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Via electronic submission

Re: Proposed Low Carbon Fuel Standard 15-Day Changes

Transportation Fuels Branch Chief Lozo:

Thank you for the opportunity to comment in response to the California Air Resources Board's (CARB) additional modifications to the Proposed Amendments to the Low Carbon Fuel Standard (LCFS) Regulation (Second 15-Day Package or Proposal). The National Oilseed Processors Association (NOFA) appreciates the opportunity to provide additional insights.

NOFA continues to strongly urge CARB to reject the imposition of a vegetable oil cap and adopt NOFA's proposed targeted, risk-based approach to sustainability requirements which would not penalize sustainable U.S. fuels and feedstocks at the expense of increased foreign and/or fraudulent imports.

Background

Organized in 1930, the National Oilseed Processors Association (NOFA) represents the U.S. soybean, canola, flaxseed, safflower seed, and sunflower seed-crushing industries. NOFA's membership is engaged in the processing of oilseeds for meal and oil that are utilized in the manufacturing of food, feed, renewable fuels, and industrial products. NOFA's 17 member companies operate 70 softseed and soybean solvent extraction plants across 21 states, crushing over 95% of all soybeans processed in the United States, the equivalent to more than 2 billion bushels annually.

Soybeans are made of up of approximately 80% meal and 20% oil meaning as more oil becomes available for renewable energy use, even more meal will become available for food and feed use. NOFA members have been building capacity to process domestic row crops into biofuel feedstocks in line with state and federal renewable fuel provisions. NOFA members - and new entrants into the soy processing sector - have announced plans to invest approximately \$6 billion to expand U.S. crushing capacity by nearly 30% relative to 2023 installed capacity.

A Cap on Vegetable Oils Is Impractical and Could Bring Unintended Consequences

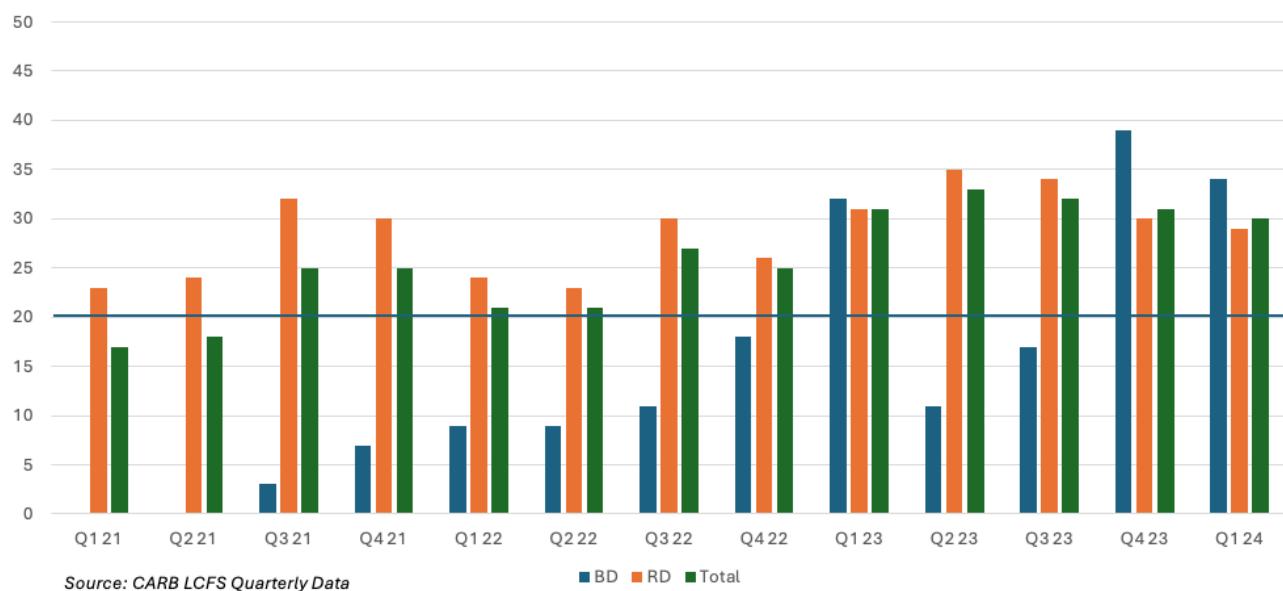
While CARB's proposal intends to diversify feedstock sources and promote sustainability, it will likely have the opposite effect. First and foremost, capping the use of vegetable oils will significantly increase fuel costs. Because vegetable oil is currently one of the most efficient and cost-effective feedstocks, limiting its use will constrain the supply of renewable diesel. Renewable diesel and biodiesel are crucial components of California's efforts to reduce greenhouse gas emissions and transition to cleaner energy sources. This artificial limitation will create a supply-demand imbalance, driving up the costs of renewable diesel production and, consequently, the price at the pump for consumers.

Moreover, reaching CARB's goal of 100% renewable liquid fuels with the proposed feedstock constraints in place is unrealistic and impractical. The proposed cap on vegetable oil usage risks stalling the progress made to reduce carbon emissions by creating a bottleneck in renewable diesel production. In fact, CARB's own analysis supports this assessment.

As shown in Figure 1, total biomass-based diesel (BBD) production from soybean and canola oil for the California market was 30% in the first quarter of this year and has been above CARB's proposed 20% cap since Q3 of 2022, while renewable diesel from soybean and canola oil has been greater than 20% since Q1 of 2021.

Figure 1

% of Veg Oils in BBD by Quarter



NOPA appreciates the inclusion of clarifications and improvements to the vegetable oil cap in the 2nd 15-Day Package. However, the market will be significantly challenged to maintain, much less increase, its current 72% displacement of fossil diesel demand, while simultaneously having to replace 10% of feedstock demand in three years. In fact, CARB came to the same conclusion when it presented its findings at the April 2024 workshop – that a vegetable oil cap will require more fossil diesel use in lieu of renewable diesel and

biodiesel, stating that it “does not achieve the same level of NOx and PM2.5 emissions reductions as the proposed amendments and potentially exacerbates existing air quality challenges in the State.”

A 10% feedstock displacement rate will either not be possible, or so costly that it will be prohibitive. In cases where biodiesel production facilities are integrated with oilseed crush facilities, there are structural impediments to changes in feedstock which provides no feasible feedstock optionality. Taken together, these proposed feedstock restrictions will effectively create a decreasing volumetric cap as the price of compliance to maintain market access becomes cost prohibitive.

NOPA urges CARB to return to its previous position and oppose a cap on vegetable oil feedstocks. In its place, we continue to recommend policies that encourage the responsible production and use of renewable feedstocks while addressing concerns about deforestation through targeted risk-based measures.

CARB Should Officially Deem Canada’s Clean Fuels Regulations Compliant

NOPA appreciates the mention of Environment and Climate Change Canada’s Clean Fuels Regulations (CFR) in the 2nd 15-Day Package Notice as it relates to CARB’s ability to remove or suspend certification systems. The implication of its inclusion would be that CARB intends to recognize certification systems approved under Canada’s CFR, which NOPA strongly supports.

As NOPA previously submitted, for regions where crop-based feedstocks comply with another established sustainability system, such as the CFR, CARB should permit some level of mutual recognition. The CFR offers established frameworks for verifying sustainable practices and is a practical and effective way to achieve CARB’s environmental goals without sacrificing any sustainability gains. Consequently, NOPA urges CARB to officially recognize the CFR as an approved certification system by including it in the Proposed Regulation Order under “Approved Certification Systems.”

CARB Should Take a Targeted Risk-Based Approach to Sustainability Requirements While Increasing Scrutiny of Waste Feedstocks

As NOPA previously submitted, for regions identified as having the lowest risks of deforestation associated with crop-based feedstocks, such as the United States and Canada, crop-based feedstocks could be deemed to be in compliance with CARB’s proposed sustainability criteria.

In addition, for regions where crop-based feedstocks comply with another established sustainability system, such as the Renewable Fuel Standard (RFS), Canada’s CFR, or energy tax credit provisions in the Inflation Reduction Act (IRA), CARB should permit some level of aggregate compliance. These programs offer established frameworks for verifying sustainable practices and are a practical and effective way to achieve CARB’s environmental goals without sacrificing any sustainability gains.

As NOPA’s members have experienced with existing certification schemes, including those approved by the EU and Canada, farmers are extremely reluctant to provide additional data or sign attestations. This reluctance often requires processors to build education campaigns which can take a significant amount of time to fully capture a supply chain.

Further, a 2026 implementation date for the first phase of sustainability criteria does not account for the growing cycle of agricultural feedstocks. 2026 crop-based feedstocks need to be planted in the spring of

2025, which means farmers are purchasing inputs for that crop as we speak today. If delivery points for the next soybean crop will require data disclosure, producers need to know that now as they plan out their upcoming crops and lock in investments.

In addition, CARB has not provided a clear definition of a farm, which raises significant implementation questions as farmers often farm disconnected parcels of land. Furthermore, farmers often store much of their crop to sell at a later date. Depending on how a farm is defined, it raises a further question of how on-farm storage will be handled.

In the event CARB is unwilling to deem U.S. and Canadian feedstocks compliant, CARB should, at a minimum, extend the implementation timeline for the sustainability criteria provisions beyond 2026 to account for the time necessary to cultivate feedstocks, obtain the data necessary for compliance, and acquire a sufficient number of farmer attestations.

NOPA members have also witnessed the impacts from limiting crop-based feedstocks and increased crediting for waste feedstocks under the Renewable Energy Directive (RED II). EU policymakers have struggled to address the subsequent impacts from fraudulent waste feedstocks,¹ while significant imports of Chinese biodiesel recently led the Commission to place substantial provisional import duties² of up to 36.4%.

At CARB's April workshop, staff noted additional measures under consideration to address potential fraud in sourcing waste feedstocks, including "additional detailed traceability, verification and/or enforcement of waste feedstocks to avoid fraud." Yet, both 15-Day Packages inexplicably failed to include any of those additional measures.

In addition, as previously noted, the proposal requires at least an additional 10% of waste feedstocks to offset the reduction in crop-based feedstocks, which, according to CARB's Recirculated Draft Environmental Impact Analysis (EIA), would "create an even stronger incentive to utilize waste feedstocks." Yet, the 2nd 15-Day Package was published without any additional analysis of direct or market-mediated effects from such a policy, nor any additional proposed compliance requirements to ensure waste feedstocks are not fraudulent.

NOPA continues to urge CARB's inclusion of enhanced traceability and enforcement measures on waste feedstock imports and maintains that a targeted, risk-based approach would streamline compliance requirements while ensuring that sustainability criteria are met. Recognizing biofuels produced in compliance with existing U.S. programs is a practical and effective way to achieve CARB's goals without sacrificing any sustainability gains. NOPA has and continues to support heightened scrutiny, oversight, and traceability to ensure the integrity of biofuels programs. NOPA believes origin disclosure and product makeup must be verifiable and traceable for imported feedstocks. NOPA strongly supports paperwork and in-person audits as well as testing where applicable.

Conclusion

In conclusion, CARB analysis, and market and scientific data collectively demonstrate that consideration of a cap or limitation on crop-based feedstocks is unwarranted and could further exacerbate the importation of potentially fraudulent foreign feedstocks.

¹ Kelly Norways, "[New biofuel data triggers fresh fraud concerns over EU imports](#)," S&P Global, December 14, 2023

² Kelly Norways, "[EU imposes anti-dumping duties targeting cheap Chinese biodiesel imports](#)," S&P Global, August 16, 2024

NOPA continues to encourage CARB to adopt a targeted, risk-based approach to implementing sustainability criteria under the LCFS. By accurately assessing deforestation risk, leveraging existing sustainability frameworks, and implementing targeted measures for high-risk regions, CARB can achieve its environmental objectives while also supporting a sustainable and resilient biofuels industry. At a minimum, CARB should consider extending the implementation date of the sustainability criteria provisions to account for the real-world challenges of acquiring farmer data and attestations.

NOPA is eager to continue working with CARB to support the role of agriculture in diversifying the fuel supply through more sustainable feedstocks, thereby supporting cleaner fuel options in California and beyond. We appreciate this opportunity to comment and look forward to collaborating with CARB and other relevant stakeholders.

Sincerely,

Kailee Tkacz Buller

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President & CEO
NOPA