

AMYRIS, INC.
Form 10-K/A
May 02, 2012
UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington D.C. 20549

FORM 10-K/A
(Amendment No. 1)
(Mark One)

☒ ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the fiscal year ended December 31, 2011

OR
☐ TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the Transition Period from _____ to _____
Commission File Number: 001-34885

AMYRIS, INC.

(Exact name of registrant as specified in its charter)

Delaware

55-0856151

(State or other jurisdiction of
incorporation or organization)

(I.R.S. Employer
Identification No.)

5885 Hollis Street, Suite 100, Emeryville, California

94608

(Address of principal executive office)

(Zip Code)

(510) 450-0761

(Registrant's telephone number, including area code)

Securities registered pursuant to Section 12(b) of the Act:

Title of each class

Name of each exchange on which registered

Common Stock, \$0.0001 par value per share

The NASDAQ Stock Market LLC
(NASDAQ Global Select Market)

Securities registered pursuant to Section 12(g) of the Act: None

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act. Yes ☐ No ☒

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Act. Yes ☐ No ☒

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes ☒ No ☐

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). Yes ☒ No ☐

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K is not contained herein, and will not be contained, to the best of registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K. ☒

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, or a non-accelerated filer. See definition of "large accelerated filer", "accelerated filer" and "smaller reporting company" in Rule 12b-2 of the Exchange Act. (Check one.)

Large accelerated filer

☒

Accelerated filer

☐

Non-accelerated filer

“(Do not check if a smaller reporting company) Smaller reporting company”

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act.): Yes ☐ No ☒

As of June 30, 2011, the last business day of the registrant's most recently completed second fiscal quarter, the aggregate market value of the voting stock held by non-affiliates of the registrant was approximately \$755.7 million, based on the closing price of the registrant's common stock on the NASDAQ Global Market.

56,259,745 shares of the Registrant's common stock, par value \$0.0001 per share, were outstanding as of February 23, 2012.

DOCUMENTS INCORPORATED BY REFERENCE

None.

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FORM 10-K/A
Explanatory Note

This Amendment No. 1 on Form 10-K/A (the “Amendment”) amends the Annual Report on Form 10-K (the “Original Annual Report”) for the year ended December 31, 2011, which was originally filed with the Securities and Exchange Commission (the “SEC”) on February 28, 2012. We are filing this Amendment in response to a comment letter received from the SEC (the “Comment Letter”) in connection with its review of our application for confidential treatment for certain omitted portions of Exhibits 10.14 and 10.19, among others. We have modified Part IV Item 15(b), “Exhibits,” and the Exhibit Index in this Amendment to reflect that confidential treatment for Exhibit 10.14 is no longer requested and that confidential treatment for Exhibit 10.19 continues to be requested. We are re-filing herewith Exhibit 10.14 in its entirety and Exhibit 10.19 omitting certain portions for which we have applied for confidential treatment.

Except as described above, no attempt has been made in this Amendment to modify or update other disclosures presented in the Original Annual Report. This Amendment does not reflect events occurring after the filing of the Original Annual Report or modify or update those disclosures, including the exhibits to the Original Annual Report affected by subsequent events. Accordingly, this Amendment should be read in conjunction with our filings with the SEC subsequent to the filing of the Original Annual Report, including any amendments to those filings.

ITEM 15. EXHIBITS, FINANCIAL STATEMENT SCHEDULES

(b) Exhibits.

The exhibits listed below are required by Item 601 of Regulation S-K.

Exhibit Index	Description	Previously Filed			File No.	Filed Herewith
		Form	File No.	Filing Date		
3.01	Restated Certificate of Incorporation	10-Q	001-34885	November 10, 2010	3.01	
3.02	Restated Bylaws	10-Q	001-34885	November 10, 2010	3.02	
4.01	Form of Stock Certificate	S-1	333-166135	July 6, 2010	4.01	
4.02	Amended and Restated Investors' Rights Agreement dated June 21, 2010 among registrant and registrant's security holders listed therein	S-1	333-166135	June 23, 2010	4.02	
4.03	Stock Purchase Warrant dated September 23, 2008 issued to ES East Associates, LLC	S-1	333-166135	April 16, 2010	4.08	
4.04	Amendment No. 1, dated April 8, 2010, to Stock Purchase Warrant between ES East Associates, LLC and registrant	S-1	333-166135	April 16, 2010	4.09	
4.05	Stock Purchase Warrant dated March 6, 2008 issued to Starfish, LLC	S-1	333-166135	April 16, 2010	4.10	
4.06	Amendment No. 1, dated April 8, 2010, to Stock Purchase Warrant between Starfish, LLC and registrant	S-1	333-166135	April 16, 2010	4.11	
4.07	Warrant to Purchase Stock dated December 23, 2011 issued to ATEL Ventures, Inc.	10-K	001-34885	February 28, 2012	4.07	
4.08	Side Letter, dated June 21, 2010, between registrant and Total Gas & Power USA, SAS	S-1	333-166135	April 16, 2010	4.19	

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Exhibit Index	Description	Previously Filed Form	File No.	Filing Date	Exhibit	Filed Herewith
10.01	Form of Indemnity Agreement between registrant and its directors and officers	S-1	333-166135	June 23, 2010	10.01	
10.02 ^a	Uncommitted Facility Letter dated November 25, 2008 between BNP Paribas and Amyris Fuels, Inc.	S-1	333-166135	August 31, 2010	10.02	
10.03 ^a	Amendment to Uncommitted Facility Letter dated October 7, 2009 among registrant, BNP Paribas and Amyris Fuels, LLC	S-1	333-166135	August 31, 2010	10.03	
10.04	Amendment No. 2 to Uncommitted Facility Letter dated March 8, 2010 between registrant, BNP Paribas and Amyris Fuels, LLC	S-1	333-166135	August 31, 2010	10.04	
10.05	Amendment No. 3 to Uncommitted Credit Facility Letter, dated February 7, 2011, between registrant, BNP Paribas and Amyris Fuels, LLC	10-Q	001-34885	August 11, 2011	10.03	
10.06	Amendment No. 4 to Uncommitted Credit Facility Letter, dated May 24, 2011, between registrant, BNP Paribas and Amyris Fuels, LLC	10-Q	001-34885	August 11, 2011	10.04	
10.07	Plain English Master Lease Agreement, dated March 14, 2008, between registrant and TriplePoint Capital LLC	S-1	333-166135	April 16, 2010	10.04	
10.08	First Amendment, dated September 18, 2009, to Plain English Master Lease Agreement between registrant and TriplePoint Capital LLC	S-1	333-166135	April 16, 2010	10.05	
10.09	Assistance Agreement, dated December 30, 2009, as modified by Assistance Agreement dated March 26, 2010, between registrant and the U.S. Department of Energy, together with schedules and supplements thereto	S-1	333-166135	April 16, 2010	10.09	
10.10	Modification No. 2, dated April 19, 2010, to Assistance Agreement between registrant and the U.S. Department of Energy	S-1	333-166135	May 25, 2010	10.13	
10.11 ^{bc}	Agreement for Credit Opening, dated November 16, 2011, between Amyris Brasil Ltda. and Banco Nacional de Desenvolvimento Econ mico e Social - BNDES	10-K	001-34885	February 28, 2012	10.11	
10.12 ^b	Corporate Guarantee, dated November 28, 2011, issued by registrant to Banco Nacional de Desenvolvimento Econ mico e Social - BNDES	10-K	001-34885	February 28, 2012	10.12	
10.13 ^c	Bank Credit Agreement, dated December 21, 2011, between Amyris Brasil Ltda. and Banco Pine S.A.	10-K	001-34885	February 28, 2012	10.13	
10.14						X

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	Revolving Credit Facility letter agreement, dated December 23, 2010, between registrant and Bank of the West				
10.15 ^a	Joint Venture Agreement dated April 14, 2010 among registrant, Amyris Brasil S.A. and Usina São Martinho S.A.	S-1	333-166135	August 31, 2010	10.14
10.16 ^a	Shareholders' Agreement dated April 14, 2010 among registrant, Amyris Brasil S.A. and Usina São Martinho S.A.	S-1	333-166135	May 25, 2010	10.17
10.17 ^a	Technology License, Development, Research and Collaboration Agreement, dated June 21, 2010, between registrant and Total Gas & Power USA Biotech, Inc.	S-1	333-16135	September 20, 2010	10.46
10.18	Letter agreement, dated January 11, 2011, between registrant and Total Gas & Power USA Biotech, Inc.	10-Q	001-34885	May 11, 2011	10.01

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