



September 18, 2022

VIA ELECTRONIC FILING

Cheryl Laskowski  
California Air Resources Board  
1001 I Street  
Sacramento, California 95814

**Re: Low Carbon Fuel Standard August 2022 Workshop**

Dear Dr. Laskowski:

The Coalition for Renewable Natural Gas (RNG Coalition) is a California-based nonprofit organization representing and providing public policy advocacy and education for the Renewable Natural Gas (RNG) industry.<sup>1</sup> We advocate for the sustainable development, deployment, and utilization of RNG, so that present and future generations have access to domestic, renewable, clean fuel and energy in California and across North America.

RNG Coalition respectfully submits these comments to the California Air Resources Board (CARB) in response to the Low Carbon Fuel Standard (LCFS) workshop held on August 18, 2022 (the Workshop). The LCFS program is a key driver of growth in the Renewable Natural Gas (RNG) industry, and we appreciate CARB's commitment to continuous improvement of the underlying regulatory framework—both overall and with respect to the program's RNG-specific features.

**True-Up Concepts**

*We support the Proposed True Up Between Temporary CIs to Certified CI Values Proposed by CARB Staff*

At the Workshop CARB Staff proposed providing a credit true up to correct for under crediting to pathway holders who choose to use temporary CI scores at the outset of their credit generation. Such a limited true up would help reduce the pressure on CARB from developers to process LCFS applications quickly.

Temporary CIs have been an important option for RNG to NGV pathways,<sup>2</sup> but applicants are often reluctant to use them and receive less credits than what they would receive under their facility-specific provisional CI value. Correcting for any under crediting while a temporary is used would allow developers to avoid engaging in complicated storage contracts which are costly and time-consuming (and which are currently undertaken to try to avoid the use of the temporary CIs). It would smooth out

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<sup>1</sup> For more information see: <http://www.rngcoalition.com/>

<sup>2</sup> As we've recommended previously, CARB should create a temporary pathway CI to cover all biogas/biomethane to electricity pathways.

deliveries to fleets by avoiding the need to build up a large “stored gas” inventory (and the need for fuel distributors to interrupt steady state operations and dispense it all at once to catch-up) and it would allow for more direct sales of renewable natural gas to smaller and more local fleets, who do not have the fleet size to dispense stored gas.

Correcting for all under crediting due to temporary CI use is a helpful concept that will motivate additional project development. We strongly support such a change, but CARB should go further—as discussed below—and allow for a true-up CFS credit generation if the verified operational carbon intensity value for a given year is lower than the certified carbon intensity value for that year.

#### *CARB Should Also Allow for Credit True-Up Between Verified Operational and Certified CI Values*

Facilities should be retroactively credited based on actual verified CI data rather than relying on an a priori estimate established during pathway certification. Doing so would increase accuracy in crediting and better incentivize continuing improvements in the actual GHG emission profile of all pathways.

Such a full true up would be especially helpful for dairy RNG projects. Dairy RNG projects have variability in their CI because their operations are impacted by external factors such as temperature and herd count. Our understanding is that there are already documented instances in the LCFS where a project has unexpectedly over- or under-generated credits, based on these external factors.

The existing rules require that if the verified operational carbon intensity is *higher* than the certified carbon intensity for a given reporting period CARB will invalidate such unwarranted credits.<sup>3</sup> Our understanding is that CARB has automatically made such adjustments to RNG crediting using provisional CIs without much opportunity for input or debate with RNG credit generators. We reluctantly accept that this must occur to avoid over crediting to pathway holders and misrepresenting the environmental benefits of the program overall. We also understand that CARB staff doesn’t have the bandwidth for a deep dialog with every provisional pathway holder on why their actual CI performance changed in the provisional period from what was assumed to occur during the certification process.

However, given that these automatic adjustments are occurring during the provisional period to the detriment of pathway holders, providing a true-up to credit pathway holders if the opposite case is true—where the verified CI is *lower*, and the true benefit was initially underestimated—is necessary to avoid undercounting the actual GHG benefits of all pathways.

In the absence of such a true up, pathway applicants will always certify unnecessarily conservative CI scores to avoid exceeding non-provisional CIs, which is a violation under the current rule.<sup>4</sup> Not only can such a violation potentially lead to penalties, but it also automatically leads to a credit invalidation process which can cause account suspension<sup>5</sup> and other negative outcomes. Consequently, if no full true-up is provided the system will *underrepresent the overall GHG benefits of the LCFS program*, which is not in CARB’s interest as the program is steered toward more ambitious targets in the forthcoming rulemaking.

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<sup>3</sup> See §95488.9(c)(3) for credit adjustment for provisional pathways and §95494 for the invalidation process for non-provisional pathways.

<sup>4</sup> See § 95488.4(a).

<sup>5</sup> See §95494(b)(3).

Oregon's Clean Fuel Standard's current rulemaking is considering adding such a full true-up.<sup>6</sup> We've built from the Oregon language to facilitate incorporation by CARB into the California LCFS rule below:

Annual Credit True-up. CARB will automatically issue additional credits from the prior year to correct for any difference between a verified operational carbon intensity and any certified carbon intensity (including temporary and provisional) if all of the following is true: (A) The pathway holder has successfully completed annual verification by receiving a positive or qualified positive verification statement for the relevant Annual Fuel Pathway Report, (B) The verified operational carbon intensity value for a given pathway is lower than the certified carbon intensity value used for initial crediting, and (C) the credit generator has received a positive or qualified positive verification statement for the relevant Quarterly Fuel Transaction Reports.

Allowing such a full true-up would facilitate the ability to look backward at the CI details of clean inputs (including RNG) used at fuel production facilities, rather than asking producers to commit firmly to what types of inputs they may buy (and from where) during the CI application process. It would also allow CARB to eliminate the somewhat confusing "provisional" status for pathways.

Perhaps most importantly, a full true-up would *provide further incentive to lower CI scores* (e.g., eliminate methane leaks, utilize clean energy, and increase process efficiency) on a going forward basis for each pathway (without requiring re-certification or adding to staff's administrative burden). Such a change would fully account for the true GHG reductions from the policy, incent additional investment in low carbon fuels, and simply be fair treatment for credit generators looking to use the LCFS to create viable low carbon fuel business models.

### **Revisiting Tier 1 CI Calculators and Deemed Complete Dates**

#### *CARB Should Host a Workshop to Solicit Input on Improvements to Tier 1 Biomethane Calculators*

In our November 5, 2020 comments<sup>7</sup> we recommended that CARB begin to examine potential improvements in the Tier 1 calculators for biomethane. Approaching two years later we still believe it is critical to engage on the details of these calculators to improve pathway processing, reduce delays in cash flow to projects and increase investment certainty associated with the LCFS program.

At the August 2022 Workshop CARB staff hinted that they'd like to improve Tier 1 calculators to increase the number of Tier 1 applications, which should reduce CARB staff administrative burden, speed pathway approval times, etc. relative to a high volume of Tier 2 pathways. We recommend that CARB hold a workshop specific to these issues to solicit input from all stakeholders.

As we've stated previously, the goals of simplicity and transparency of carbon intensity (CI) calculation embodied by the calculators continue to be important, and those goals has not been fully achieved for RNG projects in the current Tier 1 calculators.<sup>8</sup> Some simple changes to the calculators would allow

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<sup>6</sup> See Oregon Clean Fuels Program draft, pg. 168:

<https://www.oregon.gov/deq/rulemaking/Documents/cfp2022pnp.pdf><https://www.oregon.gov/deq/rulemaking/Documents/cfp2022pnp.pdf>

<sup>7</sup> <https://www.arb.ca.gov/lists/com-attach/48-lcfs-wkshp-oct20-ws-WmhRZ11tB2VVY1Vg.pdf>

<sup>8</sup> For example, most dairy RNG projects use Tier 2 applications because the Tier 1 calculator is not able to correctly model common operational realities.

more RNG projects to utilize the Tier 1 process. Concepts that deserve attention as possible additions or adjustments in this rulemaking include:

Across all RNG Tier 1 calculators:

- The ability to report project-specific fugitive methane levels, even if lower (or higher) than the current defaults.
- The ability to report process fuels other than natural gas or electricity (e.g., propane, liquified natural gas, etc.)
- A clear framework for RNG trucking as an option to accommodate “virtual pipeline” projects.
- The ability to have the final product of the calculation be electricity (in addition to gas).

For the *Tier 1 Simplified CI Calculator for Biomethane from Anaerobic Digestion (AD) of Organic Waste*:

- The calculation related to avoided methane from landfills should be revisited.

For the *Tier 1 Simplified CI Calculator for Biomethane from Anaerobic Digestion of Dairy and Swine Manure*:

- Simplified sector-wide default assumptions related to lagoon cleanouts used in determining baseline methane emissions should be adopted.
- Recognition of the nitrogen cycle benefits and N<sub>2</sub>O reductions associated with controlled-release organic fertilizer derived from digestate. This would help promote all AD projects that process their digestate into fertilizer. Exploring this change is especially important if CARB wishes to incent RNG projects from California’s poultry waste.

We also feel that CARB may want to explore adjusting Tier 1 calculators for non-RNG fuels to facilitate the use of RNG as a source of process energy (in line with our recommendations about encouraging RNG use across all applications where conventional natural gas is currently used).

*We Support CARB’s Proposed Alignment of Deemed Complete Dates between Tier 1 and Tier 2 Processes, if the Tier 1 Calculators Are Modified to Accurately Represent Most RNG Pathways*

At the Workshop CARB staff continued to explore simplifying pathway processing steps and shifting the “deemed complete” date so that the date would be identical for a Tier 1 and Tier 2 pathway (likely to encourage additional Tier 1 applications).

In our January 7, 2022 comments we said we would support the *removal* of deemed complete if implemented in conjunction with a full true up. Similarly, we would support aligning the deemed complete date for Tier 1 and Tier 2 pathways as proposed at the August 2022 Workshop if the Tier 1 calculators are modified to be a viable option for the majority of RNG and biogas pathways.

Currently project developers must wait up to a full year to receive any cashflow on a certified pathway and pathway certification timing is often outside of the applicant’s control (e.g., when the delay is a function of the pathway queue). The deemed complete date signifies that a pathway applicant has satisfied all submission requirements as required under the Regulation. Although not guaranteed, the deemed complete date has essentially worked as a timestamp as to when credit generation under the provisional CI can take effect, assuming the pathway can be certified in the subsequent quarter.

Shifting the deemed complete designation later in time adds further uncertainty to the timeline of cashflow receipt for project developers, therefore, we would not support shifting of the deemed complete date for Tier 2 pathways unless the Tier 1 calculators are significantly improved and some form of true up is also implemented as described above.<sup>9</sup>

*We Support the Creation of a Tier 1 Calculator for Hydrogen*

In line with our support for RNG use across all sustainable end use applications, our enthusiasm for all renewable gases, and our desire for additional improvements to the Tier 1 process, we were very pleased to see Staff's recommendation at the Workshop to create a Tier 1 calculator for Hydrogen pathways.

We strongly support such an effort and appreciate the initial technologies being considered includes both electrolytic and biomass-derived options for creating renewable hydrogen. We also support the integrated use of book and claim accounting for both renewable electricity and RNG as inputs into renewable hydrogen creation.

**Conclusion**

RNG Coalition appreciates the opportunity for continued engagement on these topics. The production of renewable gas, driven by the LCFS, will help to reduce methane emissions, improve organic waste management, and decarbonize California's transportation sector. We thank CARB for your continued work toward this end and look forward to a robust and effective LCFS rulemaking.

Sincerely,

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<sup>9</sup> Even as the Tier 1 calculators are improved through the rulemaking process, additional near-term RNG opportunities should be created through approval of innovative Tier 2 applications. See our November 2020 comments for detailed suggestions.