Dairy Cares Comments on the Proposed
Low Carbon Fuel Standard Amendments (15-Day Changes)

August 27, 2024

Dairy Cares[1] appreciates the opportunity to provide these comments on the 15-day Changes to the California Air Resources Board's ("CARB") proposed Low Carbon Fuel Standard ("LCFS") amendments ("Amendments"). Dairy Cares represents the California dairy sector, including dairy producer organizations, leading cooperatives, and major dairy processors. We appreciate CARB's efforts to lead a robust stakeholder process and its efforts to prepare a voluminous record in support of the proposed revisions to the LCFS. These comments focus on the biomethane crediting provisions. As explained below, CARB should not modify Section 95488.9 to reduce the avoided methane emission crediting periods. CARB should revise these requirements and retain discretion to align implementation of crediting pathways under the LCFS with its statutory obligations under Senate Bill ("SB") 1383.

DISCUSSION

1. Ongoing Crediting for Anaerobic Digester Projects Is Necessary to Meet the Statutory Requirements of SB 1383.

The 15-Day Changes to Title 17, California Code of Regulations (CCR), Section 95488.9(f)(3)(A) would limit crediting for avoided methane projects to two 10-year periods. As noted in our 45-day language comments, anaerobic digester projects are necessary to meet the statutory requirements of SB 1383 for reducing short-lived climate pollutants ("SLCPs"). Dairy digester projects also help improve baseline environmental conditions. We do not repeat those comments here, other than to note the success of digesters in facilitating SB 1383 targets is well supported by the record and reducing the total number of crediting periods could undermine these efforts. There is an ongoing need for additional investments in the dairy sector, which may extend past the timeframes contemplated for the two crediting periods. The LCFS Regulation should enable the Executive Officer to make case-by-case determinations to extend crediting periods when they are necessary for the continued implementation of SB 1383. As explained below, this longer-term option may be necessary, especially for smaller, in-state dairies.

[1] For more information about Dairy Cares, please visit www.dairycares.com.

2. **<u>Two Crediting Periods Are Not Necessarily Sufficient to Justify Investments in Smaller Dairy Digester Projects.</u>**

The notice explaining the changes to 17 CCR § 95488.9(f)(3)(A) concludes that two crediting periods would provide "sufficient return on investment."[2] However, the notice does not indicate that CARB considered the needs of smaller, in-state dairies that tend to have longer payback periods than larger in-state facilities (e.g., dairy clusters) and out-of-state facilities. The record does not indicate that CARB considered payback for investments in associated cleaning, upgrading and pipeline interconnection facilities or other investments that must be made in dairies, such as double-lining lagoons. Moreover, neither the 15-Day Notice nor the Initial Statement of Reasons identifies what exactly the long-term tool will be once the crediting periods end.

We are concerned that in the absence of an ongoing, long-term financial signal, there could be project failure, which would risk increasing SLCP emissions. Smaller projects that naturally have longer payback periods (i.e., due to economies of scale in digester development), may not be undertaken at all. This is possible, particularly in light of the fact that in the period of 2025-2030, out-of-state dairy projects will enjoy a permanent exemption from the new deliverability requirements, so long as the developer breaks ground before 2030. We are concerned that project developers will focus their efforts on locking in incentives for out-of-state projects, while smaller in-state projects are overlooked and face relatively short financial payback periods.

CARB should supplement the record and address how it will ensure that in-state dairies have access to the financial capital needed to make long-term investments. CARB should qualify the uniform application of the proposed crediting periods for biomethane pathways. The pathway application process should provide an opportunity to address unique circumstances, particularly those of smaller dairies that may require longer crediting periods to attract financing. Dairy Cares urges CARB to take a more nuanced approach and allow projects that will reduce the emissions sources covered by SB 1383 to request an extension to the phase-out timelines through an application process.

CONCLUSION

Dairy Cares appreciates the opportunity to comment on this rulemaking and looks forward to continuing to partner with CARB and other stakeholders on the implementation of the Amendments and the successful achievement of the State's climate goals.

[2] 15-Day Notice at p. 12, available at: https://ww2.arb.ca.gov/sites/default/files/barcu/regact/2024/lcfs2024/15day_notice.pdf.