The Honorable Liane Randolph
Chair, California Air Resources Board
1001 I St, Sacramento, CA 95814
Sacramento, California 95814

August 27, 2024

**RE: 15-Day Package for the Low Carbon Fuel Standard Update**

Dear Chair Randolph and Members of the Board:

Clean Energy would like to thank CARB staff for the opportunity to comment and emphasize our support for many of the proposed amendments to the Low Carbon Fuel Standard (LCFS) in the "15-day Package" released on August 12, 2024. We remain committed as a collaborative partner to the clean air and environmental goals of our state.

We believe the "15-day Package" is a measurable improvement upon previous drafts. The increased step-down percentage, commitment to book and claim, a true-up and numerous citations for the record recognizing the benefits of dairy biogas will be helpful to the market. However, please consider the following constructive amendments that we believe would increase further market certainty, confidence and performance:

- **True-Up**:

  **SUPPORT**: we are pleased that a "True Up" has been proposed which allows the state and project to recognize the true environmental benefits of the project from the onset, and helps project owners recover otherwise lost credits during the temporary pathway certification period. Unfortunately, the language in the 15-day Package does not allow the True-Up to take effect until after "verification" of the operational CI data. This implies that you would not be able to realize the True-Up until after your first Annual Fuel Pathway Verification (AFPR).

  Based on the existing LCFS pathway process, a dairy project that started in January 2025 would not likely receive its Provisional Pathway until 2026, with its AFPR Verification occurring late in 2027. This means the project would be without any True-up value for nearly two years. Moving dairy pathways from Tier 2 to Tier 1 should reduce the Provisional Pathway approval process, but there is still a significant gap from project start to when a True-up is realized.

  **PROPOSED AMENDMENT:** The True-Up should be applied retroactively at the point when the Provisional Pathway is approved.

- **Step-Down:**
  **SUPPORT:** we are pleased to see the proposed 9% step down (vs. a prior 5%) be implemented in Quarter 1, 2025. Without it, the credit bank will not reduce fast enough and we will be stuck in a depressed LCFS price environment.

  **PROPOSED AMENDMENT:** while the proposed step-down amendment helps, it may not be nearly enough on its own. The oversupply of credits in the market hurts existing project returns, limits new project development, and sends the wrong signal to investors. Since the proposed 30% CI target by 2030 would send a modest market signal for private investment (today's market price remains at $54 despite CARB's proposal), especially for a program that over-delivered and outpaced CARB staff's expectations to date, a 40% CI target for 2030 would be far better and/or a 30% CI target if an amended (please see below) Automatic Accelerator Mechanism can be triggered in 2025.

- **Automatic Adjustment Mechanism (AAM)**:
  **PROPOSED AMENDMENT**: while we appreciate that CARB is keeping the AAM as a tool to be enacted in 2027, we believe this tool may be needed much sooner. This is exemplified with the credit price recently hovering around the mid-$50s in direct reaction to the release of the "15-day Package." This is worrisome to a leading company investing hundreds of millions to support California's emissions reductions goals that needs credit prices to be in the six-digit range.

  We strongly believe <u>the AAM should be triggered as early as 2025</u> if the credit bank is awash with credits (i.e., the credit build is 2.5 times larger than the credit draw in any given quarter). This mechanism would dynamically respond to a potential future event where there is a significant underestimation of CI reductions in a given year. If left unaddressed or ineffective, the program cannot raise credit prices to levels private capital needs to further invest in low carbon fuel projects.

- **Avoided Methane Credit (AMC):**
  **PROPOSED AMENDMENT:** we are concerned with the reduction of the AMC eligibility for dairy projects built pre-2030 from 3 to 2 crediting periods. This will disincentivize early dairy project investments that California needs to meet SB 1383 goals.

  The industry has already suffered for years with damaging LCFS credit prices due to an abnormally delayed LCFS update. Further, unmitigated dairy emissions are the largest source of methane emissions in the state. The modification to reduce AMC crediting periods is seemingly counter to our climate needs and goals on several levels. <u>We urge CARB to retain the 3 crediting periods.</u>

- **Four-To-One CI Penalty:**
  **PROPOSED AMENDMENT:** we urge CARB **<u>NOT</u>** to adopt a penalty mechanism for CI changes at a project. Projects are biological in nature and can experience changes in CI due to many factors, including but not limited to, ambient temperature, energy input increases and/or decreases, cloud cover, etc. When these types of natural changes occur, the operator

of the low carbon project, like an anaerobic digester, will properly manage the fluctuating project CI and credits being generated. In the event the CI changes unfavorably resulting in an over-generation of credits, normal course of operations is to bank these credits for retirement through the Annual Fuel Pathway Reporting (AFPR) process.

Unfortunately, the proposed regulation would apply a four-to-one penalty to the CI if it moves unfavorably to the credit generating CI. Because of this, an operator will be forced to apply a very conservative margin of safety to the CI of their project, thus reducing its quarterly revenues. Those intending to comply with the true-up in good faith but fall short will be harmed, and thus a disincentive for investment. We don't believe this should be the tool for enforcement or a bad actor outcome.

As it stands today, the pathway approval process takes nearly two years to complete, resulting in lower revenues at the beginning of a project and now you will also see lower revenues during a project while it goes through the AFPR process, which can take up to two years. This proposed change will not provide any CI emissions benefit to the program and puts additional financial strain on low carbon investments.

We recognize the recent LCFS update proposal is vastly improved upon from what was proposed nearly two years ago. We appreciate CARB's commitment to ambitious state goals and targets, backed by science-based and fuel neutral policies. The LCFS needs to be stringent and continue rewarding projects based GHG outcomes. Remaining true to these core concepts will ensure California leads the world in rapid transportation sector decarbonization.

Sincerely,

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