



Statement by the
American Soybean Association
To the
Subcommittee on General Farm Commodities and Risk Management
Committee on Agriculture
U.S. House of Representatives

RE: Public Hearing to review implementation of the Food, Conservation, and Energy Act of 2008.

The American Soybean Association (ASA) is pleased to submit this statement for the record to the House Agriculture Subcommittee on General Farm Commodities and Risk Management Public Hearing to review of implementation of the Food, Conservation, and Energy Act of 2008. ASA represents 22,000 producer members on policy issues of national importance to all U.S. soybean farmers.

ASA appreciates the Subcommittee's decision to review implementation of the 2008 Farm Bill at this time. We supported enactment of this important legislation last year, and are interested in how the new programs and changes in existing programs would be developed. This matter was complicated by decisions by the last Administration that affected implementation and have reduced the amount of time available to put programs and changes in place for 2009 crops.

Pursuant to the Subcommittee's direction, ASA will not present its positions on a number of important issues that are addressed by other farm organizations with similar views. These include statements by the National Corn Growers Association on implementation of the ACRE Program, by the National Association of Wheat Growers on the new permanent disaster assistance program, or SURE, and by the National Cotton Council on changes to the payment limitation provisions of the 2002 Farm Bill. ASA has requested to be identified as supporting the statements of these organizations on those issues.

One issue we would like to bring to the attention of the Subcommittee and the full Committee is implementation of the Bioenergy Program for Advanced Biofuels, included in Section 9005 in the Energy Title of the Farm Bill. ASA played a lead role in asking Congress to extend the CCC Bioenergy Program which had been initiated under the Farm Security and Rural Investment Act of 2002, and we worked hard to see this Program authorized and funded.

We understand the Energy Title falls under the jurisdiction of the Conservation, Credit, Energy, and Research Subcommittee. However, this issue affects the viability of soybean farmers as well as the biodiesel industry, and we wanted to bring it to the attention of the full Committee and the Subcommittee on General Farm Commodities and Risk Management as well.

As Members of the Subcommittee are aware, the Rural Business-Cooperative Service of the Department of Agriculture published a Notice of Contract Proposal (NOCP) in the Federal

Register on June 12, 2009, announcing plans to implement the Bioenergy Program for Fiscal Year 2009. ASA is pleased that the Department has moved forward to put the Program in place this year, and we are pleased with the overall nature of the Program. However, we have concerns with several provision of the NOCP that we would like to raise at this time.

Determination of Base Production

ASA is concerned with the manner in which USDA would determine Base Production of biorefineries for 2009. Plants in operation for more than one year prior to June 12, 2009, have a Base Production equal to their actual production during that 12 months. Base Production for biorefineries that began production after June 12, 2009 will be based on their projected production for the fiscal year 2009. However, for plants that initiated production less than one year before June 12, 2009, Base Production will be based on their nameplate capacity for a full year times the “startup/shakedown factor as determined by USDA.”

ASA supports making equal payments on actual production. These criteria should apply to the actual production of plants that began operating more than a year before June 12 and plants that began operating less than a year before June 12. Differentiating between older and newer plants using actual production versus nameplate capacity could seriously undercut the competitiveness of the older facilities and provide a windfall to the newer ones. ASA strongly urges the Department to reconsider this provision and revise the NOCP accordingly.

Base and Incremental Production

The NOCP establishes Base Production and Incremental Production levels for existing and future biorefineries, and provides that payments for incremental production will be three times higher than for base production. Again, ASA has strongly supported providing the same payment for both base and incremental production of advanced biofuels under the Program.

We believe that the role of the Bioenergy Program is to support the competitiveness of existing and future advanced biofuels in the marketplace. The sharp rise in petroleum prices in recent years initially made U.S. biodiesel competitive with petroleum diesel, and domestic biodiesel production expanded from 15 million gallons in 2002 to 700 million gallons in 2008.

However, rising world demand for soybeans has increased soybean oil prices, and petroleum prices have decreased due to lower demand resulting from the economic recession. Domestic biodiesel production is projected to fall, from 700 million gallons to approximately 350 million gallons in 2009. Proper implementation of the expanded Renewable Fuel Standard (RFS-2), which includes a minimum use requirement for biomass-based diesel, would boost demand for biodiesel. However, without assistance under the Bioenergy Program, we face the very real possibility of having a preponderance of imports meet the biodiesel use mandate established under RFS-2.

Argentina has positioned their soybean production industry to focus on biodiesel exports. Argentine biodiesel is exported through the benefit of an indirect government subsidy in the form of a Differential Export Tax (DET). Under the DET system, the Argentine government taxes exports of soybeans at 30 percent of their value and soybean oil and meal at 25 percent of their value. However, the tax on biodiesel exports is only 5 percent of its value. This favors exports of soybean products over soybeans. It is no surprise that Argentine soybean processors have

built biodiesel plants next door to their soybean crushing facilities, and are exporting an increasing volume of biodiesel to the United States. These imports previously took advantage of the splash and dash tax credit loophole and were largely re-exported to the European market. Now that the splash and dash loophole has been closed, the Argentine biodiesel is more likely to compete with U.S. biodiesel in the U.S. market. The Bioenergy Program could help U.S. biodiesel producers remain competitive with imports.

Under these circumstances, it is critical for U.S. biodiesel producers to be treated equitably under the Bioenergy Program. To provide a payment three times as large on incremental production compared to base production would penalize domestic producers who have persevered and continued to operate their plants through difficult economic conditions. It would again undercut the competitiveness of the older facilities and provide a windfall to the newer ones. ASA will continue to work with the Department and with Congress to ensure that the Program is as equitable as possible for existing and new producers.

Mandatory Funding Level

Our third concern with the NOCP is with its misstatement, under "Funding Information" (June 12, 2009, Federal Register, page 28003) that "Congress appropriated mandatory funding to this program as follows: \$30 million for FY 2009." As Members of the Subcommittee are aware, the 2008 Farm Bill provides mandatory funding for the Bioenergy Program of \$55 million in FY-2009. In response to inquiries about the level of funding provided for this year, the Department reportedly has indicated that, in its view, the full \$55 million could not appropriately be paid out during the period remaining in the current fiscal year, and that it will be made available, together with the additional \$55 million provided, in FY-2010.

ASA is disturbed that the Department chose to misrepresent the decision by Congress to provide mandatory funding for the Bioenergy Program as an appropriation. We are also concerned by the decision to withhold \$25 million of this mandatory funding rather than prorating payments of the entire amount among eligible biofuel producers. Unless these decisions can be reversed, we ask the Committee to obtain written assurances from the Department that the additional \$25 million provided in the Farm Bill for FY2009 will be added to the \$55 million provided for FY2010, and that the full amount of \$80 million will be used under the Bioenergy Program in the coming fiscal year.

Conclusion

Again, ASA appreciates the Subcommittee holding this hearing to review implementation of the 2008 Farm Bill. ASA wishes to be identified as supporting the statements of the National Corn Growers Association on implementation of the ACRE Program, the National Association of Wheat Growers on the new permanent disaster assistance program, and the National Cotton Council on changes to the payment limitation provisions of the 2002 Farm Bill.

In addition to these issues, ASA asks the Committee to conduct active oversight of the Bioenergy Program for Advanced Biofuels to ensure that it is administered in a manner that is equitable for all producers and consistent with the intent of Congress, including using the full mandatory funding amounts provided in the 2008 Farm Bill.