

BIOGENIC CO₂ COALITION

Members

American Bakers
Association

American Farm
Bureau Federation

Corn Refiners
Association

Enginuity Worldwide

National Corn
Growers Association

National Cotton
Council of America

National Cottonseed
Products Association

National Oilseed
Processors
Association

North American
Millers' Association

Statement of the Biogenic CO₂ Coalition to the EPA Science Advisory Board Biogenic Carbon Emissions Panel

October 12, 2016

My name is Max Williamson, and I am counsel to the Biogenic CO₂ Coalition. Thank you for the opportunity today to raise a critical issue with respect to agricultural crop-based biomass feedstocks.

The Biogenic CO₂ Coalition represents the crop agriculture community, which is investing literally billions of dollars into the U.S. bioeconomy to develop 21st-Century products such as bioplastics and bioenergy feedstocks. Our members include:

- American Bakers Association
- American Farm Bureau Federation
- Corn Refiners Association
- Enginuity Worldwide
- National Corn Growers Association
- National Cotton Council of America
- National Cottonseed Products Association
- National Oilseed Processors Association
- North American Millers' Association

According to USDA's recently published report, the U.S. bioeconomy contributes \$393 billion and 4.2 million jobs. *See USDA, An Economic Impact Analysis of the U.S. Biobased Products Industry (Oct 2016).* However, the Coalition is greatly concerned that EPA has taken the position in the Clean Power Plan and other official statements that: "there is no distinction between biogenic and non-biogenic CO₂" from

fossil fuels, which undermines our members' investment in the bioeconomy. EPA's position means that, practically speaking, bioenergy from agricultural feedstocks like corn stover or seed hulls is disqualified as a low-carbon fuel from the Clean Power Plan, and that bakeries processing wheat through fermentation have to permit their emissions under the Clean Air Act as if they were processing fossil fuels.

The Coalition has been participating in EPA's development of a framework and this panel's proceedings for nearly six years, and not once have we heard any concern from scientists that biogenic emissions from processing short-rotation herbaceous crops like corn, soy, canola or wheat are anything but carbon neutral or at least negligible in terms of atmospheric radiative forcing. Yet EPA has put regulation before science by rushing to regulate crop-based biogenic emissions, without concluding its scientific study.

The Biogenic CO₂ Coalition implores this panel to **create a separate track for its review of short-term herbaceous crops**, which don't have any of the temporal issues implicated by woody biomass. A separate track is needed so that EPA can finally recognize that agricultural biomass is carbon neutral or *de minimis* on a life cycle basis and should not be regulated as a fossil fuel.

Thank you for your consideration, and we have attached our previous comments on this subject.

Point of Contact for the Biogenic CO₂ Coalition:

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Attachment A

**Statement of the
Biogenic CO₂ Coalition
to the
EPA Science Advisory Board
Biogenic Carbon Emissions Panel**

March 25, 2015

My name is Max Williamson. I am here today representing the Biogenic CO₂ Coalition (“Coalition”) which consists of the following trade associations:

- American Bakers Association
- American Farm Bureau Federation
- Corn Refiners Association
- National Cotton Council
- National Cottonseed Products Association
- National Oilseed Processors Association

The focus of the Coalition is on the regulation of CO₂ emissions from combustion and fermentation of biomaterials derived from herbaceous crops such as corn, wheat and other grains.

The Biogenic CO₂ Coalition believes that the Science Advisory Board (“SAB”) Biogenic Carbon Emissions Panel (“Panel”) is correct in its September 28, 2012, statement that the carbon neutrality of biomass feedstocks is not an appropriate *a priori* assumption.

However, the carbon flows from the crop-based feedstocks used by the industries we represent do in fact **meet the carbon neutrality criterion and should be recognized as carbon neutral or *de minimis***. We have previously submitted to EPA

a research report from Michigan State University showing that biomass processing by the corn wet milling and dry milling industries, stover combustion, and wastewater treatment all slightly reduce atmospheric carbon dioxide levels.¹ The main driver of this reduction from a carbon accounting standpoint is the use of low till and no till agricultural practices, which tend to sequester carbon in soil such that the feedstocks our members use in fact have a carbon neutral balance.

These data must be considered by the Panel as it considers EPA's charge to provide input on key questions implicating baseline approaches, temporal scales, and scale of biogenic feedstock usage.

In that context, we wish to point out the following:

First, as far as the land use baseline is concerned, the most recent U.S. Department of Agriculture data shows the amount of **land devoted to row crop agriculture in the U.S. has actually been steadily shrinking** over the past few decades.² Abandoned agricultural lands are reverting to natural vegetation and thereby increasing carbon storage and reducing atmospheric carbon dioxide levels. Consequently, EPA is obliged to exclude emissions from crop-derived biomass from the Clean Air Act on the ground that they are *de minimis*.³

Second, as far as the temporal scale is concerned, as this Panel has pointed out previously, there is **no "scientifically correct" temporal scale** for analyzing these emissions. These are matters of policy choice, not of science. For capital

¹ *Comments of Biogenic CO2 Coalition on Proposed ESPS for GHGs from EGUs* (Dec. 1, 2014) (www.regulations.gov, EPA-HQ-OAR-2013-0602-23815). Accessible directly at <http://www.regulations.gov/#!documentDetail;D=EPA-HQ-OAR-2013-0602-23815>

² See, e.g., Nickerson, et als. *Major Uses of Land in the United States, 2007*, EIB-89, U.S. Department of Agriculture, Economic Research Service, December 2011. This report finds that "[b]etween 2002 and 2007, total cropland decreased by 34 million acres to its lowest level since this series began in 1945." See also U.S. Department of Agriculture, 2013 Summary Report: 2010 National Resources Inventory, Natural Resources Conservation Service, Washington, D.C.; Center for Survey Statistics and Methodology, Iowa State University, Ames, Iowa. These reports reflect that cultivated cropland decreased from 375.9 million acres in 1982 to 308.5 million acres in 2010.

³ The U.S. Supreme Court recently affirmed the Clean Air Act's *de minimis* exclusion in *UARG v. EPA*, 134 S. Ct. 2427, 2449 (2014) ("However, EPA may require an 'anyway' source to comply with greenhouse-gas BACT only if the source emits more than a *de minimis* amount of greenhouse gases.")

investments, a 30-year useful life is commonly assumed. This is an appropriate time scale for the industries represented by the Coalition and is one that fits well with calls for near-term carbon emissions reductions. The yearly emissions of a capital project averaged over 30 years are very small. Once again, the baseline of biogenic feedstock emissions is near zero and therefore *de minimis*.

Finally, turning to the question of modeling future anticipated baselines, EPA proposes to use global equilibrium economic models in which “shocks” (demand changes) are applied to these models. There are multiple problems with using global equilibrium economic models for environmental regulation.

Most importantly, EPA’s Biogenic Accounting Framework and the global equilibrium economic models appear, **especially in the context of the Clean Air Act’s new source permitting programs**, to presuppose that each stationary source represents a ‘change in feedstock use’ that should be part of the counterfactual scenario, rather than the Business-As-Usual (BAU) scenario. Such a blanket presupposition is not appropriate. Human beings need the products made by stationary sources: food, feed, fuel and so on. Those products are going to be produced one way or another. Therefore, in at least some instances, if not all, the stationary source in question does not represent a ‘change in feedstock use,’ but instead belongs in the BAU baseline. The Framework should be clarified to affirm this reality.

Second, the systems being modeled are highly nonlinear. This means it is **impossible to separate the interactions of one economic driver from another, by shocking** first for one demand then for another and so on.⁴ For instance, we cannot separate the effects of the use of corn for animal feed versus wheat for human food versus corn for biofuel. We simply cannot know from the models how these different choices affect land use and land use change, and hence the resulting carbon dioxide emissions. Therefore the outcomes of pursuing different policies cannot, in fact, be determined.

⁴ Seungdo Kim, Bruce E. Dale, *et al.*, *Indirect land use change and biofuels: Mathematical analysis reveals a fundamental flaw in the regulatory approach* (2014 Biomass and Bioenergy 71).

The final problem with using these models results directly from the second. **Predictions made by these models are not scientific; that is, they cannot be tested in the real world.** They are simply guesses about the future, or more politely, “scenarios.” As correctly noted on Page J-7 of the Appendix J-Anticipated Baselines Background, EPA states “model scenario results are not predictions of the future. Instead, they should be viewed as providing insights as to what may happen under scenarios of plausible potential futures.” What “may happen” under “plausible potential futures” is unscientific because it is not testable. It is also a grossly inadequate way of regulating a real industry under current real conditions. We urge this Panel to reject the use of such unscientific global economic models for regulating the emissions from stationary sources.

In closing, on behalf of the Biogenic CO₂ Coalition, I wish to thank you for your time today. Copies of our statement will be distributed to the Panel.

If you have any follow-up questions, Dan Chartier, chair of the Coalition, who was not able to be here today, is the point of contact and would be happy to discuss our views further.

That concludes my remarks.

