

How Valid is the U.S. EPA Palm Oil NODA?
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OVERVIEW

- **RFS LEGAL REQUIREMENTS**

- **EPA PROCESS**

- **FACTUAL ISSUES**

- **LEGAL ISSUES**

- **PROGNOSIS**

RFS LEGAL REQUIREMENTS

- **U.S. ENERGY INDEPENDENCE AND SECURITY ACT OF 2007**
- **RENEWABLE FUEL: 20% DECREASE IN LIFECYCLE GHG EMISSIONS OVER 2005 BASELINE**
- **BIOMASS BASED DIESEL: 50 % DECREASE IN LIFECYCLE GHG EMISSIONS**
- **GHG CALCULATION MUST INCLUDE LAND USE CHANGE**
- **CURRENT US MARKET ECONOMICS REQUIRE BIOMASS-BASED DIESEL CERTIFICATION FOR PALM BASED FUELS**

EPA PROCESS

- **NODA PROCESS IS UNUSUAL**
- **DIRECT FINAL RULE IF PALM FUELS ADDED TO RFS**
- **WHAT ACTION IF PALM FUELS NOT CERTIFIED?**
- **JUDICIAL REVIEW OF EPA DECISION**

NODA FACTUAL ISSUES

- **LUC and other models not available for replication**
- **Future development: EPA satellite data inaccurate, model unable to quantify expansion into new areas, no credit for land use laws in producing countries**
- **Peat emissions: EPA used the highest value for peat emissions neglecting a vast body of literature supporting much lower values;**
- **Methane capture: EPA did not take into account the current and future methane control programs in the producing countries;**

OPPOSING ARGUMENTS

- **EXPANSION ON PEAT LANDS**
- **PEAT EMISSION FACTOR**
- **ALL LUC ELEMENTS**
- **TIME HORIZON**

LEGAL ISSUES

- **PROCEDURES**
- **FACTUAL BASIS**
- **SCIENTIFIC UNCERTAINTY**
- **CREDIT FOR LAND USE AND METHANE CAPTURE LAWS**

PROGNOSIS

- **NO DECISION UNTIL AFTER US ELECTION**
- **TECHNICAL ISSUES WILL RULE THE DAY**