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April 9, 2009

The Honorable Collin Peterson
Chairman, House Committee on Agriculture
1301 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Peterson:

The National Oilseed Processors Association (NOPA) appreciates being included as a stakeholder in the global climate change discussions being held by the House Committee on Agriculture. We hope the information included in our letter and our responses to the questions posed in your questionnaire will help the Committee better understand the related issues and concerns of the U.S. oilseed processing industry.

NOPA is a national trade association comprised of 15 companies engaged in the production of food, feed and renewable fuels from oilseeds, including soybeans. NOPA's 15 member companies process more than 1.7 billion bushels of oilseeds annually at 66 plants located throughout the country, including 61 plants which process soybeans.

Our industry is an energy-intensive one, but emits comparatively small amounts of greenhouse gases (GHGs); the food industry as a whole contributes roughly less than 1 percent of domestic GHG emissions, and emissions from our industry are only a small fraction of that total. Because our industry has a limited ability to pass costs on to consumers of our products, we are concerned with cost impacts, including energy price increases, to our industry.

Climate change is a global challenge requiring multilateral solutions that do not shift the economics of agricultural production, processing and manufacture of food and feed products and renewable fuels. Rising energy costs commensurate with either a carbon tax or an emissions cap imposed on U.S. operations would threaten the viability of not only the energy-intensive, import/export-sensitive U.S. oilseed processing industry, but other sectors of manufacturing in the U.S., resulting in companies facing the decision to move operations out of the country. The result would be a transfer, not a reduction, of global GHG emissions and jobs. In fact, the climate change problem could be exacerbated to the degree that those operations are transferred to countries that use energy sources that are more carbon intensive.

Hence, both legislation and regulation must ensure that developed and developing nations alike share responsibility for addressing climate change. Additionally, any emission reductions from such legislation and regulation must be verifiable and enforceable, particularly with respect to impacts on international trade.

NOPA opposes any unilateral climate-related legislation that calls for either a carbon tax or a mandatory cap on GHG emissions. We do not believe sufficient effort has been put toward the development of voluntary initiatives that provide the framework for effective, voluntary, pro-growth, technology-driven approaches to reduce energy use, and thereby achieve GHG reductions in an economically sound manner. We believe that global GHG emissions are best addressed through voluntary initiatives, as well as through increased research, development and deployment of innovative breakthrough technologies.

In the event Congress acts to limit GHG emissions, NOPA believes that a full review of the benefits and costs of carbon tax and cap-and-trade programs should be undertaken. NOPA and its members are focused on solutions that will continue to promote U.S. agriculture and the food, feed and renewable fuels industry. In a high-volume, low-margin business environment, domestic production can quickly move to foreign competitors, at the expense of U.S. production and jobs. If implemented in an aggressive or reckless manner, either a carbon cap-and-trade or carbon tax program would have disastrous economic consequences to the U.S. oilseed processing industry. It would result in higher food prices and would make the oilseed processing

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industry much less competitive on exports to other countries. The net effect would be the loss of jobs in the industry, reduced revenue for farmers and processors, as well as increased food prices for consumers.

Thank you again for including NOPA as a stakeholder in the global climate change discussions being held by the Committee.

Respectfully,

A handwritten signature in black ink that reads "Thomas A. Hammer". The signature is written in a cursive style with a long, sweeping underline.

Thomas A. Hammer
President

Attachment (1)

**Committee on Agriculture
U.S. House of Representatives
Biographical Form**

Name

Thomas A. Hammer

Organization(s) you represent

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Address

1300 L Street, NW, Suite 1020, Washington D.C. 20005-4168

Email

thammer@nopa.org

If you are responding on behalf of an organization, please list the capacity in which you are representing that organization, including any office or elected position you hold or if you are a volunteer.

President

Part I: Carbon Reduction Program Design

1)

Members of Congress have introduced numerous bills to address the wide spectrum of climate change issues. Do you think Congress should enact a program that uses carbon taxes/fees, a cap-and-trade program, or a hybrid of these two approaches? Why?

Please respond in 600 words or less.

Climate change is a global challenge requiring multilateral solutions that do not shift the economics of agricultural production, processing and manufacture of food and feed products, and renewable fuels. Rising energy costs commensurate with either a carbon tax or an emissions cap imposed on U.S. operations would threaten the viability of not only the energy-intensive, import/export-sensitive U.S. oilseed processing industry, but other sectors of manufacturing in the U.S., resulting in companies facing the decision to move operations out of the country. The result would be a transfer, not a reduction, of global GHG emissions and jobs. In fact, the climate change problem could be exacerbated to the degree that those operations are transferred to countries that use energy sources that are more carbon intensive.

Hence, both legislation and regulation must ensure that developed and developing nations alike share responsibility for addressing climate change. Additionally, any emission reductions from such legislation and regulation must be verifiable and enforceable, particularly with respect to impacts on international trade.

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In the event Congress acts to limit GHG emissions, NOPA believes that a full review of the benefits and costs of carbon tax and cap-and-trade programs should be undertaken. NOPA and its members are focused on solutions that will continue to promote U.S. agriculture and the food, feed and renewable fuels industry. In a high-volume, low-margin business environment, domestic production can quickly move to foreign competitors, at the expense of U.S. production and jobs. If implemented in an aggressive or reckless manner, either a carbon cap-and-trade or carbon tax program would have disastrous economic consequences to the U.S. oilseed processing industry. It would result in higher food prices and would make the oilseed processing industry much less competitive on exports to other countries. The net effect would be loss of jobs in the industry, reduced revenue for farmers and processors, as well as increased food prices for consumers.

Having outlined some of our industry's concerns, were Congress to move forward in designing a cap-and-trade program, NOPA would favor a program that:

- (a) Provides for comprehensive legislation rather than EPA regulation under the Clean Air Act and preempts or, if necessary, harmonizes state, regional and federal climate initiatives;

- (b) Provides maximum avenues to free allowances, a robust credit system and built-in flexibility;
- (c) Is economy-wide in reach, rather than targeting a single sector for emissions reductions;
- (d) Is inclusive of all six GHGs, not just CO₂;
- (e) Is global in scope, guarding against carbon and job “leakage,” and compatible with WTO obligations/commitments;
- (f) Is permissive of excess allowance carryover;
- (g) Sets a ceiling and safety valve in the setting of the price for allowances;
- (h) Recognizes voluntary actions taken to reduce GHG emissions prior to implementation of climate change policy;
- (i) Ensures a level playing field with processors from countries with a less stringent or no GHG mitigation system; and
- (j) Allows the granting of allowances for the implementation of Carbon Capture and Sequestration (CCS) projects and does not disqualify projects due to public/private participation.

3)

If a cap-and-trade program is chosen, how should emission allowances be distributed? For example, should they be at no cost, auctioned, or a combination of both? How should Congress prioritize the distribution of available allowances? Should allowances for the agricultural and forestry sectors be allocated at no cost, if so, should there be a limit on the number of no-cost allowances?

Please respond in 600 words or less.

Our industry is an energy-intensive one, but emits comparatively small amounts of GHGs. The food industry as a whole contributes roughly less than 1 percent of domestic GHG emissions, and emissions from our industry are only a small fraction of that total. Because our industry has a limited ability to pass costs on to consumers of our products, we are concerned with cost impacts, including energy price increases, to our industry.

NOPA believes that, in consideration of the comparatively small amounts of GHGs the food, feed and renewable fuels industry emits and the import/export-sensitive and energy-sensitive nature of the business, the industry should receive necessary consideration to mitigate economic harm. In the event Congress elects to include the industry in a cap-and-trade program, credits should be made available and free allowances should be allocated to it, in recognition of the threat that such a program would pose to the viability of the industry. Over time, free allowances could be phased out if climate change costs are harmonized globally on an industry-by-industry basis. We also support setting a ceiling and safety valve in the setting of the price for allowances.

Should Congress move down the path of including the agricultural sector in a cap-and-trade program, considerable thought should be given to program design. Of particular concern to NOPA would be the unintended and problematic consequences of such an inclusion, such as agricultural producers taking arable land out of production and selling it as offsets; or, large GHG emitters buying large tracts of arable land, taking it out of production, and converting it to rangeland or trees, towards using the converted land as offsets. Any program that would encourage the taking of more arable land out of production could severely strain the ability of the food, feed and renewable fuels industry to meet worldwide demand.

4)

Should a cap-and-trade program or a carbon tax/fee program be linked to existing or emerging U.S. regional or other carbon reduction programs (i.e. RGGI or individual state programs)? If so, which programs and why?

Please respond in 600 words or less.

NOPA opposes any unilateral climate-related legislation that calls for either a carbon tax or a mandatory cap on GHG emissions. In the event Congress acts to limit GHG emissions, NOPA supports federal preemption of all regional, state and other carbon reduction programs or, if necessary, the harmonization of these climate initiatives. Any legislation that allows regions, states and other entities to pursue their own program/approach will only lead to confusion, multiple sets of recordkeeping and additional expense, all of which would serve to undermine regulatory effectiveness, create investment uncertainty, and negatively impact U.S. competitiveness. The objective should be to avoid unnecessarily driving up compliance costs and making environmental goals more difficult to reach. To the degree these other climate initiatives remain, it is paramount they be harmonized with the federal program to eliminate the cost and chaos multiple independent systems would impose on the regulated sectors.

5)

If a cap-and-trade program is established, should an existing government agency regulate it or should a new agency be created? Please explain.

Please respond in 300 words or less.

Before creating a new agency to regulate any new program, Congress should first step back and look at which agencies have the history, experience and accountability in administering such programs. Addressing GHGs via a cap-and-trade program should not be about creating new government entities, but about maximizing use of existing departments and agencies to carry out and enforce the program. Any agency tasked with creating or regulating a cap-and-trade program must develop operating principles that are feasible, flexible, accountable, clear, and enforceable; provide for a transparent regulatory approach; allow entities impacted ample time to respond during a notice-and-comment period; and establish a methodology so that the program can be modified over time based on experience and to ensure that it is periodically updated to meet new objectives and environmental issues that may arise.

The U.S. Environmental Protection Agency, which has a demonstrated history in addressing many emissions issues and experience in implementing and administering programs, such as the Acid Rain Program, that included an allowance trading system, should be given serious consideration for regulating any new cap-and-trade program with full consultation from USDA, DOE, USTR, DOT and the Department of State. This program should not be regulated under the Clean Air Act because it would create a conundrum of regulatory impossibilities.

6)

If a derivatives or futures market in carbon reduction arises in the wake of the creation of a cap-and-trade program, should the Commodity Futures Trading Commission (CFTC) continue its role as the regulator of this derivative carbon market, or should there be a different regulator? Please explain.

Please respond in 300 words or less.

If a derivatives or futures market in carbon reduction does arise through the creation of a cap-and-trade program, it should have proper oversight and funding and an experienced enforcement authority. As discussed above in the answer to question no. 5, every effort should be made to utilize existing government entities. Considering the CFTC's demonstrated history and experience in overseeing such a market, it should be the regulator under any new cap-and-trade program.

7)

Currently, derivatives of energy-based commodities can be traded through: a) highly structured instruments on regulated, transparent futures markets accessible to anybody and anyone; b) flexible instruments on lightly regulated, transparent derivative markets accessible to only major market participants, or; c) flexible instruments on unregulated, opaque over-the-counter markets accessible only to major market participants.

Should derivatives markets in carbon reduction arising in the wake of the creation of a cap-and-trade program also be permitted to develop under similar options as for energy-based commodities?

Please respond in 600 words or less.

Yes, derivatives markets should be permitted to develop.

8)

Will enactment of a carbon reduction program have negative impacts for regions or populations whose welfare is of special interest to the agriculture community? Such groups could include: residents of rural areas; populations served by USDA nutrition programs; agricultural producers and forest landowners; or input, transportation, and processing sectors of agriculture and forest products.

Please respond in 600 words or less.

The U.S. oilseed processing industry is very energy-intensive and subject to foreign competition. Rising energy costs commensurate with any carbon reduction program would threaten the viability of not only this industry, but other sectors of manufacturing in the U.S., resulting in companies moving more and more operations out of the country. The result would be a transfer, not a reduction, of global GHG emissions. GHG emissions would be exacerbated to the degree that those operations are transferred to countries that use energy sources that are more carbon intensive.

Enactment of a carbon reduction program could also have a significant impact on crop production, including operating costs and fixed costs. Production agriculture relies heavily

on fertilizer, diesel fuel, gasoline, natural gas and LP gas for on-farm use; for the heating/drying of commodities; and for transportation of product from farm to point of sale (whether by truck, rail, barge or ship). The cost of all of these could rise dramatically as a result of rising energy costs commensurate with any carbon reduction program. All of these price increases have the potential to increase the price of food and feed products accordingly.

9)

How might revenue generated under a carbon reduction program be best used to offset any negative impacts?

Please respond in 300 words or less.

Revenue would be best used in funding necessary investment and development in new technologies such as carbon capture and storage; implementing cost-containment measures; strengthening transportation infrastructure; and ensuring that domestic businesses, farmers and ranchers are not put at an undue competitive disadvantage in the global marketplace as a result of climate change policy. A carbon reduction program should not be allowed to generate revenue for the administering entity or for international programs.

10)

Should businesses that are affected (either indirectly or directly) by higher overall costs due to a carbon reduction program receive transitional assistance?

Please respond in 300 words or less.

Yes. To remain viable and competitive, affected businesses must have access to free allowances and auction revenue to offset the costs of any carbon reduction program, such as meeting new compliance benchmarks; installing new equipment to mitigate GHGs; utilizing new carbon capture and storage technologies; and higher energy costs.

11)

What role should public lands play in helping to sequester carbon and/or reduce greenhouse gas emissions?

Please respond in 300 words or less.

Use of public lands in helping to sequester carbon could serve to lessen the impact of any carbon reduction program on U.S. oilseed processing or other manufacturing operations. Additionally, there may be an opportunity for government and business to work together to identify opportunities for using such lands for renewable fuels production.

12)

Should carbon prices be determined exclusively by market forces or should limits on carbon prices be established? Please explain.

Please respond in 600 words or less.

Initially, it is critical that allowances be free or that a significant portion of allowances be distributed to capped entities and economically disadvantaged sectors for their use in

offsetting economic impacts and funding research and development on carbon reduction technologies. Eventually, these free allowances could be phased out if climate change costs are harmonized globally on an industry-by-industry basis. We support setting a ceiling and safety valve in the setting of the price for allowances.

Part II: Carbon Reduction Program Administration and Implementation

The administration and implementation of an offset or allowance program will be a major topic during any potential climate change discussion. Please answer the following questions regarding the scale, scope, and limitations of any program as part of the larger carbon reduction debate.

16)

How should Congress prioritize the distribution of available offsets (who gets them and how much)?

Please respond in 600 words or less.

Offsets should be available to businesses most heavily impacted by any carbon reduction program, including businesses most disadvantaged in the global marketplace as a result of the program. We support a transparent process vetted through the public comment process that defines the source of the offsets and the size of the offset pool.

Part III: Carbon Reduction Program Additional Thoughts

Please use the next 1000 words to provide additional comments on subjects which may not be covered by the questionnaire, such as a low-carbon fuel standard, life-cycle analysis, leakage, or biofuel incentives.

Carbon leakage occurs when there is an increase of GHG emissions in one country as a result of an emissions reduction by a second country with a stricter climate policy. One of the ways carbon leakage can occur is if the emissions policy of a particular country raises local production costs. In that case, another country with a more relaxed policy might have a trading advantage. If demand for the goods being produced remains the same, production may move out of the country to the country with a more relaxed policy; global emissions may not be reduced, but could actually increase to the degree that production is transferred to a country that uses energy sources that are more carbon intensive.

Two of the largest U.S. customers of the U.S. oilseed processing industry are the domestic livestock and poultry industries. These industries consume over 45 percent of domestic soybean production in the form of soybean meal produced by the U.S. oilseed processing industry. A U.S. carbon reduction program would have a dramatic cost impact on food production from farm to fork, including the livestock and poultry industries, and would likely lead to carbon leakage to other countries with no carbon reduction programs.

A case in point is Brazil and Argentina, which are home to the principal competitors of both the U.S. oilseed processing industry and the U.S. livestock and poultry industries. Both of these countries have the capacity to expand not only crop production and processing, but livestock and poultry production; neither has a meaningful carbon reduction program. Should a U.S. carbon reduction program increase costs on U.S. oilseed processors and U.S. livestock and poultry producers/processors to the degree that they lose their competitive advantage relative to Brazil and Argentina, all three industries, which are import/export-sensitive, will be forced to seriously consider moving out of the U.S. Brazil and Argentina will be the likely beneficiaries. Any U.S. carbon reduction program must be structured in a manner to protect our competitive advantage, recognizing that our competitors likely do not have similar policies in place.

Structuring a program in this manner will be a huge challenge, considering our World Trade Organization (WTO) commitments. Any U.S. carbon reduction program could lead to allocation schemes and trade mechanisms that could face WTO challenges that are already very complex. Designing a program/scheme to address leakage without risking retaliation from our overseas customers will be a very difficult task.

In consideration of the above, NOPA, which represents a vital segment of the U.S. food, feed and renewable fuels industry, has adopted the following principles:

- 1) Climate change is a global challenge and requires a global solution; any U.S. action must require comparable action by developed and developing countries alike.
 - (a) Our industry is an import/export-sensitive one; our customers are import/export-sensitive as well; everything that we and they produce can be produced across the border or overseas.
 - (b) The global playing field must be level or the U.S. food, feed and renewable fuels industry will become non-competitive.
 - (c) Climate change is a global challenge that cannot be solved by any one nation acting unilaterally.
 - (d) Without multilateral action, jobs and emissions will simply shift across the border or overseas to countries that require few, if any, environmental protections, harming both the global environment (via “carbon leakage”) and the U.S. economy.
- 2) Voluntary initiatives should serve as the framework for effective, voluntary, pro-growth, technology-driven approaches to reducing energy use and achieving greenhouse gas emission reductions in an economically sound manner.
 - (a) The oilseed processing industry is an energy-intensive one, but emits comparatively small amounts of GHGs.
 - (b) The food industry as a whole contributes roughly less than 1 percent of domestic GHG emissions, and emissions from our segment of the industry are only a small fraction of that total.
- 3) Global GHG emission reductions should not be addressed by mandates and bureaucracy, but rather by technology-driven initiatives where industry and government work together to provide funding for increased research, development and deployment of innovative breakthrough technologies.

- 4) Greenhouse gas emission reductions must be workable, verifiable, enforceable, flexible, transparent and global in scope.
 - (a) The Clean Air Act is not a viable or reasonable vehicle to address a global challenge like climate change, because it was designed to address local, regional and national, not global, environmental quality.
 - (b) Any federal program should preempt all regional, state or other carbon reduction initiatives or, if necessary, harmonize these initiatives.
 - (c) Any program that encourages removing arable land from production could severely strain the ability of the food, feed and renewable fuel industry to meet worldwide demand.
- 5) Any legislation must be consistent with WTO obligations; to do otherwise is to face almost certain retaliation from our trading partners.

Were Congress to move forward and design a cap-and-trade climate change program, NOPA would favor a program that:

- (a) Provides for comprehensive legislation rather than EPA regulation under the Clean Air Act and preempts or, if necessary, harmonizes state, regional and federal climate initiatives;
- (b) Provides maximum avenues to free allowances, a robust credit system and built-in flexibility;
- (c) Is economy-wide in reach, rather than targeting a single sector for emissions reductions;
- (d) Is inclusive of all six GHGs, not just CO₂;
- (e) Is global in scope, guarding against carbon and job “leakage,” and compatible with WTO obligations/commitments;
- (f) Is permissive of excess allowance carryover;
- (g) Sets a ceiling and safety valve in the setting of the price for allowances;
- (h) Recognizes voluntary actions taken to reduce GHG emissions prior to implementation of climate change policy;
- (i) Ensures a level playing field with processors from countries with a less stringent or no GHG mitigation system; and
- (j) Allows the granting of allowances for the implementation of Carbon Capture and Sequestration (CCS) projects and does not disqualify projects due to public/private participation.