



August 26, 2010

Arthur Marin, Executive Director
NESCAUM
89 South Street, Suite 602
Boston, MA 02111

Submitted via electronic mail: amarin@nescaum.org; lcfs@nescaum.org

RE: NESCAUM's Economic Analysis for Proposed Northeast/Mid-Atlantic Low Carbon Fuel Standard

Dear Mr. Marin,

Thank you for the opportunity to provide input on the proposed Northeast/Mid-Atlantic Low Carbon Fuel Standard (NE/M-A LCFS). We appreciate your work on the regional LCFS and look forward to collaborating with NESCAUM, state regulators and other stakeholders on this important policy.

The New Fuels Alliance (NFA) is a not-for-profit organization that educates political leaders, regulators, public interest groups, businesses, and the general public about the environmental, economic, and other benefits of non-petroleum fuel production and use. Its organizational purpose is to bring together the wide range of groups and sectors that are stakeholders in the development of advanced, non-petroleum fuels to build a broad and diverse base of support for a more sustainable energy future in the United States. NFA works closely with leading researchers and developers of advanced biofuels to support strategies and policies that will provide meaningful fuel diversification solutions.

I. Economic Analysis Does Not Include Balanced Carbon Intensity Numbers

Carbon intensity (CI) values will play a major role in determining which fuels and corresponding volumes will meet the objectives of the LCFS. This in turn will have a significant impact on the economic analysis because these fuels and their related supply chains will be eligible based largely on lower CI values. Therefore, to obtain a realistic sense of the economic impacts the LCFS will have on the region, or any particular energy sector, it is critical that a balanced and accurate carbon lifecycle analysis is applied to all eligible fuels. Unfortunately, NESCAUM has repeatedly stated its intention to use CI values developed last year by the California Air Resources Board (ARB) for that state's LCFS. This is extremely controversial and problematic because the ARB CI numbers include indirect, market-mediated effects for biofuels, but not for the petroleum baseline or other compliance fuels. The result of this policy decision will be the limited use and production of both advanced and conventional biofuels in the regulation. As you know, the Northeast/Mid-Atlantic region is host to several national and global leaders in the research and

development of advanced biofuel technology solutions, and the decisions made by NESCAUM and state regulators will directly impact the viability of these operations.

In comments to NESCAUM dated May 7, 2010, NFA made the specific recommendation that NESCAUM *“Establish balanced CI values that incorporate symmetrical system boundaries for all fuels. If NESCAUM decides to use CARB or EPA CI numbers, then it should discount the penalty ascribed to biofuels for indirect effects, and should only reinstate those numbers when all other fuels have been equally debited for their market-mediated effects.”*¹ In numerous meetings, public forums and comment periods sponsored by NESCAUM, NFA has outlined the critical need for the use of balanced carbon accounting in the regional LCFS. Indeed, NFA has provided NESCAUM with a variety of references and expertise directly related to ARB’s approach to its LCFS, as well as information on topics ranging from indirect land use change (iLUC) to the treatment of oil in the California LCFS.² To date, NESCAUM has not provided any response or rationale for incorporating asymmetrical carbon values into its economic analysis for this regulation.

As you may know, ARB employed the use of the Global Trade Analysis Project (GTAP) model at Purdue University to develop the carbon intensity (CI) values of indirect impacts for biofuels in the California LCFS. The initial model runs, which were highly controversial, uncertain, and only conducted on biofuels, showed a significant land use change impact of 30 g/MJ associated with corn-based ethanol. However, modelers at Purdue released new GTAP work in July that reduces the land use change impact by more than half to 13.9 g/MJ.³ ARB is currently considering the recent modeling and has been encouraged by several stakeholders to adopt the latest Purdue number, particularly in light of ARB’s commitment to using the best available science in this regulation. In fact, Wally Tyner, who is member of ARB’s LCFS Expert Working Group and a researcher at Purdue, has stated that the science has clearly improved since the initial GTAP modeling.⁴ NFA strongly encourages NESCAUM to revise its CI values for the economic analysis so that it reflects the most recent work on this evolving field of carbon accounting.

The new GTAP work is particularly relevant to advanced biofuel researchers and producers because many of the adjustments in the July model runs will directly impact any land use penalty ascribed to other dedicated energy crops. In other words, the regulatory application of iLUC does not discriminate between corn or, for example, switchgrass; rather it penalizes any biofuel (conventional or advanced) for its resource (land) use on the margin. Therefore, advanced biofuel technologies that use any type of land-based energy crop for feedstock are subjected to iLUC penalties. Since the primary competitors to advanced biofuels are not debited for indirect effects, it is critical that regulators use the best available science in this emerging field of lifecycle analysis.

¹ <http://www.nescaum.org/documents/stakeholder-comments-on-the-economic-analysis-of-the-northeast-mid-atlantic-low-carbon-fuel-standard-draft-data-and-assumptions-part-i/new-fuels-alliance-northeast-mid-atlantic-lcfs-economic-analysis-comments.pdf/>

² <http://www.nescaum.org/documents/stakeholder-comments-on-the-low-carbon-fuels-standard/northeast-lcfs-comments-new-fuels-alliance.pdf/>

³ <http://www.transportation.anl.gov/pdfs/MC/625.PDF>

⁴ *“The difference between this report and previous reports is advances in science. With any issue, your first cut may not be the best, but when you get new data and new methods, you improve.”*
<http://www.physorg.com/news192126877.html>

Importantly, the new GTAP work was sponsored by the Argonne National Laboratory and was conducted by the same researchers using the same model as the initial work for ARB. Furthermore, the updated GTAP modeling considers variables that many stakeholders and ARB staff recognized as critical to the accurate forecasting of iLUC, including but not limited to idle land and updated data with regard to production efficiencies overseas. It is also important to note that the July GTAP model work uses 2006 global economic data, as opposed to the 2001 data that was used in the initial model runs.

This recent GTAP work is still problematic from a policy perspective because the modeling only applies to biofuels. As such, all other participating fuels, including the petroleum baseline, are not required to undergo an analysis of their potential indirect impacts. Nevertheless, the recent GTAP work itself is clearly a step in the right direction because of the improvements that have been made to many of the inputs and variables. Assuming that NESCAUM continues to subscribe to its publicly stated intention to develop an asymmetrical LCFS in which biofuels pay for their indirect effects, but other fuels do not, NFA encourages NESCAUM to adopt the recent GTAP work as part of the CI values for crop-based biofuels in the NE/M-A LCFS. Again, while issues of balance would continue to be controversial, this would at least demonstrate a commitment by NESCAUM to use the best available science. To be clear, NFA and the advanced biofuel industry strongly believe that NESCAUM should not incorporate indirect effects for only certain fuels, and that the original NFA recommendations from its May comments should be executed prior to moving forward with the economic analysis or any other aspects of the regulation.

II. NESCAUM has Not Responded to Requests for Additional Information

In its May comments, NFA raised several issues related to the economic analysis and the process for developing the regional LCFS. Unfortunately, NESCAUM has not responded to the requests for clarity on any of these matters. This has posed issues for moving forward with additional comment requests put forth by NESCAUM, including this latest round for August, 2010. NFA believes that the overall process of developing a complicated regulation that will have widespread impacts on the region's energy and economic profile would be better served if NESCAUM was to formally respond to these queries. To reiterate, NFA raised the following issues and requested specific information from NESCAUM in its May 7 comments:

- *Most industries are generally uneasy with submitting sensitive information without knowing the precise nature of the request and potential use of that data. This unease is compounded by the fact that NESCAUM is an independent 501-C-3 organization, and as such is not a publicly accountable agency. Therefore, we request specific guidance on what type of input NESCAUM is requesting for current and future comment opportunities, as well as a detailed explanation of how that information will be processed and, if requested by individual stakeholders, protected.*
- *Will NESCAUM provide written responses to public comments (including this round of documentation and the November 2009 public comment record)? If so, what form will the responses take and what is the anticipated timeframe? If not, how can stakeholders be certain that NESCAUM has reviewed all of the comments and informed the policy makers*

and rulemaking authorities in the 11 states (beyond publication of comments on the NESCAUM website)?

- *Will each participating state also respond to comments that NESCAUM receives as part of the model rule drafting? If so, what form will the responses take and what is the anticipated timeframe? If not, when and how will stakeholders have an opportunity to comment directly to individual states on the model rule, policy and process?*
- *Presumably, NESCAUM is reviewing different policy and modeling options to use as the basis of the Model Rule. Does NESCAUM plan to present the policies and models under consideration to the public? Will stakeholders have an opportunity to review the record as it relates to policy and modeling decisions, such as input parameters, made by NESCAUM and the participating states?*
- *Will NESCAUM make available the names and contact information for the state regulators who are participating in the six internal NE/M-A LCFS working groups?*
- *As discussed, NESCAUM is not a public agency, and therefore does not enjoy the presumptive objectivity that stems from being funded by public money. It is therefore reasonable to inquire about the funding mechanisms under which NESCAUM operates for the development of the NE/M-A LCFS. Specifically, does NESCAUM receive funding from participating states and/or other public or private sources for the development and collaboration of the regional LCFS? If so, who supports the project financing and what is the amount that each state and/or entity contributes?*
- *When does NESCAUM expect to have a draft model rule that is available for public review and comment?*

While NFA certainly appreciates the role that NESCAUM has taken in the regional LCFS, stakeholders require clarity on process and other issues. NESCAUM can and should take the opportunity to address these concerns in this latest round of public comment.

Thank you for your time and consideration. We would be pleased to answer any questions you may have about these matters.

Sincerely,



Andrew Schuyler
Director, Northeast Region
New Fuels Alliance