AEMETIS

May 10, 2024

Mr. Matthew Botill
California Air Resources Board
1001 I Street
Sacramento, California 95814

Re: Aemetis Comments on LCFS April 10, 2024, Workshop

Dear Mr. Botill,

As one of California's leading in-state biofuel and biogas producers, Aemetis wishes to provide comments on the CARB LCFS April 10, 2024, Workshop. We commend the diligent work that CARB staff has undertaken with the LCFS reauthorization process, and while we have remaining concerns about the proposed changes, we appreciate the openness that CARB staff has demonstrated in incorporating feedback from stakeholders.

It's clear that the LCFS program has been successful, and though there is little doubt that the program will continue to grow in the coming years, it is essential that CARB manage the program's growth in a responsible and market-responsive manner. To do so, staff must consider the impact of proposed changes from a near and long-term perspective. Failing to address both can and will have unintended consequences for the program itself, and the stakeholders who are essential to financing, building, and operating the various constituent parts of the program. Further, the lack of action to real-time market changes may delay or cancel the very projects that are required to meet the program's goals.

To that end, we offer the following suggestions to ensure continued success of the LCFS, as discussed during the April 10 Workshop:

- **Adopt a 2025 step down in the LCFS program of <u>at least</u> 9%** to immediately reduce the program's swollen credit bank to an appropriate level. Of the proposed step-down options presented at the Workshop, 9% provides the most certainty to rebalance the LCFS credit bank, which has long been the primary goal of this rulemaking. Given the current imbalance, a larger than 9% stepdown would certainly be warranted and appropriate and has been extensively modeled by ICF in the range of 10.5% to 11.5%.
- **Set midterm targets in the range of a 40-45% reduction by 2030.** This would better align GHG reductions from the transportation sector (the largest emitting sector of the California economy) with legislatively mandated goals for the entire economy. There should be little concern that a more aggressive approach (than proposed) can be accomplished, given the program's success and rapid deployment of credit generating projects.

- **Allow the Automatic Accelerator Mechanism (AAM) to trigger <u>as soon as possible</u>, and at a lower trigger level.** This will guard against a scenario where the near-term target step down is not sufficient to address the current oversupply. The AAM mechanism should trigger when the credit bank is two times greater than quarterly deficits. If the AAM conditions are met, the corrective mechanism should trigger as soon as possible (using the 2025 data).
- **Reiterate CARB's support of RNG's role as a central component of the LCFS.** Following the passage of SB 1383, California's efforts to reduce short-lived climate pollutants, specifically methane from agriculture, have been successfully advanced through the implementation of dairy-to-RNG projects across the Central Valley. In addition to capturing methane for conversion into negative CI RNG transportation fuel, dairy digesters have demonstrably improved air quality and reduced Greenhouse Gas emissions in local communities – many of which are disadvantaged and have been negatively impacted by pollution. Additionally, thousands of jobs have been created or supported by the construction and operation of digester projects, with billions of dollars of investment in the state's economy. The program has been very successful, and with the flexibility of RNG as both a transportation fuel and potential feedstock for clean hydrogen or electricity, it will continue to play a central role in the LCFS for decades to come. The unwarranted attacks on dairy-RNG, which lack credible data, coupled with CARB's delay in implementing more aggressive targets and pathway approvals, have shaken the confidence of investors and markets. These are dangerous signals that could impact other sectors and slow or halt the progress of key components of the LCFS.

Additionally, while not discussed at the April 10 Workshop, we remain concerned that the proposed rule unwisely shifts the LCFS RNG crediting framework. Specifically:

- A **full credit true-up** remains necessary to properly recognize the true environmental performance of RNG pathways. We now have fully verified numbers demonstrating the actual GHG performance of each pathway annually. This is what LCFS crediting should be based on. Pathway approval delays unfairly impact existing projects through no fault of the operator.
- The Proposed Rule's long term **deliverability requirements are unvetted and unproven** and therefore still problematic for RNG development. However, there is time to address this issue in future work. We encourage CARB staff to develop a dedicated public process (outside of this rulemaking) for increasing stakeholder understanding on this topic.
- A fixed-year phase-out of avoided methane crediting—as included in the Proposed Rule—is bad public policy. **Removing a "carrot" to reduce methane from dairies is unwise unless and until a "stick" has been developed**. Any mandatory rule must be able to meet the requirements of state law. If CARB wishes to continue to promote private investment in dairy RNG projects, any switch from incentives to direct requirements to install methane control systems must be more carefully managed. The current uncertainty over which regulatory tool will be used is preventing methane reduction projects from being built.
- **CARB must address the unreasonable processing time that currently exists for RNG Pathway approvals**. The current situation not only deprives the state from claiming the full benefit of methane abatement, but it also causes significant economic damage to the developers and investors who followed years of CARB's strong policy support and encouragement of dairy RNG projects. This again sends a very negative

message to investors in RNG projects as well as investors considering other high priority LCFS programs like hydrogen, SAF, and CCUS. The current 14–24-month processing time for Pathway approvals, coupled with a grossly oversupplied credit market, have combined to create a situation where developers are unable to meet investment repayment schedules and has had a chilling effect on future investment. Moving quickly to a default Tier-1 regime (like other biofuels) would remove the unnecessary process of review that can be appropriately shifted to qualified verification bodies. Over 100 RNG Pathway approvals have been granted by CARB, and sufficient data has been established to ensure an accurate review of current and future RNG pathways.

Thank you for the opportunity to comment on the Workshop and rulemaking process in general. We encourage you and your colleagues at CARB to move forward quickly and with confidence that the sectors regulated by the LCFS Rule will respond appropriately to a more ambitious and robust program.

Sincerely,

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