ILLINOIS SOYBEAN ASSOCIATION

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Environmental Protection Division Director, Michelle Miano
Climate Change Bureau Chief, Claudia Borchert
New Mexico Environment Department
Harold L. Runnels Building
1190 St. Francis Drive, Suite N4050
Santa Fe, NM 87505

Via Electronic Submission

Re: EIB 25-23 (R) - In the Matter of Proposed Adoption of 20.2.92 NMAC Clean Transportation Fuel Program

Dear Director Miano and Bureau Chief Borchert:

The IL Soybean Growers (ISG) appreciate the opportunity to comment on the EIB 25-23 (R) - In the Matter of Proposed Adoption of 20.2.92 NMAC Clean Transportation Fuel Program. The IL Soybean Growers welcome engagement with the New Mexico Environmental Improvement Board (EIB), the Climate Change Bureau, and the New Mexico Environment Department (NMED) staff throughout the process to successfully implement the Clean Transportation Fuel Program (CTFP).

The State of Illinois is the number one soybean producing state in the nation. There are approximately 43,000 soybean farmers throughout the state Illinois. In 2024, Illinois produced 688 million bushels of soybeans, which was a record-breaking harvest and 16% of the total U.S. crop. This was a 6% increase from 2023, and surpassed the previous record of 666.75 million bushels set in 2018. The state's farmers harvested 64 bushels per acre across 10.75 million acres. Since its creation, ISG has helped increase demand for soybean meal as a feed ingredient in a booming animal agriculture market, has increased the viability and adoption of soy-based biodiesel, and has helped secure the preference for Illinois soybeans in key overseas markets.

The IL Soybean Growers aspire to provide the best guidance possible while avoiding the key pitfalls of what has been experienced with the drastic and inequitable pivot the California Air Resources Board (CARB) has made related to agricultural feedstocks used for biofuels in the California Low Carbon Fuel Standard (LCFS) program. The IL Soybean Growers encourage that the guidelines of the CTFP are based on up-to-date and sound science. Outlined below are our concerns and proposed solutions that will enable New Mexico to meet its climate goals, decrease its reliance on fossil fuels, provide affordable fuel for consumers, protect the environment and people of New Mexico, while also supporting

American soybean farmers and processors who are investing in the future of low-carbon energy.

Avoidance of a Feedstock Cap and Proposed Solutions

The IL Soybean Growers strongly discourages the vegetable oil feedstock cap that has been referenced from California's LCFS program. The current proposal restricts the amount of soybean oil, canola oil and sunflower seed oil that is allowed to generate credits in the program at an inequitable 20% by company. CARB's own data demonstrates that vegetable oil feedstocks, including soy, have consistently exceeded the proposed cap since 2021. Currently, virgin vegetable oils account for approximately 30% of the feedstock used in California's biofuels market.

Capping these proven, sustainable, and scalable feedstocks would suppress the supply of renewable diesel, increase reliance on fossil fuels, and potentially raise fuel prices for New Mexico consumers. CARB staff even acknowledged in their April 2024 workshop that a cap would reduce air quality benefits and likely increase NOx and PM2.5 emissions for California. All of this, including the recent tariffs on imported feedstocks greatly increase costs and further substantiate U.S. based feedstocks as the clear-cut choice. The IL Soybean Growers urge NMED to avoid the cap on U.S. based vegetable oil feedstocks to provide a more economically feasible, locally produced and sustainable, climate smart option for the people and the planet.

Agricultural feedstocks for biofuel production are already held to a high standard for participation in the U.S. Renewable Fuel Standard (RFS). Rather than adding sustainable U.S. based feedstocks to an arbitrary proposed cap, NMED needs to update carbon intensity analysis and oversight of imported feedstocks, which are not held to the same level of accountability. Recent actions by the European Union in response to fraudulent Chinese biodiesel imports underscore this concern[1]. The EU committee recently met at the request of a member state to discuss alleged fraud in biodiesel imports from China. Fraud continues to be an issue with imported feedstocks and needs to be addressed further. ISG strongly encourages NMED to adopt enforceable traceability and verification standards, including origin disclosures, documentation audits, and physical testing. Without implementing sustainable solutions to the above and implementing a cap on U.S. vegetable oil feedstock, NMED would be essentially putting the feedstocks from foreign countries (i.e., China) above those of the United States.

Sustainability Guidelines and Traceability Requirements

The IL Soybean Growers strongly support the proposed rule's requirements for attestations of specified source feedstocks, including waste feedstocks. Ensuring the integrity of feedstocks is crucial for the credibility of low-carbon fuel programs. We support the inclusion of verification services, professional judgment, and risk assessments for feedstock traceability and verification. This approach aligns with recent updates in other states and will help prevent fraudulent activities.

Further, this issue has drawn significant attention from the federal government, including recent interim final guidance issued by the U.S. Department of Treasury on the 45Z Clean Fuel Production Credit, which excludes the use of imported used cooking oil (UCO) under the tax credit due to verification concerns. ISG recommends that NMED work closely with federal agencies such as the U.S. Treasury, U.S. Department of Agriculture (USDA), Environmental Protection Agency (EPA), U.S. Trade Representative (USTR), and U.S. Customs and Border Protection to better align on additional substantiation and recordkeeping requirements as they are developed.

If NMED ever insists on agricultural feedstock traceability, then it should be voluntary and reward sustainable practices beyond what is already assumed in any lifecycle analysis (LCA). USDA has developed a tool to quantify carbon intensity (CI) reductions for no-till, cover crops and nitrogen inhibitors. Considering this integral information, the carbon intensity of soy-based biofuels could improve through the mentioned climate smart ag practices on the field where the soybeans were produced. Other farming practices like low-till, nutrient management, enhanced efficiency fertilizers, buffers, wetland and grassland management, tree planting on working lands, planting for higher carbon sequestration, and soil amendments all could and should be accounted to assign a lower CI score to an agricultural feedstock. USDA already tracks all these practices through several of their managed conservation programs. In addition, there are a variety of other practices that scientifically lower the CI score of soybean feedstocks for biofuels, and USDA is actively working to develop mechanisms to account for those. If NMED asserts tracing feedstocks back to the farm, then it should also acknowledge when those feedstocks are produced with lower CI practices.

Moreover, USDA has recognized the CI reduction benefits of certain sustainable or climate-smart practices for the purposes of clean fuel transportation programs and is undertaking a rulemaking process to develop final guidelines for the quantification of these practices. Through planting decisions, soil management, and other practices, soybean farmers can continuously reduce environmental impacts. In addition, some soybeans are double cropped meaning they are grown as a secondary crop following a primary crop within a growing season. They are growing on land that would otherwise be fallow. Double-crop soybeans should be eligible to have the indirect land use change (ILUC) component of the CI score removed or at least shared with the other crop in the rotation. ISG proposes the aforementioned issues to be solved by proactively addressing via USDA collaboration, alignment, and implementation.

Modernized, Accurate, Climate Smart Carbon Intensity Modeling and Scoring

ISG remains concerned that without a comprehensive update to the Global Trade Analysis Project model for biofuels (GTAP-BIO) that is utilized by other state LCFS programs, such as California, U.S. soy-based feedstocks will be phased out of the future of the program. Current data indicates a much lower CI score for U.S. soybeans, as growers continue to improve soil practices, limit water use, lower on-farm emissions and more.

ISG urges NMED to consider what constitutes significant indirect emissions, as we do not believe that U.S. soy should be penalized for farming practices employed by competitors in South America. Such a penalty on U.S. soy is arbitrary and capricious and does not reward U.S. farmers for their continued stewardship of farmland at home. To put this in perspective, 37% of the total emissions calculated for biodiesel produced with U.S. soy and 36% of emissions for renewable diesel produced with U.S. soy come from the ILUC penalty placed on our crops. Simply put, regardless of how much work farmers do to improve emissions reductions at home, we will never be able to compete with imported waste feedstocks if ILUC penalties are imposed.

Unfortunately for U.S. soy, the imposition of ILUC penalties directly puts the crop at a disadvantage to foreign feedstocks that are allowable in any such program. Trade disruptions between the United States and China have resulted in China no longer buying increasing amounts of U.S. soy. Instead, China feeds its demand growth almost solely from Brazil. Meanwhile, U.S. soybean yields continue to grow. The result of these developments is that the U.S. is able to supply more biofuels without affecting South American production. By utilizing a scoring mechanism such as ILUC, which calculates emissions based on speculation of linkages between U.S. soybean farming and Brazilian deforestation, NMED is effectively placing a reverse tariff on U.S. soy. Soybean farmers cannot continue to grow a crop to fuel New Mexico and the rest of America if we continue to be placed at a disadvantage to foreign feedstock competition.

In the case where NMED wants to move forward with proposing ILUC values, ISG recommends that the Department re-evaluates the ILUC value for soy-based feedstocks and updates it to reflect the most recent science. In June 2023, Purdue University published a report[2] which is more recent than what was used to develop the ILUC value that is in the table of the proposed rule. The new report concluded that a range of values from 9.11 to 9.78 gCO2e/MJ be used based on shock sizes from 1.05 to 3.22 billion gallons.

As NMED looks to reach targeted CI reductions by 2030 and 2040, using outdated methodologies will only limit the output of actual improvements over time in terms of emissions reductions. ISG urges swift action to update the GTAP-BIO model so that the most current, climate smart and science-based data may be used to determine carbon intensity reductions. ISG proposes this issue to be solved by proactively utilizing the updated information and working with designated subject matter experts for successful implementation.

Recommended Climate Enhancing Solutions for NMED

As NMED finalizes the implementation of the CTFP, ISG recommends several actions that will likely prevent an increase in fossil diesel use, improve carbon intensity calculations, and improve market access for sustainable U.S. agricultural feedstock providers.

First, NMED should not apply the vegetable oil feedstock cap proposal to U.S. feedstocks. These feedstocks are already subject to federal guardrails to ensure production on land not converted since 2008. The RFS was designed specifically to prevent land conversion for biofuel production, and USDA data shows a decrease in farmland over the same period.

Second, ISG retains a strong position regarding the ability of supply chains to fully comply with sustainability and traceability requirements. NMED must consider allowing soybean growers the opportunity to participate in the New Mexico biofuels market through innovative and climate smart agriculture practices.

If voluntary traceability can be used to show additional benefits in CI scoring, NMED must look to programs already developed through farmer input and provide improved scoring for feedstocks that employ sustainability practices to minimize the changes in comparative costs (i.e., USDA accredited programs and practices). NMED should work with USDA to develop an aligned scheme to quantify climate-smart agricultural practices for the purposes of biofuel feedstocks.

Sustainable Pathway Forward

ISG is encouraged by the continued successes of programs that support the development of cleaner, low-carbon fuels. To accomplish the goals of this program, it is critical that NMED finalizes implementation updates in a way that equitably include U.S. agricultural feedstocks through policies that are science-based aligning with the most up to date information as well as promoting the sustainability of U.S. based products and businesses; including not capping U.S. vegetable oil feedstocks and applying sustainability guidelines that are economically feasible for farmers while rewarding their practices that lower CI. ISG believes that recognizing climate smart U.S. agriculture strikes the right balance between ensuring feedstocks are sourced sustainably and at the same time leverages available data to provide more value to those producers that are working towards decarbonizing their energy production.

ISG is eager to continue working with NMED to support the role of agriculture in diversifying the fuel supply while reducing carbon intensity and increasing clean air in New Mexico and beyond. On behalf of both Illinois and U.S. soybean farmers, we appreciate the opportunity to comment and look forward to collaborating with NMED and other relevant stakeholders on implementation of policies that expand the use of U.S. soy-based biofuels and market opportunities for U.S. soybean farmers.

Sincerely,

Ron Kindred

Ron Kindred

IL Soybean Growers Chairman