August 27, 2024

Attention:
Matthew Botill
Division Chief, Industrial Strategies Division
California Air Resources Board
1001 I Street
Sacramento, California 95814

Submitted electronically.

RE: Proposed Low Carbon Fuel Standard Amendments – August 12, 2024

Dear Mr. Botill,

On behalf of the Canola Council of Canada (CCC) and Canadian Oilseed Processors Association (COPA) we welcome the opportunity to provide feedback on the *Proposed Low Carbon Fuel Standard Amendments (Proposed Amendments)* released August 12, 2024.

The CCC and COPA are non-profit industry associations that work collaboratively to help address issues impacting the canola value chain and oilseed processing sector in Canada.

The canola industry in Canada is extremely concerned with the California Air Resources Board's (CARB) proposal to cap canola and soybean oil's participation in the Low Carbon Fuel Standard (LCFS) program. The proposal appears to be arbitrary, discriminatory, and lacks scientific justification. As CARB's own data and analysis show[1][2], clean fuels derived from these vegetable oil feedstocks are making positive contributions to California's GHG emission goals and will play a critical role in supporting cost effective emission reductions from the transportation sector in the future.

Proceeding with a cap, coupled with proposals to phaseout biomass-based diesel pathways, and rigid certification requirements on already sustainable feedstocks like canola and soybeans from Canada and U.S., can be expected to stifle clean fuel investments, lead to more combustion of fossil diesel fuel, drive up fuel prices at the pump and lead to poorer air quality.

To avoid these unintended consequences, we strongly recommend CARB consider the following actions before finalizing amendments to the LCFS.

1. Reject any imposition of a cap on canola and soybean oil's participation in California's clean fuel market, consistent with CARB's own analysis that a cap on virgin vegetable oils is unwarranted.

2. Remove the proposal to give the Executive Officer discretion to stop accepting applications for new fuel pathways for biomass-based diesel, starting January 1, 2031. This provision is discriminatory and contradicts the overarching principle that LCFS programs be technology neutral.

[1] https://ww2.arb.ca.gov/sites/default/files/2024-04/LCFS%20April%20Workshop%20Slides.pdf
[2] https://ww2.arb.ca.gov/sites/default/files/barcu/regact/2024/lcfs2024/isor.pdf

3. Provide options and flexibility for sustainability certification. We agree that sustainability criteria are important to protect the integrity of any clean fuel program, but demonstrating compliance can be achieved on aggregate (in lieu of certification) if a jurisdiction can provide the necessary evidence to demonstrate there is no detrimental impact on land use change, including deforestation. This approach is consistent with existing biofuel programs, including the U.S. Renewable Fuel Standard and Canada's Clean Fuel Regulation, and has proven to address sustainability concerns while limiting regulatory burden on market participants.

4. Hold an additional public process, after the conclusion of this rulemaking, on these topics. Given the nature and magnitude of the unexpected changes that have been proposed, one can only conclude that there is a clear misunderstanding in the stakeholder community about the sustainability of canola and soy to fuel, therefore, it is vital for CARB to hold further consultations with stakeholders on these topics. This should be done outside of this rulemaking period to allow time for input from stakeholders, including leading academics and experts, on this topic area. Insufficient public process has occurred to-date to support such significant changes at this late date, but this can and should be remedied by appropriate public dialogue on a go-forward basis, in which we would willingly participate.

Our detailed feedback on *the Proposed Amendments* can be found in the attached Appendix

The CCC and COPA appreciate this opportunity to comment and look forward to an ongoing dialogue with CARB and other relevant stakeholders to enact changes to the LCFS that will address climate change while creating economic opportunities for those in the clean fuels value chain.

Sincerely,

Chris Davison
President and CEO
CCC

Chris Vervaet
Executive Director
COPA

Appendix

I. Cap on Canola and Soybean Oil

While the intention behind CARB's Scoping Plan, and historical LCFS work appears to be to displace up to 100% of the State's current fossil diesel demand, the proposal to cap canola and soybean oils as feedstocks will likely have the opposite effect. Capping the use of these feedstocks will eliminate opportunities to displace fossil diesel and can be expected to increase fuel costs. Canola and soybean oils produced in Canada and U.S. are the most efficient, cost-effective and sustainably produced feedstocks on the market. Limiting their 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. Any arbitrary limitation on the use of these feedstocks will create a supply-demand imbalance, driving up the costs of renewable diesel production and, consequently, the price at the pump for consumers.

Furthermore, reaching CARB's goal to displace 100% of fossil diesel demand with the proposed feedstock constraints in place is unrealistic and impractical. The clean fuels industry is still developing, meaning access to all sustainably produced feedstock will be critical to meet the state's ambitious targets. By capping the use of canola and soybean oil, the proposal risks both existing and future investments made by clean fuel producers and feedstock providers alike. In turn, this will stall progress made to reduce carbon emissions by creating a bottleneck in clean fuel production. CARB's own analysis supports this assessment.

The CCC and COPA strongly support 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 of 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 point to more fossil diesel use due to a cap on vegetable oil feedstocks:

- Increased Fuel Costs: Total costs of $162 billion. "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."

- 18% more Greenhouse Gas Emissions, Increased Particulate Matter (PM2.5) and Nitrous Oxide Emissions (NOx) Emissions: The baseline scenario reduces GHG emissions by 18 percent more than Alternative 1. "Alternative 1 increases NOx emissions by an additional 10,981 tons and increases PM2.5 emissions by 2,773 tons. Alternative 1 has more NOx and PM2.5 emissions than the proposed amendments because this scenario uses less renewable diesel than the proposed amendments."

- Fewer Health Benefits: "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." (emphasis added)

At the April Workshop, 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 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 Environmental Justice Scenario results in higher volumes of fossil diesel being used than any of the other scenarios evaluated." (emphasis added)

The proposal to cap canola and soybean oils as a means to achieve 100 % displacement of fossil diesel runs counter to all the evidence presented by CARB to-date that demonstrates a cap on virgin vegetable oil feedstocks will lead to greater fossil diesel demand, higher GHG emissions and higher costs.

Lastly, capping the use of canola and soybean oils will require California to rely on imported feedstocks originating from outside Canada or U.S., such as used cooking oil (UCO) from China. While free and open trade is an important market principle to uphold, it is harder to guarantee or be certain of the origin of UCO or other imported feedstocks, compared to those derived in North America. For example, there is some concern that some of the flood of UCO imports in the past year could include palm oil from southeast Asia, which is the subject of significant concerns due to the environmental profile of its production and concerns over deforestation. There is no deforestation in North America from canola and soybean production and any "indirect" impacts are already accounted for in the overly conservative life-cycle analysis and carbon intensity scores that have been developed for clean fuels from canola and soybeans.

II. Authority to phase out new Biomass-Based Diesel pathways

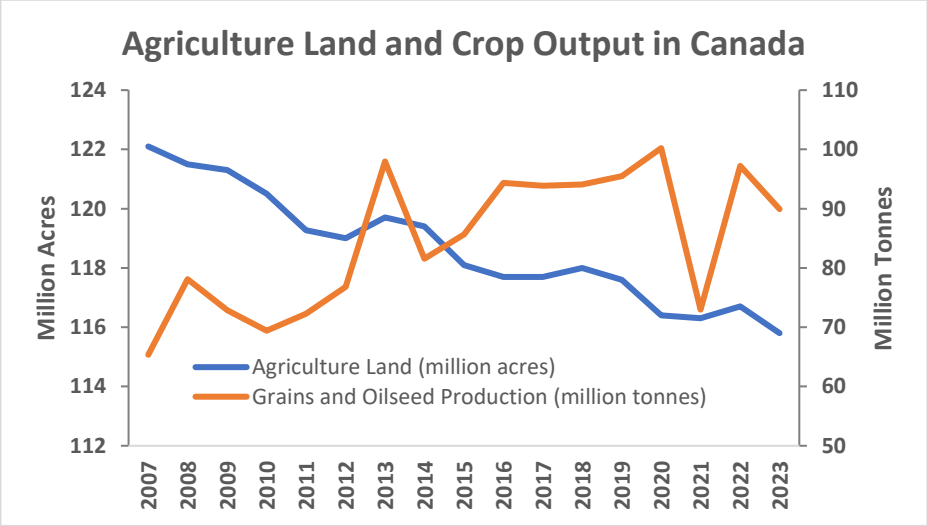
The proposed authority to phase out new BBD pathways in 2031 is also concerning and unwarranted. CARB has a stated goal to achieve 100 percent renewable diesel, and phasing out new pathways would be unnecessary – either because the market has already become saturated and new pathways would no longer be needed, or because the market has not yet achieved 100 percent saturation and additional fuel and feedstocks are required. 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.

III. Sustainability Certification

Data that the canola industry and other stakeholders have shared with CARB over the past 12-24 months, clearly demonstrate that agriculture land in Canada and the U.S. is shrinking, yet crop output continues to grow. Figure 1 is an example of this trend, clearly indicating that crops grown and harvested in Canada do not contribute to deforestation or associated adverse land use impacts. Furthermore, growing more crops with less available land is a testament to the innovation of crop production, with farmers deploying enhanced plant genetics and applying sustainable growing practices.

We reiterate our position that CARB adopt an approach in the updated rule that would allow biofuels produced from crop-based feedstocks to comply with sustainability requirements on aggregate in lieu of certification. While we respect the importance of sustainability criteria in the development of low carbon fuel markets, the certification requirements proposed appear to be a 'one size fits all' approach, placing unnecessary obligations and burden on the supply chain from jurisdictions like the U.S. and Canada that have already demonstrated crop production has no adverse impact on land use, deforestation, or biodiversity. Indeed, both the U.S. Renewable Fuel Standard and Canada's Clean Fuel Regulations already recognize crop production in U.S. and Canada as meeting sustainability requirements.

Figure 1.



Source: Statistics Canada

An aggregate approach to demonstrate compliance with sustainability requirements carries clear advantages for both CARB and market participants including:

1. It opens the door to a wider compliance option for CARB and allows for recognition of similar anti-deforestation efforts taken in partner jurisdictions (i.e. encourages efforts similar to U.S. and Canadian governments).

2. It encourages jurisdictions (not just individual entities) to demonstrate that their supply chains can and do meet sustainability criteria on key issues such as land clearance and deforestation.

3. Where sustainability equivalency can be demonstrated on aggregate across a jurisdiction, it will reduce the administrative burden and cost of feedstock supplies from those jurisdictions that are already fully meeting sustainability requirements under the rule.