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Carolyn Lozo
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California Air Resources Board
1001 "I" Street
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Via electronic submission

Re: Proposed Low Carbon Fuel Standard 15-Day Changes

Transportation Fuels Branch Chief Lozo:

The National Oilseed Processors Association (NOPA) appreciates the opportunity to comment in response to the California Air Resources Board's (CARB) proposed 15-Day Changes to the Proposed Amendments to the Low Carbon Fuel Standard (LCFS) Regulation (15-Day Changes or Proposal).

NOPA strongly encourages CARB to follow its own modeling and conclusions CARB presented in its workshop on April 10, 2024 which show that an artificial cap on vegetable oil feedstocks is unwarranted and would only increase fuel prices and harm air quality. With the implementation of a cap on biomass-based diesel (BBD) feedstocks, a phaseout of BBD pathways, and even more restrictive and costly traceability and verification system, this proposal will only lead to more combustion of fossil diesel fuel, higher fuel prices at the pump, and poorer air quality. It may also lead to a surge of more imported foreign feedstocks such as Used Cooking Oil (UCO) and tallow - some of which may not be legitimate - being used to fuel California instead of local U.S. grown options - all at the expense of the U.S farmer, the U.S. crusher and the California taxpayer.

CARB should therefore reject the imposition of a vegetable oil cap and adopt a targeted, risk-based approach to sustainability requirements which does not penalize sustainable U.S. fuels and feedstocks at the expense of foreign imports which may not be legitimate.

At a minimum, CARB should take additional time and effort to comprehensively consider the full impact of its proposal and give impacted parties the chance to fully respond. While NOPA has endeavored to identify all of the issues to date in this comment letter, 15 days is not a sufficient amount of time to fully address CARB's proposed vegetable oil cap and other significant and unexpected changes in the proposal. NOPA therefore strongly recommends that CARB extend the comment period and hold an additional public workshop on these potential changes.

Background

Organized in 1930, NOPA represents the U.S. soybean, canola, flaxseed, safflower seed, and sunflower seed-crushing industries. NOPA's membership includes 16 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 63 soybean solvent extraction plants across 21 states. NOPA members crush approximately 95 percent 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 (CO₂e) greenhouse gas emissions and the carbon intensity of transportation fuels in use today. NOPA is uniquely qualified to respond to CARB's proposed sustainability criteria for crop-based biofuels given the number of markets that NOPA members serve including the food, feed, fuel, and industrial markets.

CARB's Own Analysis Supports the Elimination of a Cap on Vegetable Oils

While the intention behind CARB's proposal is to diversify feedstock sources and promote sustainability, it will have the opposite effect, outweighing its potential benefits. First and foremost, capping the use of vegetable oil will significantly increase fuel costs. Because vegetable oil is currently one of the most efficient fungible, and cost-effective feedstocks, limiting their use will constrain the supply of renewable diesel in California. Renewable diesel and biodiesel are crucial components of California's efforts to reduce greenhouse gas emissions and transition to cleaner energy sources and 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 California consumers.

Moreover, CARB's goal of 100 percent renewable liquid fuels with the proposed feedstock constraints in place is unrealistic and impractical. The renewable diesel industry is still developing, and waste feedstocks are not available in sufficient quantities to meet the state's ambitious targets. By capping vegetable oil usage, the proposal risks stalling the progress made to reduce carbon emissions by creating a bottleneck in renewable diesel production for the California market. In fact, CARB's own analysis supports this assessment.

NOPA strongly supports CARB's findings presented at the April 2024 workshop that renewable diesel and biodiesel have a positive impact on both consumers and the environment. CARB's "Staff Report: Initial Statement of Reasons" (ISOR) specifically modeled an alternative (Alternative 1) which "includes several policy mechanisms that have the effect on limiting the number of credits created from existing low-CI pathways" including "a limit on total credits from diesel fuels or sustainable aviation fuel produced from virgin oil feedstocks." The report's impacts are glaring – and each of them are attributed to more fossil diesel use in lieu of renewable diesel:

- **Increased Fuel Costs:** Alternative 1 had total costs of \$162 billion, 1 percent more than the scenario without a vegetable oil cap and similar policies. According to CARB, "The main reason is that diesel fuel is a larger part of the fuel mixture and continues generating large amounts of in-state deficits through 2046. This is because renewable diesel produced from virgin oil feedstock is phased out...and more fossil diesel is needed to fuel the remaining vehicles with internal combustion engines."
- **Increased Emissions:** Alternative 1 had greater emissions of greenhouse gases, particulate matter (PM_{2.5}) and nitrous oxide (NO_x) than the baseline. The higher NO_x and PM_{2.5} emissions in particular were attributed specifically to reduced renewable diesel—CARB found that "Alternative 1 increases NO_x emissions by an additional 10,981 tons and increases PM_{2.5} emissions by 2,773 tons. Alternative 1 has more NO_x and PM_{2.5} emissions than the proposed amendments because this

scenario uses less renewable diesel than the proposed amendments.”

- **Fewer Health Benefits:** In line with its higher emissions, Alternative 1 also had correspondingly lower health benefits. CARB found that “Alternative 1 has a valuation of health benefits at \$1.58 billion compared to the proposed amendments with a valuation of \$4.98 billion, a difference of \$3.4 billion less in health benefits. The lower avoided health impacts of Alternative 1 are primarily associated with increases in PM2.5 over the baseline due to lower utilization of renewable diesel.”

CARB Staff justifiably rejected Alternative 1, citing the fact that it “relies more heavily on fossil fuels...than the proposed amendments. As a result, [Alternative 1] 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.”

Additionally, the ISOR included an analysis, and the rejection, of another proposal by CARB’s Environmental Justice Advisory Committee which included a cap on vegetable oils set at 2020 levels. CARB found that “due to limitations on lipid biofuels and dairy biogas, the Comprehensive EJ Scenario results in higher volumes of fossil diesel being used than any of the other scenarios evaluated.” However, despite the demonstrated negative economic and health impacts of a vegetable oil cap, CARB’s 15-Day Changes seek to accelerate those adverse impacts through additional regulatory requirements and market limitations on crop-based feedstocks. The additional restrictions will effectively create a decreasing volumetric cap as the price of compliance to maintain market access become cost prohibitive.

CARB’s analysis therefore appears to be at odds with its own prior findings. The ISOR concludes that just the imposition of a cap on vegetable oil feedstocks will increase fossil diesel use. Yet, CARB’s proposal summary states that “this [vegetable oil cap] allows for California to displace up to 100 percent of the State’s fossil diesel demand with cleaner alternative diesel.” This will not be possible with the combined establishment of a cap on feedstocks, a phaseout of new BBD pathways, and the imposition of even more costly traceability and verification measures. CARB has not explained why it is rejecting or ignoring its prior conclusions in the ISOR.

The proposed phasing out of new BBD pathways by 2031 is also concerning and unwarranted. CARB has a stated goal to achieve 100 percent renewable diesel, and phasing out new pathways would be unnecessary at best and counterproductive at worst. If the market becomes saturated, new pathways would no longer be needed and applications for new pathways will stop on their own. If market has not yet achieved 100 percent saturation, then additional pathways are likely to be needed to achieve CARB’s goal. The inclusion of this provision only serves to send a market signal that will limit both near and long-term supplies of feedstocks and fuel necessary to achieve the climate goals of the LCFS.

Making these significant policy adjustments without more solid footing sends the wrong signal to the market that the LCFS program is subjective and unpredictable, particularly at a time when the fuel supply chain works toward to goal the California has set decarbonizing the transportation fuel supply. As a result, this proposal could impact investments from the same companies who have committed to climate smart agricultural practices and invested in dedicated innovative crops like pennycress, camelina, carinata and winter canola. These investments represent a new wave in renewable energy production, based on the promise of a predictable market which rewards sustainability and carbon reduction – not artificial caps and arbitrary prohibitions which would stymie innovation.

NOPA urges CARB to eliminate the proposal's cap on vegetable oil feedstocks. In its place, we continue to recommend implementing policies that encourage the responsible production and use of renewable feedstocks while addressing concerns about deforestation through targeted risk-based measures.

The Proposal Contradicts the Requirements and Purposes of AB 32, the LCFS, and other California Laws

CARB's proposal to minimize biomass-based diesel used to comply with the LCFS flies in the face of the purposes of AB 32 and is inconsistent with several of its explicit requirements. To begin with, AB 32 requires that CARB design its LCFS regulations in a way that "maximizes benefits for California's economy, improves and modernizes California's energy infrastructure and maintains electric system reliability, maximizes additional environmental and economic co-benefits for California, and complements the state's efforts to improve air quality." Cal Health and Safety Code § 38501(h). But by minimizing renewable diesel and biodiesel production through a vegetable oil cap and related proposals, CARB would reduce environmental co-benefits and harm air quality. Because renewable diesel achieves significant NOx and PM2.5 reductions relative to fossil diesel, a cap that artificially reduces renewable diesel in the market will reduce the environmental benefits of the LCFS. As discussed above, that is borne out by CARB's own modeling in its ISOR.

AB 32 also requires CARB to meet GHG emissions limits in a way that "minimizes costs." A cap that artificially distorts the market inherently increases costs because regulated parties cannot choose the economically optimal way to comply with the obligations of the program. Again, this is supported by CARB's analysis in its ISOR that found increased costs in a scenario with a vegetable oil price cap.

AB 32's purposes are further embodied by its explicit requirements to minimize costs and maximize the total benefits to California. Cal Health and Safety Code § 38562. *See also id.* (requiring CARB to "Consider cost-effectiveness" and "minimize the administrative burden of complying with its regulations"); *id.* § 38560 (requiring CARB to issue "regulations in an open public process to achieve the maximum technologically feasible and cost-effective greenhouse gas emission reductions"). And CARB has designed its LCFS regulations accordingly by focusing solely on reducing the "carbon intensity of the transportation fuel pool," and taking a technology-neutral approach that allows various compliance mechanisms in order to maximize carbon intensity reduction. *See* 17 CCR §§ 95480, 95484. A vegetable oil price cap and freeze of vegetable oil pathways do the opposite – they create inefficiencies in the LCFS that add costs without corresponding improvements in GHG reductions. Indeed, without a vegetable oil cap, the market is optimally incentivized to comply in a way that both lowers costs and maximizes greenhouse gas reductions. A vegetable oil cap artificially skews that incentive, so the program will either need to be more costly to achieve the same level of GHG reductions or achieve less GHG reduction at the same cost.

CARB's proposal provides little basis or explanation for its abrupt shift in policy. To the extent there is any, it is CARB's statement that it expects that ZEVs will reduce diesel demand in "coming decades." But that speculative assertion is unsupported and ignores technical challenges with electrifying the heavy-duty sector. It also ignores another instruction in AB 32 to for CARB to design its regulations in a manner that "encourages early action to reduce greenhouse gas emissions." Cal Health and Safety Code § 38562. Biodiesel and renewable diesel are available to decarbonize trucks and other heavy-duty vehicles *now*, and it is illogical and arbitrary for CARB to miss out on those benefits in favor of speculative benefits in the future.

Finally, the proposal is inconsistent with other California laws designed to improve air quality and the environment, including California's State Implementation Plan ("SIP") under the Clean Air Act. In CARB's most recent SIP submission, it reiterated the imperative of reducing NOx and PM2.5. CARB, Proposed 2022 State SIP Strategy (Aug. 12, 2022). CARB noted in particular the impact of PM2.5 emissions from mobile sources on environmental justice communities and found that it is "imperative that we optimize our control programs to maximize emissions reductions and provide targeted near-term benefits in those communities that continue to bear the brunt of poor air quality." *Id.* at 2. CARB's proposal to eliminate a source of near-term PM2.5 improvement for the *possibility* of greater future electrification runs directly counter to the SIP's objectives.

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

NOPA appreciates CARB's continued recognition that some geographic regions carry a higher risk for deforestation. However, the proposal doubles down on a one-size-fits-all approach which, according to CARB's Recirculated Draft Environmental Impact Analysis (EIA), would "create an even stronger incentive to utilize waste feedstocks," 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.

Moreover, CARB's proposal would further disadvantage regions of crop-based feedstock production with low-risk of deforestation (U.S. and Canada) that are already subject to multiple compliance programs, thereby favoring feedstocks produced in regions with a significantly higher risk of fraud or deforestation.

At CARB's April workshop, staff noted additional measures which were 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, despite additional proposals that would accelerate waste feedstock demand, the 15-Day Changes inexplicably included none of those measures.

NOPA strongly supports heightened scrutiny, oversight, and traceability to ensure the integrity of imported feedstocks for the CARB LCFS. NOPA recommends stepped up enforcement laws for imported feedstocks while exploring all possible viable options in the long term to ensure the origin and content of imports are legitimate. NOPA supports paperwork and in-person audits, potential testing, and stronger attestations which will ensure the continued integrity of low carbon fuel programs. NOPA strongly urges CARB to include increased measures into its final rule to ensure foreign feedstocks are in fact legitimate and traceable. CARB should work in close coordination with federal officials who all touch imported feedstocks in some capacity such as the U.S. Department of Agriculture, Environmental Protection Agency (EPA), U.S. Trade Representative and U.S. Customs and Border Protection. NOPA also encourages CARB to work with other countries who have experienced their own instances of fraudulent activity as it relates to imports in their own low carbon fuel programs such as the European Commission.

Further, implementing a targeted, risk-based approach to the proposal's sustainability criteria offers several advantages. It allows CARB to prioritize resources and regulatory efforts where they are most needed, ensures that sustainability criteria are effectively applied without imposing unnecessary burdens on low-risk regions or established sustainability programs, and ensures sufficient supplies of low-carbon fuels for the California market.

CARB appears eager to incorporate an EU policy paradigm without accounting for the risks brought upon the EU market. In the wake of EU policy to limit crop-based feedstocks and increase crediting for waste feedstocks under the Renewable Energy Directive (RED II), policymakers have struggled to address concerns about 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 percent.

NOPA encourages CARB to not outsource sustainability certifications to the European Commission. CARB should recognize U.S. national, state, industry programs that meet the same intended goal of stopping deforestation and conversion. It is critical that CARB provide a tiered approach to feedstocks, fuels, and regions based on risk.

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 should be deemed to be in compliance with CARB's proposed sustainability criteria.

In the event CARB is unwilling to deem U.S. and Canadian feedstocks compliant, for regions where crop-based feedstocks comply with another established sustainability system, such as the Renewable Fuel Standard (RFS) Canada's Clean Fuel Regulation (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.

Further it is critical to note that planting decisions for crops to be harvested in late 2025 are happening now and will be made prior to CARB's proposal being finalized which means the timeline to begin implementing the sustainability certification criteria which specifically calls for "geographical shapefiles or coordinates of plot boundaries" by 2026 is simply not possible based on how the agriculture supply chain and crop harvest cycle works. Because of this NOPA respectfully submits that a deadline beyond 2027 is more reasonable for the first phase of compliance should CARB determine to go down this path.

While biofuels represent one significant market for vegetable oil, they are by no means the sole destination for these products. Given the diverse end uses of vegetable oil and meal, oilseed processors must carefully evaluate the return on investment when considering participation in an expensive sustainability certification program like the one CARB is proposing. California represents an important market for biofuels, but it may constitute only a fraction of the overall market for oilseed products. In this context, the costs associated with obtaining and maintaining sustainability certifications for a market that CARB seems intent on phasing out, may outweigh the benefits for many processors, particularly those with limited exposure to the California market.

For these reasons, 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, and recognizing biofuels produced in compliance with existing U.S. programs is a practical and effective way to achieve this goal

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

without sacrificing any sustainability gains. Should CARB proceed down a path to implement sustainability criteria, ample time to implement and comply beyond 2027 is essential.

Land Use Change (LUC)

While NOPA strongly supports free trade and open markets, currently the CARB LCFS is driving demand for imported waste feedstocks. These programs are built on carbon intensity modeling that considers feedstocks such as used cooking oil (UCO), tallow, and greases as “waste.” NOPA believes there is room for improvement when it comes to modeling waste feedstocks. In most instances the waste feedstock lifecycle begins when it is deemed “waste,” however key factors are not considered such as what the waste product was initially derived from and if it was grown on deforested land, for example. NOPA notes that the environmental impacts of a product's entire life cycle for waste feedstocks should be considered.

Imported feedstock volumes into the U.S. have skyrocketed in 2023 and 2024, displacing domestically produced feedstocks. One pound of imported feedstock displaces one pound of domestically produced soybean oil or the equivalent of 5 pounds of soybeans. From Jan 1, 2023- June 30, 2024 - the US imported a total of 7.9 billion pounds of UCO and tallow. Those 7.9 billion pounds of imported feedstocks displace the soybean oil crushed from an equivalent of over 650 million bushels of soybeans.³

As CARB noted at its April workshop and again in its recirculated EIA, “waste-based feedstocks, like UCO and animal fat, do not have additional LUC scores that are added to their CI value and made up 84% of all biomass-based diesel in the program from 2011 through 2022.”

However, non-waste feedstock carbon intensity modeling already includes direct and indirect land-use change values and CARB notes that existing modeling “may not be accurate for applicants sourcing feedstocks from outside 2015 analysis area.”

NOPA appreciates CARB’s consideration of assigning more conservative land use change values for high-risk feedstocks in regions with higher LUC risk than, for example, North American feedstocks currently modeled in Table 6 of the LCFS regulation. However, as the science on LUC continues to evolve, CARB should recognize that there are instances in which LUC should be reduced, not just the instances where LUC should be increased. In CARB’s proposal the regulatory flexibility and updated scientific modeling is afforded only to feedstock/fuel combinations not listed in Table 6. Further, the proposal only permits an increase in the LUC penalty. The final regulation should permit the flexibility to reflect when the science shows the penalty should be decreased, in addition to when LUC should be increased.

NOPA has repeatedly requested CARB to reassess its LUC model, particularly regarding soybean oil, given the evolving data from models like Argonne GREET’s Carbon Calculator for Land-Use and the Land Management Change from Biofuels Production (CCLUB) Model. CARB’s most recent modeling of LUC for BBD was done almost a decade ago, and produced a score of 29.1 gCO₂/MJ, which is significantly higher than the more recent findings from the 2023 R&D Argonne GREET Model with CCLUB and the 2024 40B SAF GREET model with CCLUB which estimate a value of 12.5 and 12.2 gCO₂/MJ for soybean oil – a nearly 60% decrease from CARB’s current value.

³ USDA GATS/US Census Bureau

AB 32 requires CARB to use the “best available economic and scientific information” in designing its LCFS regulations. Cal Health and Safety Code § 38562. CARB should therefore utilize the most recent science for all feedstock/fuel pathways and should not limit modeling updates to carbon intensity values only when the scores are worse, not better. To do so would undermine the scientific integrity underlying the basis of the entire LCFS program – to achieve the greatest carbon reductions based on unassailable science.

NOPA encourages CARB to update its LUC model with the latest science for all feedstock/fuel pathways. This adjustment would not only ensure that CARB's regulations remain grounded in the latest science but would also promote fairness and consistency within the industry.

Request for Additional Time for Public Input

NOPA notes that in the 15-Day Changes, the proposed cap on vegetable oil was the first time stakeholders had any opportunity to review these provisions or its concept. Given the precedent-setting nature of this program in the U.S., and the potential for significant cost and compliance burden to stakeholders, NOPA requests that CARB, as it did on February 14, take additional time to allow stakeholders to properly vet the intent, impact, and implications of the proposed requirements. Specifically, NOPA recommends that CARB at a minimum both extend the period for written comments and hold another public workshop. We appreciate and support the need to finalize this proposal to put the LCFS back on track but our concerns outlined above merit an open and transparent discourse.

Conclusion

In conclusion, CARB analysis, market and scientific data collectively demonstrate that consideration of a cap or limitation on crop-based feedstocks is unwarranted and in fact contradict AB 32, the LCFS regulations, and other California laws. Further, doing so unexpectedly and contrary to the reasonable expectations of regulated parties would undercut the necessary investments that are being made to support low carbon feedstocks and further feedstock expansion.

NOPA also 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.

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

Kailee Tkacz Buller
President & CEO
NOPA