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May 8, 2024

Bill Peters
Oregon Department of Environmental Quality
700 NE Multnomah St., Suite 600
Portland, OR 97232

Via electronic submission

Re: Department of Environmental Quality 2024 Clean Fuels Program Rulemaking

Mr. Peters:

Thank you for the opportunity to comment in response to the Oregon Department of Environmental Quality's (DEQ) 2024 Clean Fuels Program (CFP) Rulemaking. The National Oilseed Processors Association (NOPA) appreciates being able to share our observations. NOPA members have a vital interest in these issues.

NOPA encourages DEQ to not consider the proposal currently under consideration by the California Air Resources Board (CARB) on sustainability certification for crop-based biofuels. NOPA has a number of concerns with the proposal, which we have detailed below and in comments to CARB.

Background

Organized in 1930, NOPA represents the U.S. soybean, canola, flaxseed, safflower seed, and sunflower seed-crushing industries. NOPA's membership includes 15 members that are engaged in the processing of oilseeds for meal and oil that are utilized in the manufacturing of food, feed, renewable fuels, and industrial products. NOPA member companies operate a total of five softseed and 62 solvent extraction plants across 21 states. NOPA members crush approximately 95% of all soybeans processed in the U.S.

NOPA members' oilseed processing operations yield protein-rich meal for human and animal nutrition, as well as vegetable oil that is used as an ingredient in food manufacturing and as a feedstock for renewable fuels such as biodiesel, renewable diesel and sustainable aviation fuel (SAF). These sustainably produced biofuels help reduce carbon dioxide equivalent (CO_2e) greenhouse gas emissions and the carbon intensity of transportation fuels in use today. NOPA is uniquely qualified to respond to the rulemaking given the number of markets that NOPA members serve, including the food, feed, fuel, and industrial markets.

Sustainable Oilseed Processing Feedstocks and Investments

NOPA members are committed to producing sustainable feedstocks. Many of our members have made sustainability commitments and net-zero deforestation pledges. NOPA and the United Soybean Board (USB) also recently published a study which demonstrates the following carbon reductions since 2015:

- 19% decrease for U.S. Soybean cultivation
- 6% decrease for U.S. Soybean Meal production
- 22% decrease for U.S. Crude Soy Oil production
- 8% decreased for U.S. refined soy oil production

NOPA members are also making significant investments to produce sustainable vegetable oil supplies to meet all the demands of biofuel, feed, and food customers. As critical feedstock suppliers to the renewable fuels industry, our industry has announced well over $6 billion in soybean crushing capacity investments since 2021 encompassing some 20 or more expansions or new facilities. These projects are currently on track to increase soybean crush capacity by over 30% between 2023-2026. Collectively, these projects will provide enough additional feedstock to support a 1-billion-gallon increase in BBD capacity over the next several years, **without impacting food or land use**.

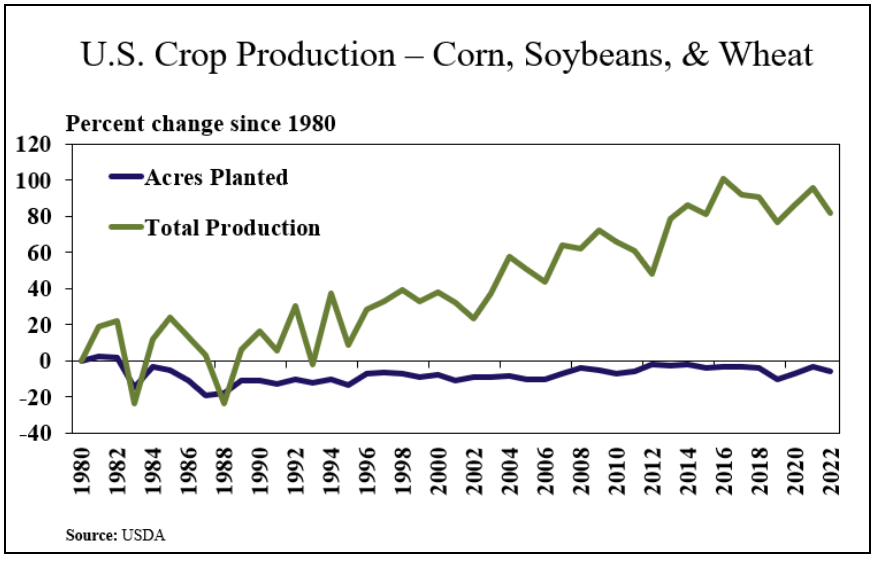
This increased capacity will be largely supported by improving the yields from existing acreage already farmed with oilseed crops, increasing the amount of oil produced by such crops and regenerative farming practices, such as cover crops, which reduce the carbon intensity of agricultural practices.

CARB's Proposed Crop-Based Biofuels Sustainability Criteria

NOPA has urged CARB to adopt a more risk-based approach to addressing deforestation by recognizing the sustainability requirements already provided for under the RFS. By not recognizing that the RFS already requires certification of all the sustainability criteria proposed by CARB, it would have the unintended consequence of disadvantaging regions of crop-based feedstock production with low-risk of deforestation (U.S. and Canada) at the expense of feedstocks produced in regions with a significantly higher risk of deforestation where segregated supply chains are more prevalent due to those risks.

As noted in Figure 1, total U.S. agricultural land use today is lower than it was in 1980; lower than it was when the RFS was created; and lower than it was when the CA LCFS was created. And total crop production has increased on roughly the same amount of land by over 80%.

Figure 1



Not only is U.S. agriculture producing more with less and on fewer acres, it continues to do so at the lowest costs due to its comparative advantage in the world through our efficient bulk commodity, aggregation and transportation system. Layering additional cost and segregation on U.S. producers could have the effect of increasing demand for feedstocks from regions with the highest risk of deforestation.

Further, the program has already overly accounted for land use impacts in the development of the LCFS through the incorporation of indirect land use change penalties (iLUC) – values which continue to be significantly overestimated, and by default provide additional guardrails.

RFS Compliance with CARB's Proposed Sustainability Criteria

As noted, NOPA urged CARB to recognize that fuels produced and certified under the RFS meet CARB's newly proposed sustainability criteria. As demonstrated below, the RFS already meets the sustainability requirements proposed under the LCFS amendments:

Proposed Feedstock Sustainability Requirements	RFS Feedstock Sustainability Requirements
Must not be sourced on land forested after Jan. 1, 2008	Must not be sourced from agricultural land cleared or forested after Dec. 19, 2007
Maintain continuous certification	Maintain continuous certification
Certification system must be recognized by an international, national, or state/provincial government for at least 24 months.	The RFS was approved by the U.S. Congress on, and has been in effect since, Dec. 19, 2007
Certification system must consider environmental, social and economic criteria	Factors addressed by U.S. EPA during annual rulemakings to establish Renewable Volume Obligations (RVOs) under the RFS include: • Impact on the environment • Impact on cost to consumers and cost to transport goods, and job creation • Soil Quality • Environmental Justice
Certification system standard-setting process is participatory, and consensus driven – convening groups of economic, environmental and social stakeholders in both formal and informal manners; and creates a representative steering committee technical working group(s) and advisory group(s)	The passage of the RFS through Congress was by definition consensus driven, which allowed for the input by all stakeholders as afforded during the legislative process. EPA's annual rulemakings to establish RVOs allow for public comment by all stakeholders, both formal and informal. This process includes input from EPA's Clean Air Scientific Advisory Committee (CASAC) – an independent advisory group of non-EPA scientists, engineers, economists and social scientists.
The certification system must have clear, accessible, and transparent processes;	The development of the implementing regulations for the RFS and each subsequent rulemaking to establish RVOs went through a transparent and public comment process before finalization.
The certification system must publish procedures, guidance, certificates and audit report summaries on its website;	All RFS regulations, certificates, and compliance reports are available at https://www.epa.gov/renewable-fuel-standard-program
The certification system must be science based, provide clear targets to reach, and support demonstrable means of evaluation;	The development of the implementing regulations for the RFS and each subsequent rulemaking to establish RVOs by U.S. EPA go through a transparent and public comment process before finalization, based on specific scientific criteria and evaluation.
The certification system must demonstrate that requirements that are additional to the	The passage of the RFS through Congress was by definition consensus driven, which allowed for the

requirements of this subarticle are vetted via a multi-stakeholder process to mitigate potential stakeholder bias;	input by all stakeholders as afforded during the legislative process. EPA's annual rulemakings to establish RVOs also allow for public comment by all stakeholders, both formal and informal. This process includes input from EPA's Clean Air Scientific Advisory Committee (CASAC) – an independent advisory group of non-EPA scientists, engineers, economists and social scientists.
The certification system must maintain an effective auditor training program to ensure auditor competency;	The RFS compliance and audit program is maintained by U.S. EPA and can be found at https://www.epa.gov/renewable-fuel-standard-program/compliance-overview-renewable-fuel-standard-program
The certification system must include an effective grievance mechanism to ensure that problems are resolved;	EPA's annual rulemakings to establish RVOs also allow for public comment by all stakeholders, both formal and informal. A petition process is also afforded under the RFS, which has been utilized by stakeholders. https://www.epa.gov/renewable-fuel-standard-program/other-requests-under-renewable-fuel-standard
The certification system must include sanction mechanisms for participating feedstock suppliers and auditing bodies to ensure conformance with its system requirements; and	The RFS compliance and audit program is maintained by U.S. EPA and can be found at https://www.epa.gov/renewable-fuel-standard-program/compliance-overview-renewable-fuel-standard-program. The RFS and Clean Air Act also establish penalties for non-compliance.

Ensuring Integrity of Imported Feedstocks

NOPA notes that imports of Used Cooking Oil (UCO) and other low carbon feedstocks have significantly increased since 2022. NOPA appreciates DEQ's consideration of additional scrutiny and monitoring of imported feedstocks. Such actions will ensure continued program confidence and compliance.

Conclusion

NOPA is eager to continue working with DEQ to support the role of agriculture in diversifying the fuel supply through more sustainable feedstocks and thereby supporting cleaner fuel options in Oregon and beyond. On behalf of America's soybean processors, we appreciate this opportunity to comment, and look forward to collaborating with DEQ and other relevant stakeholders to enact policies that will address climate change while expanding the use of soy-based biofuels and market opportunities for soybean farmers.

Sincerely,

Kailee Tkacz Buller

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President & CEO
NOPA