77 West Wacker Drive
Suite 4600
Chicago, Illinois 60601

312-634-8100

May 10, 2024

Ms. Carolyn Lozo
Chief, Transportation Fuels Branch
California Air Resources Board
1001 I Street
Sacramento, California 95814

Via electronic submission

Re: Proposed Low Carbon Fuel Standard Amendments – Comments on April 10, 2024, Workshop

Transportation Fuels Branch Chief Lozo:

Thank you for your continued efforts to afford ADM and other stakeholders the opportunity to comment on proposed amendments to California's Low Carbon Fuel Standard (LCFS). As we noted in our February 20, 2024, comments, and acknowledged by CARB, the LCFS has been a landmark policy for delivering millions of tons of reductions in greenhouse gas (GHG) emissions as well as substantial co-benefits, including reducing particulate matter emissions and petroleum diesel consumption. The biofuels sector has been a significant contributor to the development and implementation of the LCFS and the delivery of its environmental benefits. Companies such as ADM have led the way in producing fuels that have helped California achieve its goals and sustain its progress in reducing GHG emissions associated with transportation. We are committed to working with you to ensure the LCFS continues to be built on a foundation of sound science, dialogue, and effective implementation.

ADM's Low-Carbon Legacy and Commitment to Sustainability

As we have previously noted, ADM has transformed crops into products that serve the energy and food security needs of a growing world for more than a century. Renewable fuels have been a vital part of our business since we first produced ethanol in 1978 and added biodiesel production in 2006. Today in the U.S., we manufacture more than 1.4 billion gallons of corn-based ethanol per year at seven plants in five locations. We also produce or market more than 400 million gallons of biodiesel per year from four North American ADM-owned facilities and one for which we market product. Globally, we produce biodiesel at facilities in Europe and Brazil. Collectively, our current biofuel production operations directly support nearly 4,000 direct jobs and tens of thousands of indirect jobs. Our capacity continues to grow, with additional capability currently online at a facility in North Dakota to support renewable diesel fuel production.

Sustainability is a foundation of ADM's purpose and a pillar of our growth strategy. With global scale and a value chain that stretches from thousands of farmers to customers and end consumers, ADM is a leader in supporting the production of plant-based solutions from food and fuel to industrial and consumer products.

Our company has made significant global sustainability commitments, updated, published, and highlighted each year in our annual Corporate Sustainability Report. The most recent report is available at this link here: Scaling Impact Report. A highlight of ADM's work is our regenerative agriculture program. This program leverages the land's ability to sequester carbon, enhance biodiversity, and help protect and preserve soil and water. ADM enrolled more than 2.8 million regenerative acres in 2023, recently announced a target of 3.5 million acres in 2024, and increased our 2025 goal from 4 to 5 million acres globally.

77 West Wacker Drive
Suite 4600
Chicago, Illinois 60601

312-634-8100

Our ongoing and accelerating efforts have provided us with experience in the development, deployment, and implementation of a robust sustainability program. This experience includes ensuring flexibility and adopting lessons learned to continuous engagement with farmers to understand their priorities, administrative burdens, and costs. As the Board considers sustainability criteria for the LCFS, keeping these and other considerations at the forefront is critical given the biofuels sectors' continued evolution, growth, and adoption of new practices. The gains our sector has seen have taken time, effort, and costs. CARB's proposal should draw from this experience and that of our partners as described in the recommendations below.

A. CARB should continue to oppose a cap on crop-based biofuels.

ADM agrees with CARB staff's assessment that calls for establishing caps on certain feedstocks are not support by the facts, analysis, and evidence and that such caps would result in extending California's reliance on petroleum, thus forgoing opportunities to reduce GHG emissions and increasing harmful emissions. As we wrote in February, the data clearly shows that crop-based biofuels do not negatively impact the production of human or animal nutrition. Crop-based fuels, such as ethanol and biodiesel, produce both food and fuel at affordable prices. In addition, as was made clear from several comments at the April 10 workshop, the relationship between crop-based feedstocks and the resulting essential products (e.g., oils and protein) is poorly understood.

Maintaining a science-based program that incentivizes innovation will continue to drive down the carbon intensity of feedstocks and transportation fuels, supporting California's climate target. As designed, the program supports continued adoption of new, sustainable agricultural practices that our sector is implementing to lower the carbon intensity of products. Those practices are being recognized by the U.S. Department of Treasury, particularly in its recent Section 40B/SAF GREET guidance, which credits a reduction in carbon intensity for corn and soybean feedstocks farmed using certain sustainable agricultural practices.[1] As the National Oilseeds Processor Association also notes in their comments, *"the LCFS [has] driven innovation and investments in dedicated energy crops like pennycress, camelina, carinata, and winter canola; and climate smart agricultural practices."* This momentum should be continued. CARB's decision to avoid a cap will encourage these and other sustainable practices.

The biofuels industry has led the way in meeting the LCFS program's goal of reducing GHG and other emissions over time, which was underscored by the data presented in April, and is well positioned to do so in the future. Caps on crop-based biofuels are contrary to the data and should be rejected.

B. CARB's sustainability proposal should be calibrated to existing standards and programs.

ADM concurs with the views expressed at the April 10 workshop that, if a sustainability program is adopted, it should leverage existing certification and verification programs. Consistency with existing programs is not only practical; it draws on the significant experience and expertise that has been brought to bear on those programs as they have developed, some, like the U.S. Renewable Fuel Standard (RFS), over the course of decades. As CARB noted in its presentation, there are credible, verifiable programs that exist. CARB should not create a new program that has not been vetted to a similar degree. Carb should also support continued use of mass balance

[1] Notice 2024-37, Sustainable Aviation Fuel Credit; Lifecycle Greenhouse Gas Emissions Reduction Percentage and Certification of Requirements Related to the Clean Air Act; Climate Smart Agriculture; Safe Harbors (Apr. 30, 2024), *available at* https://www.irs.gov/pub/irs-drop/n-24-37.pdf.

77 West Wacker Drive
Suite 4600
Chicago, Illinois 60601

312-634-8100

methodology. Doing so maintains program credibility while enabling scalability. The following programs should factor into CARB's deliberations as it considers which approved programs and systems will qualify, including:

1. Renewable fuels standards: The U.S. RFS, in place for nearly two decades, is already in line with, and in some cases, exceeds CARB's proposed sustainability criteria as well as its proposal that applicable sustainability certification programs be in place for at least two years before satisfying these proposed requirements. Additionally, under the RFS:

    - Fuel feedstocks must not be sourced from agricultural land cleared or deforested after Dec. 19, 2007.
    - Environmental, social, and economic criteria are considered in developing annual fuel volumes under the program.
    - Transparent public review of and comment on proposed annual volumes and changes to the rule are central to the continual development of the program.
    - Proposed changes, public comment, and associated documents are posted on the U.S. Environmental Protection Agency's (EPA's) website for review by stakeholders and the general public.
    - Scientific experts within EPA and associated technical advisory panels provide regular input regarding updates to the program.
    - A rigorous audit program is maintained via EPA, which includes high standards, training to ensure competency, and transparency to the public.

    For feedstocks from Canada, the Canadian Fuel Standards program was passed in 2022 and became the first national low carbon fuel program in North America. Feedstocks from Canada have similar requirements to the U.S. RFS and could also serve as a sustainability certification program.

2. Feedstock based U.S. sustainability standards: In the U.S., the Soy Sustainability Assurance Protocol (SSAP) covers 95% of soybean producers that partner with the U.S. Department of Agriculture to implement the program. The SSAP is a certified approach audited by third parties and received a technical review under the EU's Renewable Energy Directive.

3. Existing international standards: The ISCC certifies a range of feedstocks, including from soy, canola, and corn. It also has a certification and verification system that covers sustainable practices as well as social and environmental criteria. Participating farmers agree to host a verification audit if selected. Audit and farm data are kept private, but certificates are issued verifying compliance. The ISCC feedstock certifications have also received technical verification under the EU's Renewable Energy Directive.

The above programs broadly recognize the same key sustainability criteria, such as no deforestation, environmental stewardship, and regulatory compliance. Additional standards should not be added. Using the RFS as a baseline and allowing the flexibility to recognize other programs would avoid the burden of duplicative criteria and reporting, allowing the program to stand on proven ground while ensuring that biofuels producers and feedstock providers are held to account.

C. CARB must consider farmer capacity, optionality, and emerging federal guidance.

While the April 10 workshop provided a sound starting point for the discussion on program requirements and options, further work is needed. Key stakeholders in follow-up sessions should include farmers and those who work closely with farmers. It is critical that our agricultural community is provided with certainty and

77 West Wacker Drive
Suite 4600
Chicago, Illinois 60601

312-634-8100

straightforward, reliable methods and instructions for compliance to ensure continued growth and success. Additional issues for discussion should include:

- Capacity – as program details are designed, farmer input will be critical to ensuring that the program does not raise input costs, that compliance costs are manageable, and that data privacy is assured. Leveraging existing programs may address some of these concerns.
- Flexibility – given evolving practices in agriculture and a changing biofuels sector, participants should be given flexibility regarding which program they can qualify under. Providing this flexibility will allow different crops from different regions to qualify, ensure broad participation, and encourage sustainable practices.
- Reciprocity – as federal tax credits are issued under the Inflation Reduction Act (IRA), climate smart agriculture practices and technology pathways that are incorporated in the IRA guidance issued for federal tax credits should similarly qualify for the program.

D. Protecting and promoting North American Feedstocks

Feedstocks that are either high risk or come from high-risk regions should be required to comply with *"additional detailed traceability, verification, and/or enforcement of waste feedstocks to avoid fraud"* as noted in the April 10 workshop. Doing so would create a level-playing field with U.S. feedstocks, particularly when sustainability requirements are added, and protect the integrity of the LCFS and the RFS. As we noted in our February letter, the rise of international used cooking oil (UCO) feedstocks imported into the U.S. market has skyrocketed from 300 million pounds in 2021 to 3 billion pounds in 2023 after the establishment of more incentives for their use in producing lower-carbon fuel. Much of this UCO is leveraged for LCFS compliance in the California market, which could be appropriate if imported UCO feedstock was competing with alternatives on a level playing field. However, the significant influx of UCO from overseas raises questions about its sourcing and, at a minimum, calls for greater scrutiny to ensure integrity of the LCFS program and the fuels consumed in the state. Thus, we recommend that the principles reflected in the proposed sustainability criteria also be established for all higher risk waste-based feedstocks such as imported UCO.

Conclusion

Finally, we ask that CARB consider extending the period of compliance from 2028 to 2030. Doing so will support a smoother transition for farmers and biofuel producers anticipated to be impacted the proposed sustainability provisions. This timetable also aligns with the 2030 GHG reduction milestone as well as the approximate timeframe for the next update to the Scoping Plan.

As this work continues, we ask that CARB deepen its partnership with the agricultural industry as we grow, evolve, and supply California consumers with food and fuels in a sustainable manner. The LCFS program is a key policy to further catalyze our and others' sustainability efforts and associated learnings. Careful implementation of sustainability provisions anchored to existing certification programs and allowing for an appropriate transition will be fundamental to ensure the amendments support the continued effectiveness of the LCFS. A robust LCFS sends a clear signal to the market and supports continued investments in lower carbon feedstocks as well as carbon reduction efforts, including regenerative agriculture practices.

ADM notes its support and alignment with comments submitted by the National Oilseed Processors Association, Growth Energy, Clean Fuels America, and California Advanced Biofuels Alliance. Thank you for the opportunity

77 West Wacker Drive
Suite 4600
Chicago, Illinois 60601

312-634-8100

to share these comments as the CARB staff and Board complete their work. Please do not hesitate to contact me or our Vice President – State Government Relations Greg Webb (webb@adm.com) with any questions.

Respectfully,

Greg Morris
Senior Vice President
President, Ag Services and Oilseeds
ADM

cc: California Air Resources Board
Liane Randolph, Chair
Rajinder Sahota, Deputy Executive Officer
John Eisenhut, Board member
Susan Shaheen, Ph.D., Board member
John R. Balmes, MD, Board member
Diane Takvorian, Board member
Cliff Rechtschaffen, Board member
Dean Florez, Board member
Hector De La Torre, Board member
Davina Hurt, Board member
V. Manuel Perez, Board member
Eric Guerra, Board member
Nora Vargas, Board member
Tania Pacheco-Werner, Ph.D., Board member
Gideon Krakov, Board member
Senator Henry Stern, Board member
Assemblymember Eduardo Garcia, Board member
Matthew Botill, Chief, Industrial Strategies Division