October 15, 2024

Chair Liane Randolph and Members of the Board California Air Resources Board
1001 I St.
Sacramento, CA 95814

RE: Newtrient Comments on the Second 15-Day Changes to the Low Carbon Fuel Standard

Dear Chair Randolph and Members of the Board,

Newtrient appreciates the opportunity to comment on the Second 15-Day Changes to the Low Carbon Fuel Standard (LCFS). Newtrient was founded by leading milk cooperatives and organizations, representing 20,000 dairy farmers producing approximately half of the nation's milk supply.

Newtrient applauds the success that has been achieved by the LCFS program and the two programs directed by the California Department of Food and Agriculture (CDFA) that have been particularly vital to the progress California has made. The Dairy Digester Research and Development Program (DDRDP) and the Alternative Manure Management Program (AMMP) have received 1.86% of the California Climate Investments program as of May 31, 2023, and the GHG reductions from these two programs represent 23.69% of the total for all California Climate Investments programs[1]. The DDRDP program has the largest GHG reductions of any single subprogram (22.1 million $MTCO_2e$) and represents the single most effective program in the overall strategy to achieve the ambitious climate goals set by the State of California.

Analysis shows that continued implementation and commitment to the incentive-based climate smart solutions that are currently driving voluntary dairy methane reduction in California should, by 2030, achieve the full 40 percent reduction in dairy methane sought by state regulators without the need for direct regulation."[2]

[1] California Climate Investments Program: *2023 CARB Mid-Year Data Update* (May 31, 2023), (https://ww2.arb.ca.gov/sites/default/files/auction-proceeds/cci_2023mydu_cumulative_statistics.pdf)
[2] Kebreab, Ermias, Ph.D., Mitloehner, Frank, Ph.D., and Sumner, Daniel A., Ph.D., Meeting the Call: California is Pioneering a Pathway to Significant Dairy Methane Reduction (December 2022), available at: https://clear.ucdavis.edu/news/new-report-california-pioneering-pathway-significant-dairy-methane-reduction

With our support of CARB and the LCFS and the success of the dairy industries programs that are producing these significant results in mind, Newtrient would like to offer the following comments on the Second 15-Day Changes to the Low Carbon Fuel Standard:

Auto Acceleration Mechanism (AAM)

The second 15-Day changes package is focused on targeted modifications to the proposed regulatory text and Newtrient would like to express our support for the new amendments to the program. Specifically, the modifications made in the second 15-Day changes to the Auto Acceleration Mechanism (AAM). Switching from a calendar year of data to the most recent four quarters of data as the determination for whether the AAM is triggered will allow for greater transparency and market certainty to LCFS participants. Adoption and implementation of this mechanism will ensure that potential emission reductions are not left on the table and will help California reach its climate goals faster if triggered.

Temporary Pathway for Low Carbon Intensity (CI) Electricity Produced from Biomethane

Newtrient would also like to express our approval of the addition of a temporary pathway for low carbon intensity (CI) electricity produced by a fuel cell from biomethane from dairy or swine manure as well as the clarification on the temporary fuel pathway for hydrogen produced from dairy or swine biomethane. Similarly, the 15-day changes propose to allow for book-and-claim accounting of biomethane to produce electricity for electric vehicle charging, but only if the electricity generated is from a fuel cell. Both modifications increase the application of biomethane beyond its traditional uses in other technologies. Recognizing the importance that biomethane has in advancing non-combustion technologies is a critical part of the energy transition and will help California meet its climate goals. Newtrient would suggest that the pathway language could be more inclusive recognizing “non-combustion technologies” in general instead of specifying only “fuel cell technology”.

Avoided Emission Crediting

Newtrient did not support the phaseout of avoided methane emission crediting in the 45-day package, nor the modified language regarding the requirements for crediting periods in the first 15-day changes. The second 15-Day changes package adjusts these requirements to state that a project certified before the effective date of the regulation is allowed three consecutive 10-year crediting periods, and projects certified after the effective date of regulation or after January 1, 2030, will be limited to two consecutive 10-year crediting periods. As stated previously, Newtrient opposes any changes to the current system.

All the recommended proposals place dairy biomethane projects at a significant disadvantage, could potentially lead to shutdowns, and will certainly stifle investments in new projects going forward. Emission reductions continue to occur for the life of the methane capture project (i.e., the biomethane digester's asset life). Therefore, the crediting period for avoided emissions should mirror the asset life of the capture technology, which is greater than 20 years.

Newtrient strongly believes that the proposed phaseout is inconsistent with the incentive-based approach outlined in SB 1383. Moreover, eliminating or phasing out the avoided methane crediting in the dairy sector would lead to an inability to meet the state's targeted methane reduction goals and result in significant dairy methane emissions leakage. Avoided methane crediting is a key component of dairy methane reduction incentives that has achieved significant reductions to date and is one of the most effective tools to meet California's GHG goals.

According to a UC Davis analysis:

> . . . misguided efforts to change course by forced coercion to pasture-based operations, direct regulation of dairy farms, or limitation on dairy digesters incentives will not only fail to achieve the desired greenhouse gas emissions reductions but will exacerbate the problem by causing significant emissions leakage. Revenue streams that incentivize investment in biogas capture and beneficial use are critical. Phasing out of avoided methane crediting in the dairy sector would jeopardize existing projects, making them uneconomic in the long-term, and dry up investment capital for the additional digester projects sought by CARB to achieve the state's ambitious and aggressive targets.[3]

The ultra-low carbon indices within the dairy Anaerobic Digestion (AD)/Biogas sector are real and well-vetted within the national laboratory-developed Greenhouse Gases, Regulated Emissions, and Energy Use in Technologies (GREET) model. The low carbon intensity of these projects arises from a combination of well-to-wheels carbon gains plus the methane offsets from baseline methane emissions from manure management, storage, and application. Methane offsets from baseline emissions are a legitimate accounting practice as baseline, pre-AD/biogas systems emissions exist, and are largely removed through the installation of the AD/biogas systems.

Avoided methane emissions are a critical part of science-based, life cycle assessments, and their inclusion in carbon intensity scores are consistent with internationally

[3] Kebreab, Ermias, Ph.D., Mitloehner, Frank, Ph.D., and Sumner, Daniel A., Ph.D., Meeting the Call: California is Pioneering a Pathway to Significant Dairy Methane Reduction (December 2022), available at: https://clear.ucdavis.edu/news/new-report-california-pioneering-pathway-significant-dairy-methane-reduction

recognized standards of carbon accounting. The scientific evidence for this is robust and recognizes that the baseline includes methane emissions that would otherwise be released into the atmosphere. Recognizing methane and its role as a short-lived climate pollutant, while incentivizing its removal from the atmosphere, has proven highly successful in supporting the reduction of millions of metric tons of carbon dioxide equivalents. We strongly encourage CARB to continue its longstanding commitment to a science-driven framework that utilizes proven science including Argonne National Laboratory's GREET model.

Furthermore, Newtrient would like to reiterate that we do not believe the addition of deliverability requirements under the program is necessary. We urge CARB to work with biomethane stakeholders to come up with a better solution for these issues.

True-Up Provision

Newtrient is pleased to see the proposed amendments to expand the credit true-up to include periods using temporary pathway CIs after annual verification following stakeholder input highlighting the benefits of the credit true-up. Based on our understanding of the language, reporting that is submitted March 31, 2025, will cover the years 2023-2024 and include a credit true-up back to 2023. However, Newtrient continues take issue with the proposed true-up provisions that adjust credits based on verified operational CIs relative to certified CIs, applying a penalty of four times the spread for shortfalls. The rationale for a 4X spread is unclear as a smaller spread (e.g., 2X) serves as a significant disincentive to producers for being overconfident in their analysis. Newtrient asks CARB to explain their rational for including this provision and to consider a more balanced response that provides flexibility to consider situation-specific factors rather than defaulting to a 4X penalty.

Conclusion

As the technology in the transportation sector continues to evolve and advance towards lower carbon alternatives, Newtrient and other members of the dairy industry are following suit and are ready to serve these new markets, such as alternative jet fuel (AJF), low-CI hydrogen, as well as exploring opportunities where biomethane can be utilized outside of transportation. As these markets continue to grow, Newtrient asks CARB to remain mindful of the success of the historical framework of the existing LCFS program and to continue to apply it to newer pathways and technologies, including the use of avoided emissions and book-and-claim. Additionally, Newtrient recommends that CARB, starting with the 2024 amendments to the LCFS, send a clear policy signal that biomethane is a necessary and effective decarbonization strategy in these other sectors (e.g., residential, commercial, industrial) that are fundamental to the state meeting its ambitious GHG reduction targets.

Over the past year and a half, CARB staff have held numerous public workshops to gather feedback on potential changes to the program, in which Newtrient has participated, and we are pleased to see that the rulemaking is nearing completion.

Thank you for the opportunity to comment on the proposed amendments, and we look forward to engaging with CARB staff on these topics.

Sincerely,

Mark Stoermann
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