuels in the RFS program are made only from renewable biomass, as that term is defined in § 80.1401. Pursuant to § 80.1454(h), any foreign or domestic renewable fuel producer or RIN-generating importer may comply with an alternative renewable biomass tracking requirement instead of the recordkeeping requirements in paragraphs (c)(1), (d), and (g) of § 80.1454. To comply with the alternative renewable biomass tracking requirement, a renewable fuel producer or importer must either arrange to have an independent third party conduct a comprehensive program of annual compliance surveys, or participate in the funding of an organization which arranged to have an independent third party conduct a comprehensive program of annual compliance surveys, to be carried out in accordance with a survey plan which has been approved by the EPA. The program must be designed to achieve at least the same level of quality assurance required in paragraphs (c)(1), (d), and (g) of § 80.1454.

The compliance survey program shall require the independent third party (“independent surveyor”) conducting the surveys to do all of the following: conduct feedstock audits of renewable fuel production and import facilities in accordance with the survey plan approved under paragraph (h) of § 80.1454, or immediately notify the EPA of any refusal of these facilities to allow an audit to be conducted; obtain the records and product transfer documents associated with the feedstock being audited; determine the feedstock supplier(s) that supplied the feedstocks to the renewable fuel producer; confirm that feedstocks used to produce RIN-generating renewable fuels meet the definition of renewable biomass as defined in § 80.1401; immediately notify the EPA of any case where the feedstocks do not meet the definition of renewable biomass as defined in § 80.1401; immediately notify the EPA of any instance where a renewable fuel producer, importer, or feedstock supplier subject to review under the approved plan fails to cooperate in the manner described in the regulations; submit to the EPA a report of each survey, within 30 days following completion of each survey; maintain all records relating to the survey audits conducted for a period of at least five years; and permit any representative of the EPA to monitor at any time the conduct of surveys, including observing audits, reviewing records, and analysis of the audit results.

The survey plan under this § 80.1454(h) must include all the following: identification of parties for whom the survey is to be conducted; identification of the independent surveyor; a methodology for determining when the audits will be conducted, the audit locations, and the number of audits to be conducted during the annual compliance period.

No later than December 1 of the year preceding the year in which the surveys will be conducted, the contract with the independent surveyor shall be in effect, and an amount of money necessary to carry out the entire survey plan shall be paid to the independent surveyor or placed into an escrow account. No later than December 15 of the year preceding the year in which the surveys will be conducted, the EPA must receive a copy of the contract with the independent surveyor, proof that the money necessary to carry out the plan has either been paid to the independent

surveyor or placed into an escrow account, and, if placed in escrow, a copy of the escrow agreement.

Failure of any renewable fuel producers or importer to fulfill or cause to be fulfilled any of the requirements of § 80.1454(h) will cause the option for such party to use the alternative quality assurance requirements to be void *ab initio*.

CARBIO's Alternative Biomass Tracking Program Submission

On August 19, 2012, CARBIO submitted a plan to the EPA pursuant to § 80.1454(h) for an Alternate Biomass Tracking Program to meet the recordkeeping requirements under the RFS program. CARBIO provided addenda to this submittal on December 10, 2012, April 24, 2013, June 11, 2013, July 18, 2013, November 22, 2013, September 1, 2014, and November 26, 2014 (collectively, the “CARBIO Alternate Biomass Tracking Program”).

EPA Decision

The EPA finds that the CARBIO Alternate Biomass Tracking Program satisfies the requirements of § 80.1454(h). To summarize, 40 CFR § 80.1454(h) imposes on-going requirements for management of an approved alternative renewable biomass tracking plan: it must be conducted by an independent surveyor at production, import and feedstock supplier facilities; it must be representative of the whole survey area; and it must be designed to achieve at least the same level of quality assurance required by 40 CFR §§ 80.1454(c)(1), (d), and (g). 40 CFR § 80.1454(c)(1) requires that foreign producers and importers maintain records of feedstock purchases and transfers to document that their feedstocks qualify as renewable biomass. Producers and importers of certain feedstocks must also maintain records, in the form of maps or electronic data identifying land boundaries where feedstock is produced as well as commercial documents verifying feedstock custody transfers (§ 80.1454(c)(1)(i)). 40 CFR § 80.1454(d) requires that domestic producers maintain those same types of documents, and imposes additional recordkeeping requirements for feedstocks produced from either domestic or foreign land prior to December 19, 2007. 40 CFR § 80.1454(g) imposes additional requirements for agricultural land.

The CARBIO Alternate Biomass Tracking Program is designed and funded to arrange for an independent third party to implement the survey plan. CARBIO's plan is to use the compliance surveys to demonstrate that fuel produced by CARBIO's members qualifies for RIN generation because it is made from feedstock that is “renewable biomass” as that term is defined in § 80.1401. Furthermore, the plan is intended to ensure that qualifying fuel can be traced to pre-identified and pre-approved lands from which “renewable biomass” may be harvested consistent with regulatory definition of that term. The alternative renewable biomass tracking program covers the whole soybean biodiesel supply chain from soybean production through intermediate processing, to biodiesel production.

CARBIO's alternative renewable biomass tracking program includes four sections: (1) annual compliance surveys; (2) land use compliance; (3) chain of custody proof; and (4) data management to support compliance surveys. Pursuant to § 80.1454(h), we find the alternative renewable biomass tracking program submitted by CARBIO adequately meets the requirements under paragraph (h) and is designed to achieve at least the same level of quality assurance required in paragraphs (c)(1), (d), and (g) of § 80.1454.

Specifically, CARBIO has contracted with Peterson Control Union to act as an independent surveyor. CARBIO has supplied information demonstrating that Peterson Control Union meets the independence criteria in 40 CFR 80.68(c)(13)(i). Peterson Control Group is a known certification body with many years of experience in auditing. The survey plan to be carried out by the independent surveyor specifies that all biodiesel producers and crushing plants that are registered with the survey plan shall be visited and surveyed at least once a year. A minimum of five percent of grain elevators and farms that supply renewable biomass to the crushing plants shall be surveyed each year. The sample size is designed to ensure a sufficient and representative sample with 95 percent confidence level. The survey shall apply a random sampling methodology with probability proportional to the size of feedstock quantity supplied for biodiesel production. All feedstock suppliers (farms and grain elevators) that are not subject to a site visit for the survey in any given year shall be subject to a desk audit for their product transfer documents at the time of one of the four quarterly desk audits conducted each year. Each feedstock supplier is required to submit their incoming and outgoing product transfer documents to CARBIO's compliance database which will allow the independent surveyor to review product transfer documents as part of the survey and/or desk audit. The independent surveyor will submit to the EPA a report of each survey and desk audit, within thirty days following completion of each survey and desk audit.

CARBIO's land use compliance plan relies on both satellite imagery and *cartas de porte* (waybill) tracking documents. Argentina has a system for the issuance of *cartas de porte* to authorize the movement of goods between jurisdictions that has been mandatory since 1998. The survey plan will include an auditable *cartas de porte* from each farm generating feedstock for calendar year 2007. In addition, CARBIO will use land cover data from satellite imagery to identify land that was cleared or cultivated prior to December 19, 2007 and actively managed or fallow and nonforested on December 19, 2007. CARBIO would then classify these lands as "go areas" from which feedstocks may be used to produce qualifying RFS fuel and "no go areas" from which feedstocks may not be used to make qualifying RFS fuels.

Ultimately soybeans shipped to crushing plants will be deemed compliant or noncompliant with the renewable biomass definition based on whether the origin listed on the waybill (*cartas de porte*) accompanying the shipment is within the datasets for approved "go areas." The Grain Elevator shall prevent mixing of soybeans from "go areas" with soybean from "no go areas". All crushing plants shall clearly identify soybean oil made from renewable biomass and prevent mixing with oil without this status. The plan provides that CARBIO will immediately notify the EPA where there is evidence that the feedstocks do not meet the definition of renewable biomass as defined in §80.1401 or where a renewable fuel producer, importer or feedstock supplier subject to review fails to cooperate in the manner described in the plan and/or regulations.

CARBIO's method for tracking chain of custody also relies on the same mandatory *cartas de porte* documents described above. The *cartas de porte* accompanies the transport of grain from farm to final destination and must include information on the cargo, carrier, and destination. Farmers must enter zip code information on these documents as they load grains for transport. CARBIO's system will compare the entered zip code with approved "go areas." At the grain elevators, product transfer documents will be generated based on the farm's *cartas de porte* and zip code identifying a "go area" or "no go area." The crushing plants will verify the product transfer document and GIS for "go area" status.

To support the compliance survey plan, CARBIO will use a data management system that would store all the data for its "go areas" as well as non-spatial information about soybean production in those "go areas" to classify the soybeans as renewable biomass or not renewable biomass. The data management system would track the waybills and be capable of providing real time summaries of soybean produced from "go areas" and "no go areas" for the independent surveyor to access and audit.

Decision

The EPA approves the CARBIO Alternate Biomass Tracking Program as submitted, including the addenda, with Peterson Control Group as the independent surveyor. CARBIO must obtain EPA approval prior to implementing any modifications to this approved program, including any change in independent surveyor. This approval will remain in effect until such time as it is either revoked by the EPA, or CARBIO informs the EPA that it no longer wishes to implement the CARBIO Alternate Biomass Tracking Program. CARBIO may satisfy the requirement of 40 CFR § 80.1454(h)(6)(i) by submitting to the EPA by September 1 of each year, a notice that it intends to continue to implement the approved plan in the forthcoming calendar year. No additional EPA approval will be necessary, unless CARBIO seeks EPA approval of amendments to its approved plan. CARBIO must satisfy §§ 80.1454(h)(7)(i) and (ii) on an annual basis, including ensuring annual receipt by the EPA of CARBIO's contract with its independent surveyor and proof that money necessary to carry out the survey plan for the forthcoming year has either been paid to the independent surveyor or placed into an escrow account. The EPA may revoke this approval at any time for cause, including an EPA determination that the approved survey plan has proved inadequate in practice or that it was not fully implemented.