April 23, 2018

**VIA ELECTRONIC FILING AND ELECTRONIC MAIL**

Clerk of the Board

Air Resources Board

101 I Street

Sacramento, CA 95814

**Re: Proposed Amendments to the Low Carbon Fuel Standard**

Dear Sir/Madam:

Diamond Alternative Energy LLC dba Diamond Green Diesel (hereafter “Diamond Green Diesel”) appreciates this opportunity to provide comments regarding the Air Resource Board’s proposed amendments to the Low Carbon Fuel Standard (LCFS), as proposed on March 6, 2018. Diamond Green Diesel operates a 13,000 BPD renewable diesel plant by converting recycled animal fat, used cooking oil, and other feedstocks into high-quality renewable diesel fuel which is then sold into the renewable fuels to markets across the U.S., including California.

Diamond Green Diesel has significant concerns that the proposed modifications to the LCFS program run counter to the purpose of the program and the underlying statute. The Agency is ostensibly proposing to amend the LCFS program regulation to reflect actual current market penetration of alternative fuels and provide pathways to grow the use of these fuels over the life of the program in an effort to achieve the 2030 reduction target. Many of the proposed amendments appear to undermine the quality control systems and overall compliance mechanisms in an effort to promote the growth of credits produced by alternative fuels in order to provide liquidity and achieve program feasibility.

In particular, we have concerns regarding the following provisions of the proposed revisions:

* Source specific feedstock requirements
* Third party verification requirements
* Appealable decisions

**Source Specific Feedstock Product Transfer Documentation**

The proposed rule language requires product transfer documentation for biodiesel and renewable diesel feedstocks from the point of origin to the fuel processing plant.  In our experience, this is infeasible. Processing plants receive a bill of lading for each consolidated shipment of feedstocks. However, these documents do not revert back to the points of origin for the feedstock. Several points of origin can be used to supply product for a single rail car or truck, making it virtually impossible to tie the volume back to the exact source because the volume will be comingled.  Many feedstock generators are very small and disparate but collectively provide sufficient material for large-scale processing. Tracking exact points of origin for each feedstock purchased from these many small providers will require the development and deployment of an entirely new system that will be extremely onerous for the suppliers, and may discourage them from participating at all if the paperwork burden outweighs the incremental benefits received from selling small volumes of feedstocks. .

**Third Party Verification**

Section 95488.8- *Fuel Pathway Application Requirements Applying to All Classifications* contains a subsection which defines confidential business information for the purposes of the fuel pathway application and carbon intensity determination. However, this language does not extend to the third party verifications required for annual fuel pathway reporting, quarterly fuel transaction reporting, crude oil quarterly and annual volume reporting, project review or low complexity/low energy use refinery reporting. These sections lack provisions ensuring that proprietary data is not taken by a third party and/or preventing the third party verifier from inadvertently providing confidential information to the state. Release of operational data, process design and technology employed, feedstock procurement, and accounting practices could result in entities losing a competitive advantage.

**Appealable decisions**

CARB has proposed that the following decisions by the Executive Officer are not appealable: classification of a fuel pathway, scientific defensibility demonstration for Tier 2 pathway applications, substantiality requirements for multiple pathways for the same feedstock-fuel combination or Tier 1 pathways using innovative methods, and use of temporary fuel pathways. Fuel pathway applicants would have no recourse to provide additional data to support an applicant’s position prior to the Executive Officer making a permanent final decision. Furthermore, the Executive Officer is not obligated to notify the applicant in writing of the results of the evaluation process. We find this position to arbitrary and capricious and unsupportable by Administrative Law. CARB cannot circumvent due process in an effort to minimize administrative burdens, or provide the Executive Officer with absolute authority over scientifically-supported discourse in favor of political expediency. We contend this provision should be removed from the proposal.

Diamond Green Diesel is committed to working with the Agency to meet its goals and objectives under the Low Carbon Fuels Standard regulation as it relates to growing the renewable fuels market in ways that are reasonable, scientifically sound, technically feasible, and cost effective. We thank you for your consideration of these comments and we look forward to further discussion on this issue. Please contact me (210) 345-2438 should you have any questions.

Sincerely,

Elizabeth A Hepp

Staff Fuels Compliance Engineer

Valero Companies

210-345-2438

[elizabeth.hepp@valero.com](mailto:elizabeth.hepp@valero.com)