October 16, 2024

Submitted via ca.gov

Liane M. Randolph, Chair
California Air Resources Board
1001 I Street
Sacramento, CA 95814

Re: Comments on Second 15-Day Changes to Proposed Low Carbon Fuel Standard Amendments

Dear Chair Randolph:

Leadership Counsel for Justice & Accountability, Central Valley Defenders of Clean Water & Air, Animal Legal Defense Fund, and Food & Water Watch (collectively, "Commenters") submit the following comments on the Second 15-Day Changes to the Proposed Low Carbon Fuel Standard Amendments ("Second 15-Day Changes").[1] Adoption of the proposed Amendments would be arbitrary, capricious, contrary to law, and beyond CARB's statutory authority as explained by Commenters numerous times throughout this rulemaking process. These Second 15-Day Changes do nothing to remediate those legal infirmities.

Additionally, the Second 15-day changes demonstrate CARB staff's priority of guaranteeing profits for megadairies and factory farm gas investors over addressing the perverse harms to Californians and CARB's own climate change mitigation efforts. In at least two board meetings on the LCFS, several board members called for reducing the number of years available for avoided methane crediting and replacing the voluntary incentive scheme with a regulatory approach. Yet, proposals released following each of those meetings actually *increased* avoided methane crediting beyond the proposed parameters that board members had critiqued. In clear conflict with board direction, these Second 15-day changes reinforce a harmful preference for subsidies over equitable and effective regulations.

Also concerning to Commenters is that, since the Standardized Regulatory Impact Assessment[2] (SRIA) was released in September of 2023 and disclosed the significant pass-through costs that will be borne by Californians through higher gasoline and diesel prices,

[1] CARB, Second Notice of Public Availability of Modified Text and Availability of Additional Documents and/or Information Proposed Low Carbon Fuel Standard Amendments (Oct. 1, 2024) https://ww2.arb.ca.gov/sites/default/files/barcu/regact/2024/lcfs2024/2nd_15day_notice.pdf; https://ww2.arb.ca.gov/sites/default/files/barcu/regact/2024/lcfs2024/2nd_15day_atta-1.pdf

[2] CARB, Low Carbon Fuel Standard 2023 Amendments Standardized Regulatory Impact Assessment (SRIA) (Sept. 8, 2023), https://ww2.arb.ca.gov/sites/default/files/2023-09/lcfs_sria_2023_0.pdf

CARB staff have aggressively attempted to downplay what most know to be true. The oil and gas industry will benefit from purchasing avoided methane credits from factory farms because that will allow them to offset their high-CI fossil fuels, will continue to produce those fuels, and then will increase prices at the pump to pass cost of the credits onto the public. CARB staff thus demonstrate clear indifference towards the communities that will most significantly bear the pollution costs and fuel costs of the LCFS.

1. <u>When CARB Board Members Recommend *Reducing* the Longevity and Perversity of Credit Generation from Livestock Methane, CARB Staff Responds by *Amplifying* the Problem</u>

At CARB's September 2023 board meeting, the Board responded to the policy direction outlined in the Standardized Regulatory Impact Assessment (SRIA) for the LCFS rule change. The SRIA prepared by CARB staff anticipated eligibility for avoided methane crediting for livestock and landfill gas through 2039. Several board members responded to that proposal with concerns that allowing avoided methane crediting through 2039 was too long and set the signal for phase out of these uniquely lucrative subsidies for livestock gas too far into the future. In response to several board members' call to consider reducing the timeframe for avoided methane crediting, CARB staff's proposed LCFS rule,[3] released in December of 2023 and updated in January of 2024, expanded eligibility for avoided methane crediting as compared to the proposal in the SRIA to three ten-year crediting periods, or through 2059 for some LCFS pathway holders. This is twenty years longer than the timeline envisioned in the SRIA.

The first set of 15-Day Changes,[4] released in August of 2024, modified the time period for avoided methane crediting to two ten-year crediting periods (or through 2049) - still far too generous according to several board members who recommended a shorter timeline for avoided methane crediting - such as one ten-year crediting period - during the September 24th joint CARB / EJAC meeting.[5] The Second 15-Day Changes, released after the joint CARB / EJAC meeting, responded by backsliding on the modifications CARB staff had proposed just a month earlier and extended the avoided methane crediting period out again to three 10-year crediting periods for projects that have been certified prior to the effective date of the LCFS rule change.[6] In short, members of the public and several CARB members have called on CARB staff to more

[3] CARB, Proposed Regulation Order Proposed Amendments to the Low Carbon Fuel Standard Regulation (Jan. 2, 2024), https://ww2.arb.ca.gov/sites/default/files/barcu/regact/2024/lcfs2024/lcfs_appa1.pdf
[4] CARB, Notice of Public Availability of Modified Text and Availability of Additional Documents and/or Information Proposed Low Carbon Fuel Standard Amendments (Aug. 12, 2024), https://ww2.arb.ca.gov/sites/default/files/barcu/regact/2024/lcfs2024/15day_notice.pdf
[5] *See also* Aaron Smith, *How Much Should Dairy Farms Get Paid for Trapping Methane?*, Ag Data News (Oct. 14, 2024), https://agdatanews.substack.com/p/how-much-should-dairy-farms-get-paid ("[A]fter the initial 10 year crediting period, there is little economic justification to continue these credits.") (included here as Exhibit 1).
[6] CARB, Proposed Amendments to the Low Carbon Fuel Standard Regulation at § 95488.9(f)(3)(A) https://ww2.arb.ca.gov/sites/default/files/barcu/regact/2024/lcfs2024/2nd_15day_atta-1.pdf

aggressively phase out avoided methane crediting in the LCFS, and CARB staff have responded by doing the opposite.

2. Staff Proposes to Fundamentally Change the Possible Scope and Applicability of Livestock Methane Regulations

A fundamental change in these Second 15-Day Changes is an insidious rejection of the board's direction to shift to a regulatory approach for livestock methane. After the Board gave direction to staff to draft a resolution to initiate rulemaking for livestock methane, staff added one clause into the proposed LCFS amendments that would effectively exempt for decades many of the biggest climate polluters in the livestock industry from whatever regulatory requirements CARB may adopt. The addition of "for pathways associated with projects that break ground after December 31, 2029" to section 95488.9 of the regulations[7] would exclude livestock operations with digester projects that break ground before 2030 from the existing rule[8] that avoided methane crediting is only available for the remainder of a pathway holder's 10-year crediting period if CARB adopts regulations mandating reductions of livestock methane. In other words, CARB staff propose to lock in a bogus baseline for megadairies that is incompatible with its obligations under AB 32 and SB 1383 and is designed to sidestep board direction.

This wrongheaded amendment would:

- Create a regulatory framework that creates two classes of livestock operations and effectively suspends the regulatory impact on dairies with digesters for 20 years or more;
- Lock in perverse incentives and windfall profits for the production of methane and concentration of cattle, manure, methane, and other pollution;
- Exclude methane emissions reductions that are accounted for through LCFS credits from counting toward the state's SB 1383 methane reduction requirement; and
- Unlawfully exempt livestock methane emissions reductions from additionality requirements.

a. CARB Staff Intends to Create Two Classes Of Livestock Operations that Will Exist Under Two Opposing Regulatory Frameworks

The proposed regulatory framework will create two classes of livestock operations and will treat those two classes completely differently. One class could be subject to regulation and would need to modify its operations to actually *reduce* methane generation, and the other will be able to profit from at least two decades of lavish subsidies for the *production* of methane and its

[7] *Id.* § 95488.9(f)(3)(B).
[8] Cal. Code Regs. Tit. 17, § 95488.9(f)(3)(B).

conversion into a combustion fuel and offset mechanism that benefits the oil and gas industry. Put differently, one class of dairies will be subject to baseline assumptions that require reduction of methane emissions, the other - those with digesters in place by 2030 - will be rewarded with a baseline assumption of freely vented methane from massive manure lagoons. This places the entire burden of compliance with SB 1383 on disproportionately smaller and less polluting operations that do not have digesters or LCFS pathways. Perversely, this would further reward the biggest polluters that have been able to tap into the LCFS money spigot for factory farm gas - the very polluters that necessitated SB 1383 in the first place because of megadairies' large share of the state's overall methane emissions.

This represents a sea change in SB 1383's framework and CARB's own policies toward livestock methane which called for an end to avoided methane crediting upon adoption of relevant regulations. This proposal, if adopted, would also severely hamper CARB's ability to create an effective, fair, and equitable livestock methane rule that provides an opportunity for different types and different sizes of livestock operations to thrive. It also distracts from cheaper, more effective means to reduce dairy manure methane emissions at the largest polluters in the sector. This would be arbitrary and contrary to CARB's legal obligations.

b. <u>CARB Staff Signals to Livestock Operators and Factory Farm Gas Producers that They Need to Act Fast to Install Digesters and Generate Methane</u>

This amendment would lock in perverse incentives and windfall profits for the production of livestock biogas that necessarily favor the concentration of cattle, manure, and pollution. This rule change will even further incentivize livestock operations to install digesters and maximize biomethane production as quickly as possible given the vastly different treatment livestock operations with digesters installed prior to January 1, 2030 and those after January 1, 2030 would receive under a bifurcated regulatory framework. As discussed in previous comments, this would have harmful and potentially irrevocable impacts on the groundwater, drinking water, air quality, and quality of life for people living in the San Joaquin Valley.

c. <u>The Second 15-Day Changes Would Exclude Methane Emissions Reductions from Counting Toward Dairy Sector Methane Reduction Mandates for Decades to Come</u>

Additionally, as Commenters have explained numerous times, any emissions reduction allowed to generate LCFS credits through avoided methane crediting acts as an offset for the oil and gas sector. In other words, every metric ton of CO2eq captured at a factory farm operation that is transformed into an LCFS credit and purchased by a deficit generator in the transportation sector *locks in* those emissions with respect to the livestock sector. The greenhouse gasses are generated by the livestock sector, and making the capture of those emissions a transferable attribute has the unavoidable result of immutably assigning those emissions to the livestock

sector once that transfer occurs. CARB staff either do not understand or wish to arbitrarily ignore the basic rules of environmental attribute trading.

This significantly undermines the integrity of CARB's climate change policies and threatens to put SB 1383 compliance out of reach. When oil and gas companies use those LCFS credits to meet the Carbon Intensity obligation for the transportation sector, those same emissions cannot simultaneously be said to achieve compliance in the agricultural sector. The latest 15-day changes effectively takes any alleged emissions reductions accounted for through LCFS avoided methane credits off the table for 20-30 years for the purposes of compliance with SB 1383. This makes a mockery of regulatory integrity as CARB staff seek to use the exact same methane reductions to satisfy separate regulatory programs and requirements - simply put, this is brazen double counting that exceeds CARB's statutory authority and is arbitrary and capricious.

d. The Proposed Rule Change in the 15-Day Changes Unlawfully Exempts Livestock Methane Emissions Reductions From Additionality Requirements

CARB staff's proposal in the 15-day changes to allow ongoing credit generation despite adoption of a regulation mandating the very same emissions reductions, explicitly excludes livestock methane emissions reductions from any standard of additionality, a cornerstone of California's climate programs. As Commenters have already detailed in earlier comments with respect to additionality, Health & Safety Code § 38562(d)(2) requires additionality for the LCFS as a market based compliance mechanism. Furthermore, SB 1383 only allows an extension to the extent authorized by Division 25.5, which includes section 38562. *See* Health & Safety Code § 39730.7(e). CARB thus has no authority to allow for non-additional credit generation after implementation of regulations adopted pursuant to SB 1383.

3. The Proposed Change to the Dairy and Swine Manure Biomethane Calculator Instruction Manual Acknowledges that Livestock Herd Expansions Are Welcomed by CARB Staff

CARB staff propose to alter text in the Instruction Manual for the Tier 1 Simplified Calculator for Biomethane from Anaerobic Digestion of Dairy and Swine Manure to more expressly allow herd expansions.[9] Staff propose to change the instruction that factory farm gas projects "must not exceed the herd size limit set by any applicable local or state regulatory or other legal requirements" to "must *be in compliance with any* herd size limit…." This change accommodates the many jurisdictions that do not limit factory farm herd sizes and those that expressly countenance herd expansions when done in conjunction with digester developments.[10]

[9] https://ww2.arb.ca.gov/resources/documents/lcfs-life-cycle-analysis-public-comment.

[10] For example, Iowa expressly allows for herd expansion above state standards if a factory farm plans to use a manure digester. Eric Jordan, *Nine Iowa Dairies Get Digester Permits Since New Law, Seven Plan Expansion*, Gazette (Dec. 3, 2021), https://www.thegazette.com/agriculture/nine-iowa-dairies-get-digester-permits-since-new-law-seven-plan-expansion

This technical change illustrates that CARB staff know and accept that herd expansions are allowed and a likely response to staff's proposed LCFS amendments at factory farms generating the manure used to produce LCFS credits.

4. Conclusion

These latest amendments claim to be in response to public comment. But whose public comments? Not the comments of those living near dairies who have shared evidence of how the LCFS's treatment of livestock methane is harming their quality of life, their neighborhoods, and their health. Not the comments of advocates who have demonstrated that lavish subsidies for livestock methane undermine both environmental justice and meaningful climate change policies. Not board members who have said we need livestock methane regulation now, and we need to phase out subsidies for livestock biogas as soon as possible. It is apparent that these changes are responsive to those that benefit financially from the factory farm gas windfall, and no one else.

The LCFS amendments, as currently proposed, will not effectively address livestock methane, will fall short of helping us reach our clean transportation goals, and amount to a complete rejection of environmental justice. And, adding insult to injury, many of the same Californians that will bear the brunt of the environmental injustice embedded in CARB's broken policies toward livestock methane emissions, will also bear the brunt of the economic costs by paying more at the pump. This proposal doesn't just fall short of what the Board has called for, but perverts its direction with an LCFS that will go from bad to worse.

The Board must reject this harmful approach and instead demand amendments that are responsive to its direction and the needs of California residents deeply invested in California's climate policies, not with their investment portfolio, but with their very lives.

Sincerely,

Jamie Katz
Phoebe Seaton
Leadership Counsel for Justice & Accountability
Central Valley Defenders of Clean Water & Air

/. And one of the largest dairies in the U.S. that also has an approved LCFS pathway operates under a permit that allows a 10% herd expansion by default (this equates to an increase of 2,800 head). Notice of Registration and Oregon Confined Animal Feeding Operation (CAFO) National Pollutant Discharge Elimination System (NPDES) General Permit Summary: Threemile Canyon Farms, LLC (included here as Exhibit 2). These mechanisms for expanding herd sizes are common and underscore CARB's inability to control for operators that perversely increase their emissions to capitalize on the LCFS credit market.

Brent Newell
Law Office of Brent J. Newell

Tyler Lobdell
Food & Water Watch

Christine Ball-Blakely
Animal Legal Defense Fund

Exhibit 1

How Much Should Dairy Farms Get Paid for Trapping Methane?

The answer hinges on four important numbers.

AARON SMITH
OCT 14, 2024

An anaerobic digester. Source: CARB life cycle analysis for an LCFS project

One way to reduce pollution is to trap pollutants before they escape into the atmosphere. Examples include scrubbers in power plant smokestacks (NOx), catalytic converters in cars (CO, NOx, hydrocarbons), and anaerobic digesters on dairy farms

(methane). The burning question surrounding these technologies is who pays for them and how much. This question is important because budgets are limited. Overpaying for mitigation in one setting means less money available for other things we value.

California has decided that gasoline and diesel buyers should pay for anaerobic digesters to trap methane from decomposing dairy cow manure, which is responsible for 25% of the methane produced in the state. California's low carbon fuel standard (LCFS) allows farmers to earn credits from capturing methane, a potent greenhouse gas. Gasoline and diesel producers buy these credits to satisfy their obligations under the LCFS and pass the cost of these credits along to consumers. I summarized the role of digesters in the LCFS in January.

The state's air resources board (CARB) is currently considering changes to the LCFS, including the timeline for phasing out these credits for dairy farms. Here, I assess CARB's options by comparing four numbers: (i) the cost of building a digester, (ii) the cost of operating a digester, (iii) the benefit to society of reducing methane emissions, and (iv) the value of credits from state and federal policies.

How much do digesters cost?

Anaerobic digesters are essentially giant covers that seal manure in a lagoon to keep oxygen out while microbes feed on the contents. According to data provided to CARB, it cost $8.6m to construct a typical digester in 2023 on a dairy with 2,500 milking cows. This equates to $1.2m per year if amortized over 10 years.

To participate in the LCFS, the digester operator cleans the trapped gas and injects it into a pipeline for use in transportation. For an average digester project, it costs $1.1m per year to operate the digester, and the operator can sell the gas for approximately $230,000 at 2023 city gate natural gas prices, so the net operating cost is $870,000. If the project cannot connect to a pipeline and needs to truck the gas to an existing utility pipeline tap, then it would incur an extra $500,000 in cost.

It will be helpful to express these costs in dollars per ton of abated methane so we can compare them to benefits. Luckily, CARB computes an estimate of tons abated for every project in the LCFS.

This representative digester is estimated to prevent 760 metric tons of methane emissions per year (calculation details at end of article). So, amortizing over 10 years, the annual capital cost works out to $1580 per ton abated per year. The net operating cost after subtracting revenue from selling the gas is between $1150 and $1800 depending on whether the operator has to pay trucking costs.

What is the social value of preventing methane emissions?

According to the EPA, a ton of methane emitted in 2023 imposes costs of $2200 on society. This number is measured in 2023 dollars and is based on a 2% discount rate (calculation details at end of article).

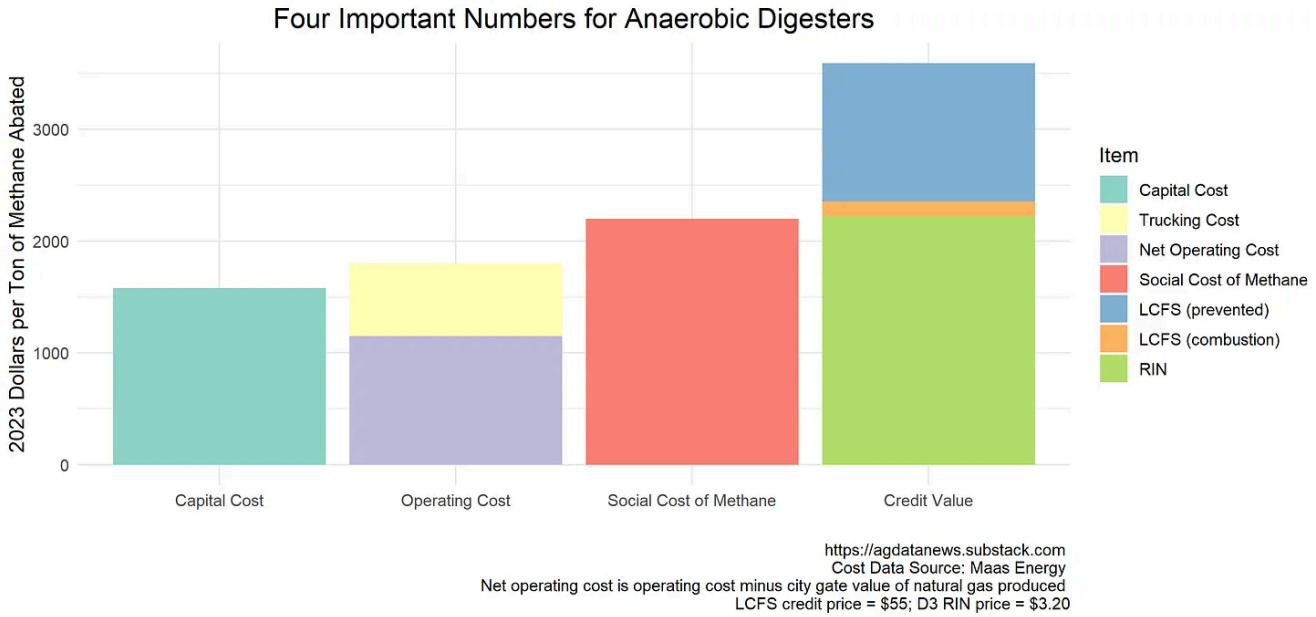
How Large are the Subsidies to Digesters?

When they sell the biogas trapped by a digester, dairy farms earn credits under both the LCFS and the federal Renewable Fuel Standard (RFS). Credit prices in the RFS are higher this year than last. At the current price of $3.20 per credit under the RFS, digester operators would receive $2200 per ton of methane abated.

LCFS credits for dairy biogas have two components:(i) a payment for the methane that would have been emitted from decaying manure had the digester not been present, and (ii) a payment for the fact that combustion and production of biogas emits less CO2 than the specified standard. At the going price of $55 per credit, an average digester would earn $1340 per ton of methane abated, of which $1240 stems from preventing methane emissions and $100 from the fact that biogas burns cleaner than the LCFS standard.

California digester projects can get grants from the state to cover up to half of capital costs. I do not include these grants here, in part because two-thirds of biogas generated by livestock digesters comes from out of state. Yes, out of state producers are eligible to participate in the LCFS.

We now have all four numbers, summarized in the figure below.



Are digesters cost effective?

Digesters can last for decades. Over the first 10 years, the net cost of constructing and operating a digester is between $2730 and $3380 per ton of methane abated. This amount exceeds the estimated social value of the avoided methane emissions, which is $2200.

Importantly, the social cost of methane number I use is based on a time horizon extending to 2300. Methane causes most of its damage in the first 20 years, after which its effects dissipate dramatically. Therefore methane emissions are vastly more damaging than CO2 if evaluated over a 20 year horizon, but relatively less damaging if evaluated over a longer horizon. If damages are evaluated only over the next 20 years, then a ton of methane is 80 times worse than a ton of CO2. Evaluated over 100 years, it is 25 times worse, and over 300 years it is about 10 times worse.

CARB uses a 100 year horizon, which means that it quantifies the damage caused by a ton of methane as equal to 25 times the damage caused by a ton of carbon dioxide. I think EPA makes a strong case to use a longer horizon. However, using the CARB approach would raise the estimated social value of the avoided methane emissions by a factor of 2.5.

At current credit prices, digesters receive $3540 per ton of methane abated. This amount substantially exceeds the estimated social value of the avoided methane emissions. However, it is quite similar to the upper bound cost of building and operating a digester. If we have decided that anaerobic digesters are the way we are going to prevent manure methane emissions, then the federal and state credits combined are just enough to make that work over the first 10 years of a digester's life.

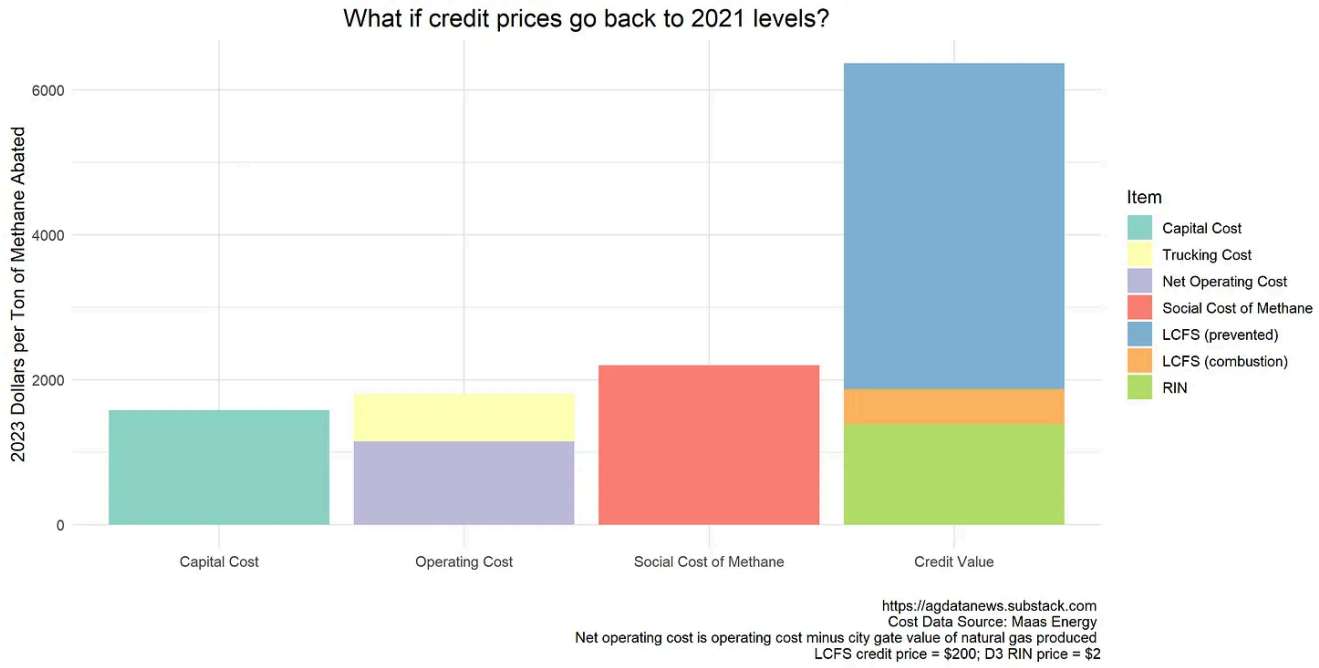
Capital costs vs operating costs

CARB policy discussions center around the length of time a digester can claim credits for avoided methane. Current policy allows crediting for methane prevented in the first 10 years a digester operates, but it allows renewal for up to two additional 10 year periods. CARB's modest proposal is that projects breaking ground before January 1, 2030 will be limited to two consecutive 10-year crediting periods and those breaking ground later would be further limited.

After the first 10 years, once capital costs have been paid, there is little economic justification for digesters to receive prevented methane LCFS credits. At current prices, credits from the RFS, plus the component of the LCFS credit stemming from fuel combustion, are more than sufficient to cover costs. This statement is particularly pertinent for the two thirds of digester credits generated outside the state. The federal program is providing enough to keep these digesters running; California drivers are effectively donating additional dollars.

If credit prices were to revert to their 2021 values (much higher LCFS credit prices and somewhat lower RIN credit prices), then the figure below shows that prevented methane credits would provide a substantial windfall to existing digesters.

There are caveats. If the cost numbers I am using are too low, then existing digesters may shut down if prevented-methane crediting were to disappear. If biogas were to stop earning credits in the RFS, then the same would be true.



Conclusion

Prevented methane emissions credits cover the cost of constructing a digester. However, after the initial 10 year crediting period, there is little economic justification to continue these credits.

Most fuels in the LCFS are evaluated based on the emissions generated during their production and combustion. Credits for prevented methane emissions make digesters on livestock operations unique. Digesters on landfills do not receive such credit. We should be asking why the state, through its LCFS and other programs, should value the same pollutant so much more based upon its source. It undercuts the goal of the LCFS to be technology neutral.

My analysis takes as given that the state has decided to use digesters in the LCFS to reduce livestock manure methane emissions. I did not consider other potential methane-reduction technologies, such as worms, flies, or drying and spreading. I also did not consider other policy levers such as subsidies funded by taxpayers or pricing methane emissions directly, some of which I addressed in my prior article. A drawback of subsidizing green technologies is that it may cut off potentially less expensive options. There's also the weirdness of running agricultural emissions policy through a transportation program.

This article is cross-posted on the EI Blog.

Addendum: Details on calculations

How I got 760 metric tons of prevented methane emissions

I started with this project's LCFS carbon intensity of -355 grams of CO2-equivalent per megajoule of energy delivered. This value stems from approximately 45g of emissions from burning the biogas to power a CNG vehicle and 400g of prevented emissions (45-400=-355). CARB equates a gram of methane to 25 grams of CO2, so our digester is preventing 400/25 = 16g of emissions per megajoule. The digester produces 45,000 MMBTU per year, which is 47.5 million MJ, so it is preventing 47.6*16 = 760 metric tons of methane emissions per year.

How I got a social cost of $2200 per ton

EPA estimates damages of $1600 in 2020 and $2400 in 2030. For simplicity, I interpolated linearly to get damages of $1840 in 2023. Then, to convert from 2020 dollars to 2023 dollars, I added 20% inflation to get $2200.

How big are the subsidies?

LCFS credits are based on the difference between the carbon intensity standard (87.01 in 2024) and the carbon intensity of the digester (-355 in our example). So, the LCFS credit value is (45000/760)*(CI+355)*0.9*1055*(LCFS credit price)/1000000 per ton of methane abated.

RFS credits are based on the volume of the fuel rather than its estimated life cycle carbon emissions. Dairy biogas generates 11.727 RIN credits per MMBtu, so the RIN value is (45000/760)*11.727*(RIN credit price) per ton of methane abated.

5 Likes

Discussion about this post

Comments Restacks

Write a comment...

argonbeam Oct 14

I appreciate you mentioning California residents (not just active drivers, as I assume the majority of added transportation cost resulting from increased fuel costs are passed on to end consumers as well) are subsidizing out of state digesters via LCFS. When I explain this to other Californians, none are happy to learn this. You may have seen a recent Tier 2 biodiesel pathway that claimed avoided methane emissions in their final CI score by utilizing food waste feedstock that they document would be landfilled otherwise. They had negative-CI BD as a result. I argued against this via public comment, as did ICCT. To no avail. So I expect additional creative methane emission avoidance applications for non-methane fuels going forward.

LIKE REPLY SHARE

Exhibit 2

Notice of Registration and Oregon Confined Animal Feeding Operation (CAFO)
National Pollutant Discharge Elimination System (NPDES) General Permit No. 1 Summary

Overview of CAFO General Permit Summary

The Oregon CAFO General Permit No. 1 became effective on August 15, 2003, and was issued by the Oregon Department of Agriculture (ODA) and Department of Environmental Quality (DEQ) on October 1, 2003. General Permit No. 1 expired on July 31, 2008, and a renewal notice and application request was signed by Threemile Canyon Farms on July 10, 2008. This Notice of Registration describes your specific permit registration information and an overview of permit requirements.

Your dairy CAFO was registered to CAFO General Permit No. 1 on May 31, 2005, and **updated (animal increase) on May 31, 2013,** based on information provided by you as follows:

Master Address No.AG-P0179665CAFG EPA Registration No. ORG 010556

	Operator	Legal owner, if different
Name	MARTY MYERS, GEN. MGR.	THREEMILE CANYON FARMS, LLC
Business Name	THREEMILE CANYON FARMS, LLC /COLUMBIA RIVER DAIRY, LLC	SAME
Mailing Address	75906 THREEMILE RD BOARDMAN, OR 97818	
Facility Address	75906 THREEMILE RD BOARDMAN, OR 97818	
Main Phone	541/481/9274	
E-mail Address	mail@threemilecanyonfarms.com	
Maximum Number of Animals	The maximum number of animals that may be held at this **Dairy CAFO** is **28,000** based on the following population: **28,000 milking and dry cows.** You may not exceed this number by more than 10% or 25 animals, whichever is greater, without first providing ODA with a revised Animal Waste Management Plan (AWMP) and receiving written ODA approval.	
Facility Classification	Based on the type and size of your operation, ODA has determined that you operate a Large Concentrated CAFO. *Note: Large Concentrated CAFOs have additional requirements. Please see general permit.*	

Morrow County

Annual Permit Fee

Each fiscal year, you will be assessed an annual compliance fee of **$300.00** to maintain your registration under this general permit.

For Questions/ Additional Information

If you have questions, call your regional livestock water quality specialist for **Area V** at **(541) 617-0055** or the Salem office at **(503) 986-4699.** Additional CAFO program information is available on the internet at http://oregon.gov/ODA/NRD/cafo_front.shtml

General Permit Conditions

The operator must be in compliance with all terms and conditions of the permit (not only this summary of the permit) at all times.

Prohibited Discharges

The following types of discharges are prohibited:

- Contaminated runoff from confinement or waste accumulation areas;
- Overflow or discharges from waste storage facilities;
- Discharges due to improper land application activities from surface drainages or field tile outlets;
- Discharges due to equipment failure; and
- Leakage or seepage from facilities in the production area in excess of approved designs.

When Discharge is Allowed

Production Area: Discharges of process waste water to surface waters of the state are generally prohibited except:

- When rainfall events cause an overflow of process waste water from a facility designed, constructed, operated, and maintained to contain all process-generated waste waters plus the runoff and direct precipitation from a 25-year, 24-hour rainfall event provided these discharges do not cause or contribute to a violation of state water quality standards; or
- In the event of an upset or bypass condition. *These conditions are further defined in the permit.*

All authorized discharges from the production area must be properly land applied or otherwise handled in a way that minimizes impacts on surface water and groundwater sources.

Land Application Area: Storm water runoff from the land application area is not considered a prohibited discharge and is allowed if the land is being managed in compliance with the AWMP approved by ODA.

Animal Waste Management Plan (AWMP) Requirement

The permit requires that each permitted operation have a current AWMP approved by ODA. An AWMP describes how a CAFO is managed with respect to containment, treatment, storage, and utilization of manure, litter, and process wastewater in order to remain in compliance with permit conditions and water quality laws. The AWMP must accurately represent current land base, manure storage, herd/flock size, and current management practices used at the livestock operation. The AWMP must reflect production practices and be implemented accordingly.

Storage Requirement

You must provide adequate storage capacity for solid and liquid wastes at all times so that land application occurs only during periods when soil and weather conditions are suitable.

Monitoring, Recordkeeping & Reporting

Monitoring, recordkeeping and reporting of waste applications, and inspection requirements must occur as described in an AWMP approved by ODA and requirements in section S4. of the permit. *Note: Large concentrated CAFOs have additional requirements.*

Land Application Rates & Timing Permit sections

You must apply manure, litter and process wastes to lands at agronomic rates in accordance with proper agricultural practices and as specified in a waste management plan that has been approved by ODA. Waste applications must not exceed the capacity of the soil and crops to assimilate nutrients and minimize water pollution, must be quantifiable, and based on the NRCS Phosphorous Index, Agronomy Technical Note #26, revised June 2008, and must account for all other nitrogen and phosphorus.

Prohibitions: If discharge to surface water or groundwater will result, application to flooded and saturated land is prohibited. Proposed waste and waste water application to frozen soil must be included in an AWMP. Land application of wastes or waste water during rainfall events that are expected to result in saturated soils or surface runoff is prohibited.

Duty to Report Noncompliance

If at any time you are unable to comply with any permit conditions, you have a duty to contact ODA immediately so the situation can be assessed and remedial actions taken if necessary. *Note: If you have a discharge to surface water or groundwater that is not allowed by the permit, you must notify ODA within 24 hours of the discharge. Please call your area livestock water quality specialist at (541) 617-0055 or CAFO Program support in Salem at (503) 986-4699.*

Annual Report Permit section S4.D.2, p. 18.

You must submit an annual report to ODA by March 15th of each year.

Construction of Waste Storage and Waste Water Control Facilities

S2.E. 2 of the permit states that you "must site, design, construct, operate, and maintain all waste storage facilities consistent with the AWMP. New and modified construction of waste facilities must be approved in advance and prior to construction by ODA in conformance with ORS 468B.055 and OARs 340-051 and 603-074." Experimental or unproven technologies must receive prior approval from ODA. For all other modifications or new construction, no approval will be required. Certification forms are available from ODA.

Public Noticing & Participation Permit section S1.H, pp. 7 & 8.

Prior to approving new permit coverage, renewing permit coverage, or approving proposed substantial changes to an AWMP, ODA will provide public notice and participation.

Ray Jaindl, Director
Natural Resources and Pesticides