

State of California
AIR RESOURCES BOARD

Second Notice of Public Availability of Modified Text

PUBLIC HEARING TO CONSIDER AMENDMENTS TO THE
LOW CARBON FUEL STANDARD REGULATION

Public Hearing Date: December 16, 2011
First Public Availability Dates: April 10, 2012 – April 25, 2012
Second Public Availability Release Date: August 9, 2012
Deadline for Second Public Comment Period: August 24, 2012

At its public hearing on December 16, 2011, the Air Resources Board (ARB or Board) approved various amendments to California Code of Regulations (CCR), title 17, sections 95480.1, 95481, 95482, 95484, 95485, 95486, 95488, 95490, and adoption of new sections 95480.2, 95480.3, 95480.4, and 95480.5. The approved sections, along with other sections in 17 CCR section 95480 et seq. that were not proposed for amendment in this regulatory action (noticed October 26, 2011), comprise a regulation for implementing the Low Carbon Fuel Standard (collectively referred to hereinafter as “LCFS” or “LCFS regulation”).

Although this Second Notice of Modified Regulatory Text (“Second 15-Day Change Notice”) specifies proposed modifications related to the crude oil provisions, staff intends to propose additional modifications related to the crude oil provisions in a subsequent notice of modified regulatory text. Accordingly, it remains ARB’s intent to develop additional calculation methodologies, accounting procedures, and other measures to further refine the provisions that address the carbon intensity of petroleum crude oils, blendstocks, intermediates, and finished products refined in California or imported into the State.

Staff intends to bifurcate adoption of the regulatory amendments presented at the December 2011 Board hearing. Therefore, the approved amendments to the regulation, except for modifications to the crude oil provisions and updates to the 2010 baseline crude carbon intensities, will enter into force as expeditiously as possible.

The Board’s Action

At the December 2011 hearing, staff presented, and the Board approved, modifications proposed in response to comments received during the public comment period that began on October 26, 2011, and ended at the December 2011 hearing. As a result, on April 10, 2012, the first Notice of Public Availability of Modified Text (First 15-Day Change Notice) was issued. The public comment period for the First 15-Day Change Notice ended April 25, 2012.

As a result of comments received, additional modifications to the regulatory text are being proposed in this Second 15-Day Change Notice. The text of the modified regulatory language is shown in Attachment 1. The proposed modifications released on April 10, 2012, are shown in ~~double strikethrough~~ to indicate deletions and double underline to indicate additions. New deletions and additions to the proposed language that are made public with this Second 15-Day Notice are shown in ~~double strikethrough italics~~ and double underline italics format, respectively.

Modified Text Being Made Available

The modified regulatory text (Attachment 1) is available online at the following ARB website:

<http://www.arb.ca.gov/regact/2011/lcfs2011/lcfs2011.htm>.

If you would like a hardcopy of this attachment sent to you through postal mail, please call Ms. Aubrey Sideco at (916) 324-3334 and give your name, company name (if any), and mailing address.

Summary of Proposed Modifications

The following is a summary of the proposed substantive modifications to the regulation and staff's rationale for making them. All references to sections refer to title 17, CCR, unless otherwise noted. The following list does not include modifications to correct typographical and citation errors, numbering errors, grammar errors, or the rearranging of sections and paragraphs for structural improvements, nor does it include minor revisions made to improve clarity or other nonsubstantive modifications.

Section 95481. Definitions and Acronyms.

1. *Revise definitions of "producer" and "production facility." Section 95481.*

Staff proposed revisions in section 95481 to the definitions of "producer" and "production facility". The revisions further clarify who would be considered an out-of-state producer by specifying that one must opt into the program under section 95480.3 in order to be considered an out-of-state producer.

95484. Requirements for Regulated Parties

2. *Revise annual reporting requirements. Section 95484(b)(4)(B).*

Based on comments received, and staff's intent to get certain field-specific production data through alternative means, staff proposes revisions to eliminate certain field-specific reporting requirements for producers of CARBOB, gasoline or diesel fuel.

95486. Determination of Carbon Intensity Values

3. Revise Method 1 provisions. Section 95486(b)(1).

Staff is proposing to revise Method 1 provisions to clarify that the Executive Officer may approve the use of a model other than CA-GREET to generate carbon intensity value, if the Executive Officer determines the model is equivalent to CA-GREET, version 1.8b.

4. Revise Modified Method 1. Section 95486(c)

Staff is proposing to revise Modified Method 1 (Method 2A) provisions to clarify that the Executive Officer may approve the use of a model other than CA-GREET to generate carbon intensity value, if the Executive Officer determines the other model is equivalent to CA-GREET, version 1.8b.

5. Revise Method 2B provisions. Section 95486 (d).

Staff is proposing to revise Method 2B provisions to clarify that the Executive Officer may approve the use of a model other than CA-GREET to generate carbon intensity value, if the Executive Officer determines the other model is equivalent to CA-GREET, version 1.8b.

6. Revise fuel pathway application requirements. Section 95486(f)(3)(C)5.

Staff is proposing to revise pathway application requirements to clarify that when preparing the life cycle analysis of a proposed fuel pathway, applicants must use CA-GREET or a method approved by the Executive Officer as equivalent to CA-GREET.

Comments and Subsequent Action

In accordance with section 11346.8 of the Government Code, the Board directed the Executive Officer to amend sections 95480.1, 95481, 95482, 95484, 95485, 95486, 95488, 95490, and adopt new sections 95480.2, 95480.3, 95480.4, and 95480.5, title 17, CCR, after making them available to the public for comment for a period of at least fifteen days. The Board further provided that the Executive Officer shall consider such written comments as may be submitted during this period, shall make such modifications as may be appropriate in light of the comments received, and shall present the regulations to the Board for further consideration if warranted.

Written comments will only be accepted on the modifications identified in this notice and may be submitted by postal mail or electronic mail submittal as follows:

Postal mail: Clerk of the Board, Air Resources Board
1001 I Street, Sacramento, California 95814

Electronic submittal: <http://www.arb.ca.gov/lispub/comm/bclist.php>.

Please note that under the California Public Records Act (Gov. Code § 6250 et seq.), your written and oral comments, attachments, and associated contact information (e.g., your address, phone, email, etc.) become part of the public record and can be released to the public upon request.

In order to be considered by the Executive Officer, comments must be directed to ARB in one of the two forms described above and received by ARB by 5:00 p.m. on the deadline date for public comment listed at the beginning of this notice. Only comments relating to the above-described modifications to the text of the regulations shall be considered by the Executive Officer.

If you need this document in an alternate format or another language, please contact the Clerk of the Board at (916) 322-5594 or by facsimile at (916) 322-3928 no later than five (5) business days from the release date of this notice. TTY/TDD/Speech to Speech users may dial 711 for the California Relay Service.

Si necesita este documento en un formato alternativo ó otro idioma, por favor llame a la oficina del Secretario del Consejo de Recursos Atmosféricos al (916) 322-5594 o envíe un fax al (916) 322-3928 no menos de cinco (5) días laborales a partir de la fecha del lanzamiento de este aviso. Para el Servicio Telefónico de California para Personas con Problemas Auditivos, ó de teléfonos TDD pueden marcar al 711.

Attachments (1)

The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption. For a list of simple ways you can reduce demand and cut your energy costs, see ARB's website at www.arb.ca.gov.