



**STATEMENT OF THE
AMERICAN SOYBEAN ASSOCIATION**

To the

EPA Public Hearing

On

The Proposed Renewable Fuel Standard Program Rule

June 9, 2009

My name is Ray Gaesser. I am a soybean farmer from Corning, Iowa, and a Member of the Board of Directors and the Executive Committee of the American Soybean Association (ASA). On behalf of ASA we appreciate EPA allowing us the opportunity to present our views and concerns at this public hearing on the proposed Renewable Fuel Standard (RFS) Program rule.

ASA has tremendous concerns with the EPA's Notice of Proposed Rulemaking for implementation of the expanded Renewable Fuel Standard (RFS-2). This Proposed Rule was released on May 5th and while ASA continues to review and analyze the lengthy and complex proposal, there are several very obvious and immediate flaws and concerns.

The proposed rule as released contains unprecedented, untested, and far-reaching indirect land use assumptions and projections which will adversely impact markets for U.S. farmers and impede our national efforts to reduce dependence on foreign oil and thus impede efforts to improve our environmental footprint. We are concerned that EPA has attributed an undue degree of land use causation to U.S. biofuels production and that EPA's assumptions do not adequately consider the other market factors (population growth, food and feed demand, timber prices, etc.) that have historically driven international land use decisions.

Before I discuss the issues of the RFS-2 in greater detail, I'd like to first provide some background so you understand why these programs and issues are important to ASA.

Importance of Biodiesel

ASA has a great interest in the development and implementation of the RFS-2, especially for biodiesel. Soy biodiesel is one of the cleanest burning biofuels currently used in commercial markets. Biodiesel is a renewable and sustainable energy source that can play a significant role in our national efforts to increase our energy security and improve our environmental footprint. Biodiesel has also provided a significant market opportunity for U.S. soybean farmers, and jobs and economic development for rural communities. These facts make it difficult to understand why EPA would seek to exclude soy biodiesel from the RFS-2.

Biodiesel production in the United States has predominantly utilized soybean oil as a feedstock. While other feedstocks are becoming more viable, soybean oil remains the primary feedstock of choice for U.S. biodiesel production. As a result, biodiesel has provided a significant market opportunity for U.S. soybean producers by increasing demand for soy oil. Soybeans are produced primarily for the soy meal that is used in the feed and food market. Historically, there have been surplus stocks of soy oil that have resulted in depressed prices for soybeans and restricted markets for soybean farmers.

The biodiesel industry is creating valuable green jobs and making a positive contribution to the economy. In 2008 alone, the U.S. biodiesel industry supported over 51,000 jobs, added over \$4 billion to the nation's Gross Domestic Product (GDP) and generated over \$866 million in tax revenue for federal, state and local governments.

Despite the many benefits it provides, the U.S. biodiesel industry is facing severe economic hardship today. The difficulty accessing operating capital as a result of the current credit crisis, the volatility in commodity markets, reduced demand, and inability to compete in the European marketplace are making it difficult for producers to sell their fuel. In addition, uncertainty over federal policy, such as the extension of the biodiesel tax credit, and implementation of the RFS-2 is undermining investor confidence in the industry.

The National Biodiesel Board (NBB) estimates that absent any change in federal policy, U.S. biodiesel production will likely fall to 300 million gallons in 2009, which would cost the U.S. economy more than 29,000 jobs. If prolonged, this downturn will lead to a severe retraction in U.S. biodiesel production capacity.

Renewable Fuel Standard (RFS-2)

ASA believes that an expanded RFS-2 that includes a specific minimum use requirement for biomass-based diesel is a necessary and beneficial program. A workable RFS-2 is necessary to move the country toward our goals of energy independence and clean, renewable energy production. As the current market demonstrates, the production and use of biofuels is not economically viable when petroleum prices are low. Combined with the extension of the biodiesel tax credit, the RFS-2 could provide some much-needed market certainty for U.S. biodiesel production.

Under the Energy Independence & Security Act (EISA) of 2007, to be eligible for the new RFS-2, biodiesel must meet a 50% greenhouse gas (GHG) reduction relative to petroleum diesel. When calculating the life cycle GHG impact of biofuels, the statute directs EPA to consider direct and indirect emissions, including indirect land use, of all stages of the fuel and feedstock production. As a point of reference, under the existing GREET model used by the U.S. Environmental Protection Agency (EPA) and the U.S. Department of Energy, biodiesel achieves a 78% GHG reduction relative to petroleum diesel. The primary area of concern and disagreement has emerged over the international indirect land use assumptions that EPA has proposed to use in conducting their updated life-cycle GHG analysis.

Indirect Land Use

Indirect Land Use Change (ILUC) refers to the GHG emissions caused by land converted to crop production globally. Our assessment of the EPA Proposed Rule on RFS-2 implementation is that it is significantly flawed, and it does unnecessary harm to the competitive position of the U.S. soy biodiesel industry. EPA has included, in the proposed rule, numbers on the life-cycle

greenhouse gas emissions of soy oil biodiesel that are derived from faulty assumptions, flawed analysis, and misplaced penalties.

Flaws in EPA Assumptions

We see numerous potential flaws in the approach EPA is using for indirect land use changes in its proposed rule. Further, there are numerous factors that we believe refute the possibility that significant international indirect land use change would result from the relatively small increase in U.S. biodiesel production called for under the RFS-2:

- 1. U.S. soy biodiesel production does not drive land use change.** Land use change has been going on around the world for many years, long before biodiesel was produced in the U.S. The EPA analysis uses previous land conversion and extrapolates that into the future. It is our understanding that the soy biodiesel land use factors were focused largely on deforestation and land use change in Brazil. If that is the basis, it is unclear how EPA justifies attributing future land conversion to soy biodiesel. As an example, if Brazilian land use change is a key factor, then past and recent trends in Brazilian soy planted area should be a telling data point. In fact, Brazilian soy area increased most significantly in years prior to the existence of U.S. biodiesel production (1998-2004). In the period from 2004-2008, when U.S. biodiesel production has increased from 25 million gallons to 700 million gallons, Brazilian soy area has actually *decreased*.
- 2. The method used by EPA to measure the theory of indirect land use is new and untested.** The numbers demonstrate that previous land use change is not driven by U.S. biofuels demand or policy. Nonetheless, there is a theory that biofuels demand causes international land use change. There is neither consensus in the scientific community or a widely accepted methodology that could be deemed credible to accurately quantify this theory and calculate the actual impact of U.S. biofuels production on international land use decisions.
- 3. Other market factors (urbanization, world population growth and dietary changes, timber and hardwood prices, etc.) impact and drive land use change decisions and determine to what use farmers will put their land.**
Land use change has been occurring long before any significant U.S. biofuel production began and is likely to continue regardless of U.S. biofuels policy. Clearly soy biodiesel is not driving land use change and any land use change that is occurring cannot be solely attributed to U.S. biofuels.
- 4. Yield increases by U.S. soybean farmers will play a significant role in meeting biofuel feedstock demand by producing more soybeans on the same amount of land.**
Historical data tell us that productivity gains and yield increases occur for U.S. agriculture. Over the 25 year period from 1981-2006, U.S. soybean farmers increased their yield from 30 bushels per acre to 43 bushels per acre. This equates to an average yield increase of one-half bushel per acre per year. This represents the minimum productivity increase that is likely to occur. With technologies currently in development, the yield increases going forward are expected to surpass those we have achieved over the past 25 years. U.S. seed technology companies are projecting that current soybean yields will double by 2030.

5. **The indirect emissions of diesel (the baseline against which biodiesel is being measured) are not adequately factored into the baseline.** It does not appear that indirect impacts of petroleum production are factored, creating an unfair comparison for biofuels.

6. **The statute does not require EPA to include *international* indirect emissions in their life-cycle analysis for biofuels.** There appears to be a far greater degree of confidence among the scientific community in the ability to measure indirect land use change that may or may not occur in the United States as a result of biofuel demand. Extending the analysis globally creates far more uncertainty. The EISA statute only requires that EPA measure, “...*the aggregate quantity of greenhouse gas emissions (including direct emissions and significant indirect emissions such as significant emissions from land use changes), as determined by the Administrator...*” **EPA could easily meet their statutory requirement to measure indirect emissions without the uncertain and untested international land use change assumptions that they have chosen to include.**

Intent of Congress

We do not believe that it was the intent of Congress for soy biodiesel to be excluded from the RFS-2. If soy biodiesel is excluded, the biomass-based diesel schedule under RFS-2 cannot be achieved. There are simply not enough of other biodiesel feedstocks to produce the amount of biodiesel called for in the RFS-2. This is a clear indication that Congress did not intend to exclude soy biodiesel from the RFS-2. Furthermore, the GHG thresholds were established at different levels for different fuels and existing ethanol plants were exempted from the GHG threshold altogether. The 50% GHG level that biodiesel must meet to qualify for the RFS-2 is an arbitrary threshold.

Feedstock Certification

We are also very concerned with the potential under the EPA Proposed Rule to require renewable fuel manufactures to prove that their feedstocks meet the definition of renewable biomass. The Energy Independence and Security Act included a prescriptive definition of renewable biomass and the EPA Proposed Rule could limit eligibility to biofuels produced only from feedstocks grown on existing cropland. This requirement could result in the need to provide feedstock certification. Such feedstock certification would be onerous and unworkable.

Soybean processors likely do not know precisely where their soybeans come from unless they are direct delivered by the farmers. Most processing plants buy soybeans from local elevators as well as direct from farmers. The local elevator does not know who delivered what soybeans once they go into storage. In the case of some processors, they buy all of their soybeans from local cooperatives with very little direct delivery. Under the EPA Proposed Rule, they would need to get certifications from the hundreds of thousands of producers who deliver soybeans to a cooperative, who in turn deliver soybeans to the processor.

EPA does not provide a clear method to implement this feedstock certification, and they must recognize the challenge it would present. This is a great concern for farmers and our industry partners.

Conclusion

ASA has a great interest in the development and implementation of the RFS-2, especially for biodiesel. Soy biodiesel is one of the cleanest burning biofuels in commercial existence today. It is a renewable and sustainable energy source that can play a significant role in our national efforts to increase our energy security and improve our environmental footprint. Biodiesel has also provided a significant market opportunity for U.S. soybean farmers and jobs and economic development for rural communities.

The approach EPA is using for their proposed rule on RFS-2 implementation appears to be significantly flawed and would do unnecessary harm to the competitive position of the U.S. soy biodiesel industry. The Administration must work to improve the proposal and establish a workable RFS-2.

Again, ASA appreciates the opportunity to speak at this EPA Public Hearing on the proposed Renewable Fuel Standard Program rule changes.