

State of California  
AIR RESOURCES BOARD

**EXECUTIVE ORDER R-12-001**

*Relating to the Amendments to the Low Carbon Fuel Standard Regulation Carbon Intensity Lookup Tables*

WHEREAS, sections 39600 and 39601 of the Health and Safety Code authorize the Air Resources Board (ARB or Board) to adopt standards, rules, and regulations, and to do such acts as may be necessary for the proper execution of the powers and duties granted to and imposed upon the Board by law;

WHEREAS, the California Global Warming Solutions Act of 2006 (AB 32; Stats 2006, ch. 488, Health and Safety Code sections 38500-38599) declares that global warming poses a serious threat to the economic well-being, public health, natural resources, and the environment of California, and creates a comprehensive multi-year program to reduce California's greenhouse gas (GHG) emissions to 1990 levels by 2020;

WHEREAS, section 38510 of the Health and Safety Code designates ARB as the State agency charged with monitoring and regulating sources of GHG emissions that cause global warming in order to reduce such emissions;

WHEREAS, section 38560 of the Health and Safety Code directs the Board to adopt rules and regulations in an open public process to achieve the maximum technologically feasible and cost-effective GHG emission reductions from sources or categories of sources, subject to the criteria and schedules specified in Part 4 of Division 25.5 of the Health and Safety Code;

WHEREAS, section 38560.5(c) of the Health and Safety Code provides that the regulations adopted to implement Discrete Early Action Measures must achieve the maximum technologically feasible and cost-effective reductions in GHG emissions;

WHEREAS, on April 23, 2009, the Air Resources Board conducted a public hearing to consider adoption of a regulation to implement the California Low Carbon Fuel Standard (LCFS), sections 95480 – 90, title 17, California Code of Regulations (CCR);

WHEREAS, following the public hearing on April 23, 2009, the Board adopted Resolution 09-31, in which the Board approved the adoption of the LCFS regulation;

WHEREAS, the LCFS Carbon Intensity Lookup Tables contain fuel pathways and carbon intensity values, and are located at tables 6 and 7, in section 95486, title 17, California Code of Regulations (CCR);

WHEREAS, in Resolution 09-31, the Board delegated to the Executive Officer the authority to conduct and complete rulemakings to (a) add new or customized fuel pathways and carbon intensity values to the Carbon Intensity Lookup Table in section 95486, (b) revise any existing fuel pathway or carbon intensity value (except values based on land use or other indirect effects that are specified in the Lookup Table in section 95486 as adopted in that rulemaking), and (c) revise the incorporated GREET model as newer versions become available;

WHEREAS, ARB staff has proposed amendments to the Carbon Intensity Lookup Tables through the addition of 28 new fuel pathways and carbon intensity values and has prepared a document entitled "Staff Report: Initial Statement of Reasons (ISOR) for Proposed Rulemaking Amendments to the Low Carbon Fuel Standard Regulation Carbon Intensity Lookup Tables", which presents the rationale and basis for the proposed amendments and identifies the data, reports and information relied upon;

WHEREAS, the ISOR and proposed regulatory language were made available to the public for at least 45 days prior to the public hearing to consider the proposed amendments;

WHEREAS, on February 24, 2011, the Executive Officer conducted a public hearing and other administrative proceedings in accordance with the provisions of chapter 3.5 (commencing with section 11340), part 1, division 3, title 2 of the Government Code, to consider amendments to the LCFS Carbon Intensity Lookup Tables;

WHEREAS, on December 8, 2011, the modified regulatory text were made available for public comment for a period of 15 days, with the changes to the originally proposed text clearly indicated, in accordance with the provisions of title 1, CCR, section 44;

WHEREAS, no written comments were received during the 15-day comment period;

WHEREAS, the Executive Officer considered the alternative of taking no regulatory action and found that this action was not appropriate, because it did not effectively meet the program objective to facilitate the production of fuels with lower lifecycle greenhouse gas emissions, and was inconsistent with the existing LCFS regulation, which provides that the Executive Officer shall take final action to approve an application for approval of a new carbon intensity and associated fuel pathway by amending the Lookup Table;

WHEREAS, the Executive Officer considered the alternatives of (a) only allowing fuel pathway applicants to obtain pathway carbon intensities by selecting them from the LCFS Carbon Intensity Lookup Tables (known as "Method 1" in the LCFS Regulation), and (b) Directing staff to propose one or more default pathway CIs that could be used by applicants who are not able to select CIs from the LCFS Carbon Intensity Lookup Tables, and found that neither action was appropriate, because neither effectively

meets the program objective to facilitate the production of fuels with lower lifecycle greenhouse gas emissions, and neither is consistent with the existing LCFS regulation, which provides that the Executive Officer shall take final action to approve an application for approval of a new carbon intensity and associated fuel pathway by amending the Lookup Table;

WHEREAS, the California Environmental Quality Act and Board regulations require that no project which may have significant adverse environmental impacts be adopted as originally proposed if feasible alternatives or mitigation measures are available to reduce or eliminate such impacts;

WHEREAS, the Executive Officer has reviewed and considered the ISOR, written comments, and public testimony received; and

WHEREAS, the Executive Officer finds that:

Adequate data exist to support the adoption of the proposed amendments, and to establish that the amendments are necessary and appropriate;

The proposed amendments were developed using the best available economic and scientific information and will further achieve the maximum technologically feasible and cost-effective reductions in greenhouse gas emissions;

The proposed amendments were developed in an open public process, in consultation with affected parties;

The proposed amendments meet the requirements of sections 38560 and 38560.5 of the Health and Safety Code;

The cost-effectiveness of the amendments has been considered, and their cost-effectiveness will be comparable to the existing regulation;

On the basis of the whole record, including the environmental analysis included in the ISOR and comments received, there is no substantial evidence that the proposed amendments will have a significant adverse effect on the environment;

The economic impacts of the proposed amendments have been analyzed as required by California law, and the conclusions and supporting documentation for this analysis are set forth in the ISOR; and

