

June 10, 2011

# **Low Carbon Fuel Standard**

## **Question and Answer Guidance Document (Version 1.0)**

June 10, 2011

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## I. Introduction

This is a guidance document for the Low Carbon Fuel Standard (LCFS) regulation. You can find this regulation in title 17, California Code of Regulations (CCR), sections 95480-95490 (see <http://www.arb.ca.gov/regact/2009/lcfs09/lcfscombofinal.pdf>). This document is presented in a plain English, question-and-answer (Q&A) format for the reader's convenience.

This document is intended to help answer questions we have received regarding the LCFS regulation. As additional questions arise, staff will continue to revise this document as needed; therefore, it should be considered a "living" document. It is divided into several parts addressing specific aspects of the LCFS, including: Overview, Biofuel Producer Registration, Initial Demonstration of Physical Pathway, the LCFS Reporting Tool (LRT), Reporting Requirements, Determining Carbon Intensities (CIs), Commingling of Products, Product Transfer Documents (PTDs), and Interim Reporting of CIs. To save resources, the LCFS regulatory text is not included in this document, but an internet link to the LCFS regulatory text is provided above. The regulatory advisories that have been issued are included in Appendix A; these advisories provide additional guidance on how the Air Resources Board (ARB) staff intends to enforce or otherwise implement the LCFS regulation (but please note the advisories have different effective dates and subject matter).

Where appropriate, citations to the regulatory text are shown in parentheses for the reader's convenience (citations to section numbers are to title 17 of the California Code of Regulations unless otherwise noted); additional reading has also been suggested in a number of cases so the reader can get more information. In some cases, portions of the information we are requesting to be reported may not be required under the LCFS regulation and would therefore be voluntary. We have made an effort to clearly make this distinction in the responses. As requested by regulated parties, the ARB staff is planning to propose updates to the LCFS regulation to provide more detailed reporting requirements; these and other changes may require amendments to the regulation, which would be made through the standard public rulemaking process.

Please note that this document will continue to evolve as stakeholders submit questions and staff develops responses. We plan to post this initial Q&A document by June 10, 2011. Please send your comments to Stephen d'Esterhazy at [sdesterh@arb.ca.gov](mailto:sdesterh@arb.ca.gov), carbon-copied to Floyd Vergara at [fvergara@arb.ca.gov](mailto:fvergara@arb.ca.gov).

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## II. Overview: Applicability, Regulated Party Status, Compliance Obligations

### *(1) What is the LCFS regulation, and who is subject to it?* [Back to TOC](#)

The LCFS regulation is a rule designed to reduce greenhouse gas emissions associated with the lifecycle of transportation fuels used in California. The lifecycle of a fuel includes the emissions associated with producing, transporting, distributing, and using the fuel. The regulation reduces lifecycle greenhouse gas emissions by assessing a “carbon intensity” (CI) score to each transportation fuel based on that fuel’s lifecycle assessment.

Each fuel provider (generally the fuel’s producer or importer, a.k.a. “regulated party”) is required to ensure that the overall CI score for its fuel pool meets the annual carbon intensity target for a given year. A regulated party’s fuel pool can include gasoline, diesel, and their blendstocks and substitutes. In other words, excess CI reductions from one type of fuel (e.g. diesel) can be used to offset insufficient reductions in another fuel (e.g. gasoline).

The CI scores for various fuels are set forth in the regulation in section 95486, and the annual CI targets are set forth in sections 95482 and 95483. A fuel that has a CI that is below the target in a given compliance period generates credits; conversely, a fuel with a CI above the target will generate a deficit. For a given annual compliance period, a regulated party’s overall credit balance is determined by adding up all the quarterly deficits and credits assessed to that party, and an overall negative balance at the end of the year results in a shortfall that needs to be reconciled. Reconciliation can be accomplished by purchasing credits off the market, surrendering credits that the regulated party already has in hand, or by any other means prescribed in the regulation.

As noted, the regulation applies primarily to producers and importers of finished fuels, as well as fuel blendstocks and substitutes. Fuels subject to the LCFS requirements include gasoline, diesel fuel, and their substitutes and blendstocks. Blendstocks are components that are either used alone or are blended with other component(s) to produce a finished fuel. A component is considered a blendstock when it has a fuel pathway in the California-modified GREET model used to calculate direct carbon intensity for a fuel. In other words, if the component is represented by a fuel pathway in the LCFS regulation’s “Lookup Table,” then it is deemed a blendstock under the regulation. For example, ethanol is a blendstock, because ethanol has at least one fuel pathway in the Lookup Table, while alkylates are not. A substitute is a fuel that is used in place of the standard fuel for that type of application; for example, if diesel is typically used in heavy-duty vehicle applications, a fuel substitute for that diesel might be compressed natural gas (CNG) or liquefied natural gas (LNG).

**Additional reading: Sec. 95480.1(a); 95481(a)(10), (19), (28), (42); 95482; 95483**

**(2) *I'm a mom-and-pop gasoline marketer/distributor. Do I need to comply?***

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Probably not, but you need to read your contracts and product transfer documents (PTDs) carefully to make sure. From (1) above, the LCFS applies primarily to producers and importers of gasoline and diesel, the substitutes for those fuels, and their blendstocks. The intent of the regulation was to place the compliance obligations as far upstream of the consumers, distributors, and marketers as possible. So the petroleum refiners in California, as well as producers and importers of transportation fuels and blendstocks (e.g., ethanol, biodiesel), typically would be the parties that have compliance obligations under the regulation.

At the same time, the regulation seeks to minimize the State's involvement in the free market and in contractual relationships between parties. Therefore, the regulation initially identifies those who are "regulated parties" (i.e., those entities with the compliance obligations), and provides for regulated party status to be transferred to other parties by written agreement between the parties under specified conditions.

So in most cases, a gasoline marketer and retailer is typically not a regulated party in this program unless it wants to be the regulated party. However, if you blend CARBOB/ethanol or CARB diesel/biodiesel, you may be the regulated party for either the petroleum portion, the biofuel portion, or both portions, depending on the contractual agreements into which you have entered. Thus, to make sure that the regulated party status is not inadvertently transferred to you, you will need to carefully read all invoices, title transfers, bills of lading, contracts, and other documents from your fuel provider that, alone or taken together, comprise or otherwise are related to the Product Transfer Document (PTD). See next question for additional discussion.

**Additional reading: Sec. 95484(a)(1)-(2)**

**(3) *I'm not sure if I've been made into a regulated party. How can I tell?***

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As noted above, the LCFS initially designates certain entities as the "regulated party" that is responsible for complying with the LCFS requirements. However, the regulated party status can be transferred under specified conditions. In order for the transfer of regulated party status to be effective (from the seller to you, the buyer), there must be a prominent statement in the PTD that shows the regulated party status has been transferred along with ownership of title for the product. The PTD statement must prominently state, among other things, that you (as the product recipient) are now the regulated party for the acquired fuel or fuel blendstock and are now responsible for meeting the requirements of the LCFS regulation for that fuel or fuel blendstock. Conversely, under the LCFS regulation, a transfer of regulated party status is not effective without this prominent statement on the PTD.

**Additional reading: Sec. 95484(a)(1)-(2), esp. (a)(1)(B)5., (a)(1)(C), (a)(2)(B)4.**

**(4) *Assuming I am the regulated party for a fuel, what are my compliance obligations?*** [Back to TOC](#)

You would have a number of obligations, but generally they would fall into carbon intensity reduction requirements, physical pathway demonstration, and reporting & recordkeeping requirements.

The LCFS specifies separate, carbon-intensity reduction schedules for gasoline, diesel fuel, and their substitutes. These reduction schedules are set forth in sections 95482 and 95483 of the regulation. The schedules follow a gradual downward slope in the early years, followed by a more rapid reduction schedule in the later years. The schedules are designed to reduce the overall carbon intensity of California's fuel pool by 10 percent by 2020.

The physical pathway demonstration is required for regulated parties to get credit for the fuels/blendstocks in their fuel pool. To meet the requirements in this provision, the regulated party must demonstrate or have a third party demonstrate to ARB staff that there exists a physical pathway (railway, cargo tank truck route, pipeline, etc.) by which the regulated party reasonably expects to bring the fuel to California. In order to have its fuels credited under the LCFS, the regulated party must use the physical pathway(s) for which the demonstration was approved by the Executive Officer.

The reporting requirements revolve around quarterly progress and annual compliance reports. The quarterly progress reports are intended to show both ARB and the regulated party whether the party has a negative, neutral, or positive credit balance at the end of each quarter. This is intended to give the regulated party and ARB status reports before the end of the annual compliance period; the regulated party, knowing its compliance position, can take appropriate measures to avoid a shortfall at the end of the year (e.g., purchase sufficient LCFS credits on the market). The report for each quarter is due within two months after the end of the quarter; quarterly reports must contain specified information, and there are specific requirements applicable to the different types of fuels.

The quarterly report is also used to report how many LCFS credits and deficits were generated in that quarter. Credits are generated when a regulated party's fuel has carbon intensity that is less than the CI standard. Conversely, a deficit occurs when a regulated party's fuel has carbon intensity that is higher than the CI standard. An important feature of the quarterly report is that it is used as a company's LCFS progress report and is not used for determining a CI limit violation. In other words, the regulated party can achieve excess CI reductions in a quarter, thereby earning credits that can be kept or traded, but there is no penalty for achieving fewer reductions than needed; that determination is made at the end of the year (hence the annual compliance report).

As noted, a regulated party may have, for example, a deficit balance in one quarter, a credit balance in the next two, and a deficit balance in the last quarter. The fact that a particular quarter ends with a deficit does not mean that the regulated party is in

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violation of the CI requirements; a regulated party can carry a deficit balance from one quarter through the end of the year. In fact, except to reconcile an end-of-year deficit, the regulated party can sell any credits it has in hand at any point in the year. This is true even if the regulated party is running a deficit for a particular quarter. The only exception to this is at the end of the year; if the annual compliance report shows an overall deficit for the year, the regulated party must apply any remaining credits it has in hand to reconcile that deficit.

To illustrate this, consider the hypothetical scenario shown below (numbers in “( )” denote negative values).

Time Frame	Quarterly Balance	Deficits Accumulated	Credits Bought/(Sold)	Credits Accumulated	Annual Balance
	A	B	C	D	E
1Q	100	0	0	100	Deficits <sub>Total</sub> + Credits <sub>Total</sub>
2Q	(30)	(30)	0	100	
3Q	(50)	(80)	(40)	60	
4Q	75	(80)	0	135	
Total		(80)		135	(80) + 135 = 55

The above table shows a hypothetical regulated party's activities in each individual quarter (“Quarterly Balance”); the running total of deficits it has generated over the year (“Deficits Accumulated”); credits it buys/sells in any given quarter (“Credits Bought/Sold”); the running total of credits it has generated over the year, which accounts for any credits sold or bought (“Credits Accumulated”); and the annual balance (the sum of total deficits accumulated and total credits accumulated).

As this example shows, the regulated party generates 100 credits in the first quarter (1Q); although the regulated party can immediately sell these credits, the regulated party instead decides to carry the credits through 2Q. Although it generated a deficit in 2Q, the regulated party is not required to apply its 100 accumulated credits to that deficit. Indeed, the regulated party generated another deficit in 3Q, but it still has in its internal “bank” the 100 credits carried over from 1Q. The party then sells 40 of these credits in 3Q (reducing its accumulated credits to 60), even though it had generated a deficit of 50 in 3Q and had a running deficit of 80 after 3Q. In other words, the regulated party is allowed to sell its credits while it continues to run up and increase its deficit. As it turns out in this hypothetical, the regulated party generated 75 additional credits in 4Q, so in order to fully offset the running deficit of 80 at the end of the year, it would need to apply the 135 remaining credits in its bank to achieve an overall credit balance of 55 for the year and full compliance with the CI standards.

Note that, in the above example, there is no requirement for the regulated party to apply credits it has to a deficit (except at the end of the year, as noted above). A regulated party might choose to hold onto credits, waiting for prices to improve, or sell credits at a

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particular moment in response to changing credit prices in the credit market. However, if it chooses to sell the credits while it is running an overall deficit, the regulated party assumes the responsibility of reconciling any shortfall for that year and must meet any other obligations associated with such a shortfall. See section 95484(b)(3) and (4).

The annual compliance period is January 1<sup>st</sup> through December 31<sup>st</sup> of each year starting with 2011. This is the principal compliance obligation for regulated parties; regulated parties must meet the carbon intensity reduction requirements for their fuel pools in each annual compliance period, as demonstrated in the annual compliance report. Those parties with small shortfalls at the end of the year are required to reconcile those shortfalls by the end of the next year, while those with large shortfalls (greater than 10 percent of their compliance obligation) are required to reconcile within the same timeframe and are also subject to penalties. The annual report for each year is due by April 30<sup>th</sup> of the following year.

Note that, because April 30<sup>th</sup> is the deadline for submitting the annual compliance report for the previous year, a regulated party has until April 30<sup>th</sup> to purchase LCFS credits generated in the previous year in order to reconcile shortfalls in that previous year. For example, suppose a regulated party determines on February 1, 2012, that it had a shortfall of 100 deficits total for the 2011 calendar year. In that case, if the regulated party purchases 100 LCFS credits generated in 2011 before April 30, 2012, it could apply its 2011 purchased credits to its 2011 deficit and report to ARB by April 30, 2012, a zero overall credit balance for calendar year 2011.

Recordkeeping provisions require a regulated party to maintain Product Transfer Documents and other specified records for at least three years and submit them upon request to the Executive Officer for review within 20 days of the request.

Please note that there is additional discussion elsewhere in this guidance involving the concept of “regulated party” under varying circumstances.

**Additional reading: Sec. 95482, 95483, 95484(c), 95484(d)(2), 95485**

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### III. Opt-In and Opt-Out Process

#### (1) *Can a regulated party opt into the LCFS?* [Back to TOC](#)

In section 95480.1(b), the LCFS specifically exempts a number of lower-carbon fuels because they have been deemed to meet the carbon intensity targets through 2020:

- Electricity
- Hydrogen
- Hydrogen blends
- Fossil compressed natural gas (CNG) derived from North American sources
- Biogas CNG
- Biogas liquefied natural gas (LNG).

Providers of these fuels, if they choose not to participate in the LCFS program, have no obligations for these fuels as far as the LCFS is concerned.

However, as noted previously, the LCFS has incentives in the form of credits that can be generated and traded when the carbon intensity of a fuel pool is less than the applicable standard. But LCFS credits can only be generated and traded by persons that are formally subject to the LCFS requirements as “regulated parties.” Thus, to further encourage fuel providers of the above fuels to make their fuels available for transportation uses, the LCFS allows such fuel providers to “opt” into the program, become regulated parties, and generate LCFS credits that they can then sell and trade in the LCFS market.

Opting in is a voluntary decision, and it is accomplished simply by registering the fuel provider as a regulated party in the LCFS Reporting Tool (LRT). (See more detailed discussion of the LRT later in this document.) By opting in, a fuel provider is committing itself to be subject to the compliance, reporting, recordkeeping and other obligations to which all other regulated parties are subject. In exchange, the opt-in regulated party becomes a generator of LCFS credits, and it reaps the market benefits associated with such credits.

Because the opt-in fuels listed in section 95480.1(b) have been deemed to have a full fuel lifecycle CI that meets the regulation’s 2020 standards, an opt-in regulated party can choose to use a CI value in the Lookup Table associated with its fuel pathway, if it is listed<sup>1</sup>; seek approval of an alternative CI value for its opt-in fuel’s pathway under the regulation’s “Method 2A” or “Method 2B” process (see section 95486(c)-(f)); or use the 2020 standards as its CI values (i.e. 86.27 for gasoline and its substitutes, 85.24 for diesel and its substitutes).

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<sup>1</sup> CI values are expressed in terms of grams CO<sub>2</sub> equivalent per megajoule (g CO<sub>2</sub>e/MJ).

**(2) *I opted in, and now my company wants to pursue other programs. Can I opt out of the LCFS?*** [Back to TOC](#)

Opting out is the process for an opt-in regulated party to leave the LCFS program (i.e., reestablish its exempt status under section 95480.1(b)). A regulated party, after having opted into the LCFS, may decide later for corporate reasons to remain exempt. Therefore, it's necessary to provide a mechanism for an opt-in party to opt out at some point. However, the regulation as written does not specify a process for opting out. Because of this, we are requesting the following steps as reasonable measures to be taken by an opted-in party that has decided to opt out:

**30 Days before Opt-Out Date:**

- Provide ARB with notice of intent to opt out.
- Provide ARB with any outstanding quarterly progress report (for the quarter in which the opt-out will occur) and annual compliance report (covering January 1<sup>st</sup> of the year to the date of the opt-out notice).
- Identify actions to be taken to reconcile any shortfalls by the opt-out date.

**Actual Opt-Out Date:**

- Verify by email notification that opt-out occurred.

**30 Days after Opt-Out Date:**

- Identify in writing the amount and buyer (if applicable) of any LCFS credits generated between the 30-day notice and the date of opt-out.
- Verify in writing that your credit balance is zero as of the date of opt out. The verification must be signed by an authorized company representative, who must attest that the company will not sell, trade, or otherwise transact any LCFS credits after the opt-out date.
- Update the quarterly and annual compliance reports submitted with the 30-day notice, as needed, to reflect any changes that occurred during the period between the notice and the actual opt-out date.

**December 31<sup>st</sup> of the Year of Opt-Out and the Following Year:**

- Confirm in writing that you remain opted out of the LCFS and you have not sold, traded, or otherwise transacted any LCFS credits since your opt-out date.

All notifications noted above can be sent to:

Stephen d'Esterhazy  
Air Resources Engineer  
Substance Evaluation Section  
California Air Resources Board  
1001 I Street, P.O. Box 2815  
Sacramento, CA 95812-2815  
[sdesterh@arb.ca.gov](mailto:sdesterh@arb.ca.gov)

or

Floyd Vergara, Esq., P.E.  
Chief  
Alternative Fuels Branch  
California Air Resources Board  
1001 I Street, P.O. Box 2815  
Sacramento, CA 95812-2815  
[fvergara@arb.ca.gov](mailto:fvergara@arb.ca.gov)

Keep in mind that the regulation requires a regulated party to retain, for at least three years, records generated by the regulated party during its participation in the LCFS. This includes records generated during and as part of the opt-out process. All records are subject to audits by ARB staff and must be provided to ARB staff within 20 days of a written request.

Some changes to the regulation may be needed to formalize this opt-out process. Staff will seek, as needed, appropriate amendments to the regulation in an upcoming rulemaking. [Back to TOC](#)

## **IV. Biofuel Producer Registration**

### **(1) *What is the purpose of the Biofuel Producer Registration?*** [Back to TOC](#)

The goal of the Biofuel Producer Registration program is to help facilitate biofuel transactions by giving buyers and sellers of biofuels a common online resource containing registered CI values and physical pathway information that can be traced to specific production facilities. This, in turn, will help regulated parties to use registration data for LCFS reporting and compliance purposes.

Biorefinery registration is a voluntary process that provides one way for a biofuel producer to establish the details for the physical pathway of its fuel (i.e. the physical route by which the biofuel arrives in California), the demonstration for which is required by the regulation. Although the physical pathway demonstration is an LCFS requirement, the producer is not required to make the demonstration through the Biorefinery Producer Registration. If a biorefinery wishes to apply for approval of its physical pathway demonstration without going through the Biorefinery Producer Registration, it can do so simply by writing to ARB and providing the required documentation.

Going through the Biorefinery Producer Registration entails registering the facility's production process, which requires the biofuel producer to provide information in support of its claimed CI value(s) for the fuel produced at the facility. The physical pathway demonstration portion of the biorefinery registration process involves submittal of information demonstrating the existence of a physical route by which the company reasonably expects to ship the fuel to California. Please note that ARB staff reviews registration applications for completeness and consistency, but assumes no responsibility or liability for the accuracy of the posted information or any transactions made in reliance on such posted information. Each registrant is solely responsible for the accuracy of the information it provides.

Note that "biofuel producer registration" is different from registration as a regulated party. The Biorefinery Producer Registration, as noted above, is a voluntary process intended to facilitate biofuel transactions. On the other hand, all regulated parties are required to meet the LCFS regulatory requirements; the LCFS Reporting Tool is

available for use in registering an entity as a regulated party. (Note that the LRT is discussed in more detail later in this document.)

**Additional reading: Sec. 95484(d)(2).**

**(2) *What is the Biofuel Producer Registration Form?*** [Back to TOC](#)

The Biofuel Producer Registration Form is an Excel workbook that can be accessed at: [http://www.arb.ca.gov/fuels/lcfs/020711biofuels\\_reg.xls](http://www.arb.ca.gov/fuels/lcfs/020711biofuels_reg.xls)

**(3) *Should all biofuel producers register their facilities?*** [Back to TOC](#)

At this time biofuel registration is voluntary, but all biofuel producers who intend to sell fuel in California are encouraged to register their facilities. The LCFS regulation requires that all biofuel sold in California have an ARB-approved physical pathway. The Biofuel Producer Registration Form facilitates that purpose, as well as facilitates transaction of biofuels between the buyers and sellers. The registration process provides a way for a regulated party to meet the initial demonstration of physical pathway requirement and make publicly available its CI information for that fuel and facility.

**(4) *Will you post Biofuel Producer Registration Information?*** [Back to TOC](#)

The CI and physical pathway and other information for each registered facility is posted on the LCFS website:

<http://www.arb.ca.gov/fuels/lcfs/reportingtool/registeredfacilityinfo.htm>

This information will be updated periodically and will also be uploaded into the LCFS reporting tool for use by regulated parties.

**(5) *How will ARB safeguard the information that is submitted via the Biofuel Producer Registration form?*** [Back to TOC](#)

Production volume and contract information (provided to demonstrate fuel delivery) will be treated as confidential business information and will not be posted on the LCFS website. The facility ID, facility location, claimed CI values, and physical pathway code will be made available to the public.

**(6) *When is the deadline for registering facilities?*** [Back to TOC](#)

Because biofuel registration is currently voluntary, there is no deadline. ARB began registering biofuel producers in February 2010. We will continue to accept registrations on an on-going basis.

**(7) How do I register my facility?** [Back to TOC](#)

You first download the registration workbook form (see Question (2) above). In filling out the workbook, biofuel producers provide information about how the fuel is produced (including feedstock, plant processes, and co-products) in order to identify the appropriate CI value based on fuel pathways and the LCFS Lookup Table in the regulation. The registration form also allows the biofuel producers to show the route, mode of transportation, and chain of custody of the fuel transported to California to provide an initial demonstration of the physical pathway. When you have completed the form, you would transmit it to ARB as instructed in the form.

**(8) I do not have a federal facility ID number through the Federal Renewable Fuels program (RFS2). How do I obtain a facility ID?** [Back to TOC](#)

In the event that your facility does not have a Facility ID assigned by the U.S. EPA, ARB will provide a Facility ID for you. Please contact Susan Solarz at [ssolarz@arb.ca.gov](mailto:ssolarz@arb.ca.gov) or Jing Yuan at [jyuan@arb.ca.gov](mailto:jyuan@arb.ca.gov).

**(9) What if I make a variety of fuels at one facility?** [Back to TOC](#)

For each fuel with a unique processing technique and a unique CI value, you would submit a separate worksheet in the Biofuel Producer Registration Form.

**(10) I have a new facility and haven't yet shipped fuel to California. Can I register my facility?** [Back to TOC](#)

Yes. If your facility is planning to supply fuel to California but does not have contractual agreements and purchase/sales transfer documents that show sales to California, registration will be allowed pending future submittal of such documentation.

**(11) I produce a biofuel that currently doesn't have a CI pathway represented in the LCFS. What should I do?** [Back to TOC](#)

You should apply for a new fuel pathway under Method 2A/2B. For additional information about fuel pathways that are not on the LCFS Lookup Table, please consult Mr. Wes Ingram, Manager, Fuels Evaluation Section, at (916) 327-2965 or at [wingram@arb.ca.gov](mailto:wingram@arb.ca.gov).

**Additional reading: Sec. 95486(c) through (f)**

**(12) I am a biofuel distributor/marketer. Can I register biofuel facilities?**  
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Biofuel producers should complete the registration form because they have the most knowledge of how the fuel is produced, which generates the CI value. The registration process includes details related to the CI of the fuel and the physical pathway of the

fuel. The facility is encouraged to work with the marketer if the marketer has extensive knowledge of the physical pathway.

**(13) *I am a regulated party buying fuel from an unregistered facility. Can I register the facility?*** [Back to TOC](#)

No. We encourage you to work with the facility to collect the information necessary for registration. If the facility chooses not to register, you can provide ARB the information collected, including evidence of physical pathway, which is required by the regulation before credits can be generated. The CI values and approved physical pathways would not, however, be listed with the Registered Biofuel Producers information. Please contact Susan Solarz at [ssolarz@arb.ca.gov](mailto:ssolarz@arb.ca.gov) or Jing Yuan at [jyuan@arb.ca.gov](mailto:jyuan@arb.ca.gov).

**(14) *What if I buy ethanol on the spot market and I don't know where it was produced? Will there be a default facility ID number, physical pathway and CI value?*** [Back to TOC](#)

For 2011, ARB will allow a default CI value of 99.40 to be applied to any ethanol for which the CI is indeterminate (unknown) and is incapable of being reasonably determined. See LCFS Regulatory Advisory 10-04, as modified by Advisory 10-04A<sup>2</sup>, in [Appendix A](#). The ethanol's CI is "incapable of being reasonably determined" when no CI value for the ethanol has been established by a person or otherwise listed by ARB through its list of registered biofuel facilities (see <http://www.arb.ca.gov/fuels/lcfs/reportingtool/registeredfacilityinfo.htm>) or the Method 2A/2B application process (see <http://www.arb.ca.gov/fuels/lcfs/2a2b/2a-2b-apps.htm>). In other words, you will need to conduct some reasonable due diligence to find out the production source of your ethanol and its CI value. When using the default CI value of 99.40 in the reporting tool, there is no need to enter a facility ID or physical pathway.

**Additional reading: LCFS Regulatory Advisory 10-04 and 10-04A (see [Appendix A](#) to this Guidance Document)**

**(15) *How is the LCFS Reporting Tool different from the Biofuel Producer Registration Form?*** [Back to TOC](#)

The LCFS Reporting Tool is for regulated parties, including biofuel purchasers, to report quarterly and annual fuel volumes and fuel CI, as required by the LCFS regulation. The Biofuel Producer Registration Form is separate from the Reporting Tool and provides information on the fuel produced. For example, ABC Ethanol uses the Biofuel Producer Registration Form to register its facility in Illinois and to identify that they produce corn ethanol; Midwest; dry mill; wet DGS; natural gas (NG) with a carbon intensity of 90. gCO<sub>2</sub>e/MJ. Meanwhile, XYZ Oil uses the LCFS Reporting Tool to report that they

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<sup>2</sup> We anticipate releasing LCFS Supplemental Advisory 10-04A within a week of this guidance document's release.

received in California 20,000 gallons of that corn ethanol from ABC Ethanol in 3rd quarter 2010.

## **V. Initial Demonstration of Physical Pathway**

### **(1) *What is the purpose of the initial demonstration of physical pathway?***

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Before a regulated party can generate credits for its fuel or blendstock, the regulated party must get approval from the Executive Officer of its physical pathway demonstration. A “physical pathway” is a combination of actual fuel delivery methods (e.g. trucking routes, rail lines, pipelines, etc.) through which the regulated party reasonably expects the fuel to be transported to California. Therefore, the requirement for a regulated party to demonstrate its physical pathway serves to document the physical route by which the product is expected to get to California, therefore providing an enforceable linkage from an out-of-state producer to the regulated party in California (e.g. fuel blender, producer, importer or provider in California).

**Additional reading: Sec. 95484(d)(2)**

### **(2) *How should biofuel producers submit a physical pathway for approval?***

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We recommend that biofuel producers use the Biofuel Producer Registration Form to submit the initial demonstration of the physical pathway. The demonstration of physical pathway is required in order for a regulated party’s fuel or blendstock to be credited under the LCFS; while such a demonstration is not required to be conducted through the biofuel producer registration, we have set up the biofuel producer registration to facilitate the physical pathway demonstrations for those producers who wish to register their products.

### **(3) *Do physical pathways need to be approved before 2011?*** [Back to TOC](#)

Your initial demonstration of physical pathway should be approved shortly after your first shipment to California. Prior to your first shipment, you can submit your data and staff will list your physical pathway as “pending approval.”

### **(4) *How and when will we be notified when the physical pathways are approved?***

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We will notify you within 15 business days via email as to whether the information you provided is complete. If it is incomplete, we will identify the information needed to complete the demonstration. Within 15 business days of receipt of your completed application we will notify you via official letter if your physical pathway has been approved.



- (5) *If we ship from multiple locations along the same main route (just different origins), do we need to submit separate maps for each origin?*** [Back to TOC](#)

Yes. We are requesting information regarding how each fuel gets from the production facilities to the main route for the physical pathway.

- (6) *What transfer points need to be included on the map to demonstrate the initial physical pathway?*** [Back to TOC](#)

For the initial demonstration of the physical pathway, the fuel producer should identify any point during a typical fuel transfer where either the physical custody or the title transfer occurs.

- (7) *Part of submitting an initial demonstration of physical pathway for approval is documenting a specific volume of fuel that both entered and exited a defined pathway. Does this mean actual transactions must take place prior to being able to request approval for a Physical Pathway?*** [Back to TOC](#)

No. You can *request* approval for a Physical Pathway, but until a transaction has taken place, your initial demonstration of physical pathway will be listed as “pending.” Prior to final approval of a Physical Pathway demonstration (as part of Biofuel Producer Registration Form), documentation is required that confirms a specific volume of biofuel has been transported to California and transferred using that same physical pathway. This must occur before the registration of an associated biofuel facility can be completed and approved by ARB.

- (8) *If the fuel is produced in California, is there a need to demonstrate initially a physical pathway?*** [Back to TOC](#)

No. The overall intent of the requirement to demonstrate a physical pathway is to show a physical link or connection between the out-of-state producer and the State. The general idea is for a regulated party to show how its fuel or blendstock was transported from the producer to California. In the case of a California producer, the need for this demonstration is obviated. Further, there’s a presumption that whatever fuel the in-State producer makes will stay in California to be used as a transportation fuel subject to the LCFS unless the producer can show that the fuel is exempted or available information shows the fuel is exported for use outside California.

- (9) *How are physical pathway demonstrations conducted for biogas produced outside California?*** [Back to TOC](#)

Like other transportation fuels subject to the LCFS, biogas produced outside California can be credited under the LCFS if the regulated party for that biogas meets the LCFS requirements. If the biogas is produced in another state and transported to California as biogas liquefied natural gas (LNG) by truck or rail, the physical pathway demonstration will require the same type of documentation that would be required for other liquid fuels



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shipped in discrete quantities that are readily tracked through invoices, contracts, and similar documentation with the shipping company(ies). However, unlike the shipment of liquid fuels, the shipment of biogas through pipelines to California involves circumstances unique to pipeline gas and requires consideration of those circumstances.

For example, if the source of the biogas is several states away from California, requiring the demonstration to include contracts between the regulated party and the various utilities in each of those states is likely to be cost-prohibitive. Moreover, because the pipelines are fixed, there is little to be gained by requiring the regulated party to enter into such utility-to-utility contracts. In other words, once injected into a pipeline that is physically connected to California, the biogas will flow through that pipeline toward California regardless of whether there is a contract between the regulated party and all the utilities between the biogas source and the California end of that pipeline.

Based on the above considerations, a regulated party for biogas produced outside California will need to provide documentation adequate to show that its physical pathway demonstration meets the following general requirements to be approvable under section 95484(d)(2):

- (1) There must be physical injection of specified volumes of biogas from the out-of-state producer into a physical pipeline (section 95484(d)(2)(B));
- (2) The pipeline in (1) must be connected to a pipeline or a series of interconnected pipelines that physically connect to the California market (section 95484(d)(2)(A)); and
- (3) There must be physical extraction in California of the same volumes of gas identified in (1) from the pipeline(s) in (2) above (section 95484(d)(2)(C)), and that gas must be used as a “transportation fuel,” as that term is defined in the LCFS regulation.

Material changes in an approved physical pathway demonstration are subject to the requirements set forth in section 95484(d)(2)(D). [Back to TOC](#)

## VI. The LCFS Reporting Tool (LRT)

**(1) *When will online reporting tools be made available?*** [Back to TOC](#)

The Reporting Tool Production (version 2.0) to be used for official reporting has been available since November 10, 2010. The test version of the system has been available since September 2, 2010. Both systems continue to be made available in parallel for all forthcoming reporting periods. General information on the LRT can be found at: <http://www.arb.ca.gov/fuels/lcfs/reportingtool/reportingtool.htm>.

**(2) *Can I access the LCFS Reporting Tool (LRT) on ARB's website?*** [Back to TOC](#)

Yes. The Reporting Tool Production version 2.0 is located at <https://ssl.arb.ca.gov/LCFSRT>. The test version of the reporting tool is located at <https://ssl.arb.ca.gov/LCFSRTUAT>.

**(3) *Is ARB planning on hosting any formal in-person or web training sessions for regulated parties?*** [Back to TOC](#)

We have a recorded session available on the LCFS RT working group website based on the initial demonstration of the system (see link for “August 23, 2010: LCFS Reporting Tool System Demo – Recorded Webcast” at: <http://www.arb.ca.gov/fuels/lcfs/workgroups/workgroups.htm>). We will also provide a recorded webinar for training on the Reporting Tool. Regulated parties are encouraged to contact us at [lrtadmin@arb.ca.gov](mailto:lrtadmin@arb.ca.gov) or click on “Contact Us” on the Reporting Tool for any questions.

**(4) *After a quarterly progress report is filed, if it is learned that something on the quarterly progress report was incorrect, does the reporting party have to correct the quarterly progress report, or do they only have to report the correct information on the annual report?*** [Back to TOC](#)

The information on the quarterly reports should be corrected through the reporting tool as soon as it is known that something on the quarterly progress report was incorrect. There will be a mechanism as part of the online reporting process for making these corrections. Starting in 2011, “credits” will be generated on a quarterly basis and the sooner a correction is made the more accurately the reporting tool can calculate the correct credit for each regulated party.

**(5) *Should data be reported on a transaction-by-transaction basis?*** [Back to TOC](#)

We would prefer biofuel transactions to be reported on a transaction-by-transaction basis, which is consistent with federal RFS2 reporting. However, for the quarterly reports for gasoline and diesel fuel, the regulation allows for the volumes of each blendstock (CARBOB, diesel, biodiesel, renewable diesel, and ethanol) to be

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aggregated for each distinct carbon intensity value. For example, you can report X gallons of a blendstock with carbon intensity of A (g CO<sub>2</sub>e/MJ), Y gallons of another blendstock with carbon intensity of B, and so on. A reportable transaction is the transfer of title of a physical volume of fuel on a specific date.

**Additional reading: Sec. 95484(c)(3)(A)**

**(6) *How will exchanges be handled in the compliance tool? If they are like products (i.e., CARBOB for CARBOB or ethanol for ethanol) will they need to be reported? What about “bookouts?”*** [Back to TOC](#)

Our understanding is that exchanges are transactions where the title changes hands; therefore, exchanges (to the extent they fall within this description) are subject to reporting requirements.

Conversely, it's our understanding that no title changes hands in a “bookout,” as that term is commonly used in the fuels sector. Thus, a bookout is not a reportable transaction as long as it involves no exchange of title to a physical volume of product.

**(7) *We have facilities in Northern and Southern California. Can we submit data for each facility separately?*** [Back to TOC](#)

Yes, the reporting tool is set up to allow each facility to submit data. For the quarterly and annual reports, an authorized representative from the parent company must authorize the submission of the collective data as the parent company's report.

**(8) *Will credits be generated on a quarterly basis based on the quarterly reports or on an annual basis?*** [Back to TOC](#)

The regulation specifies that credits can only be generated on a quarterly basis. Therefore, any credits generated will be recorded in the Reporting Tool on a quarterly basis. The quarterly reporting will not affect the ability of parties to complete credit transactions at any time.

**(9) *If a regulated party reported and generated LCFS credits in the first quarter of 2011, can they sell those credits in the second quarter of 2011?*** [Back to TOC](#)

Yes, the credits can be sold once the regulated party has submitted its first quarter report.

## VII. Reporting Requirements for Regulated Parties

### **(1) *When do I need to submit my quarterly and annual reports to CARB?***

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Quarterly Progress Reports for All Regulated Parties. Beginning 2010 and each year thereafter, a regulated party must submit quarterly progress reports to the Executive Officer by:

1. May 31st – for the first calendar quarter covering January through March;
2. August 31st – for the second calendar quarter covering April through June;
3. November 30th – for the third calendar quarter covering July through September; and
4. February 28th (29th in a leap year) – for the fourth calendar quarter covering October through December.

Annual Compliance Reports. By April 30, 2011, a regulated party must submit an annual report for calendar year 2010. By April 30th of each year thereafter, a regulated party must provide an annual compliance report for the prior calendar year.

If a due date for a report specified above falls on a weekend or holiday, we will accept the submittal for that report by the close of the next business day.

### **Additional Reading: Sec 95484(c)(1)**

### **(2) *I purchase fuel but I do not obtain the obligation for the fuel. Do I need to report?*** [Back to TOC](#)

The regulation identifies the regulated party as the one who must meet the average carbon intensity requirements and therefore the one who must do the reporting. However, we are asking both the seller and the purchaser to report all sales and transfers of fuel in their quarterly and annual reports to ARB. Both parties should report the transaction based on the information reflected on the product transfer document(s), which must show the CI of the fuel and state whether the seller is retaining the CI obligation or the purchaser is taking on the CI obligation. This will help to ensure a system of checks and balances within the structure of the regulation.

### **(3) *Do I need to report ethanol or gasoline that is being exported from California?*** [Back to TOC](#)

You do not have to report any fuel designated for export when it is produced, provided that the fuel is actually exported.

- (4) *A Midwest producer ships ethanol by railcar to a fuel marketer and that marketer imports the ethanol into California. Is the producer required to provide us with a Product Transfer Document (PTD) for the CI value of their product, which we then pass along to our California customer(s)?***

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Under the current regulation, there is no legal requirement for the Midwest producer (assuming it does not fall within the regulation's definition of "importer") to provide the California importer with a PTD with the CI value. However, the California importer (as a regulated party) is required to provide ARB, upon request, with a PTD that specifies the product's CI. Therefore, the California importer, as a regular course of business, should require the Midwest supplier to supply a PTD documenting the CI value of the imported ethanol. Regulated parties must provide PTDs upon request as per the regulation. The Midwest supplier can facilitate the sale of its product into California and make available CI and pathway information about its fuel(s) by completing the web-based biorefinery registration process set up by ARB.

- (5) *What date should be used to establish the transfer of fuel between owners?***

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The LCFS regulation refers in several places to the transfer of regulated party status as being effective: when a regulated party "transfers ownership" of a fuel, "by the time ownership is transferred," and through similar language. See e.g. section 95484(a)(1)(B)2., (B)5.c.iii. Because of this, it is clear that the title transfer date will establish the transfer of ownership of fuel between owners, and it is the title transfer date that should be used for reporting purposes. However, we will accept the use of an invoice date, provided there's written documentation which shows agreement between the buyer and seller that the invoice date accurately reflects the date when ownership of the fuel was transferred.

- (6) *A marketer purchases ethanol from a supplier who communicates an incorrect CI on the PTD, and then transfers title of the ethanol to another party with that same CI. Who is responsible for the incorrect CI?***

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The final regulated party with the obligation to reduce the CI is ultimately responsible under the LCFS for an incorrect CI. As part of normal business practices, regulated parties and their suppliers should employ "due diligence" to ensure they have reliable suppliers by doing a reasonable level of checking and confirmation of the reported CI.

- (7) *A marketer buys/sells California Reformulated Gasoline Blendstock for Oxygenate Blending (CARBOB) within California. Is the marketer a regulated party under the LCFS regulation for CARBOB?*** [Back to TOC](#)

If you own the CARBOB when it is blended and the regulated party status was transferred to you (i.e. the compliance obligation was transferred to you), you are the

regulated party for that CARBOB, and you would need to report the CARBOB bought and sold. If you sell the CARBOB but retain the obligation, you remain the regulated party for that CARBOB and would need to report. If you sell the CARBOB and pass along the obligation, ARB is asking that you report that sale and transfer of the LCFS obligation.

- (8) *If a company produces a batch of CARBOB but passes the compliance obligation along to its buyer, does the company still have any reporting requirements for that batch?*** [Back to TOC](#)

See response to [Question VII\(2\)](#).

- (9) *My ethanol arrives in California by railcar and is transferred to a stationary tank. When is the ethanol considered imported?*** [Back to TOC](#)

The regulation defines the importer as the person who owns the imported product when it is received at an import facility in California. An import facility is defined as the storage tank in which the product was first delivered from outside of California. Therefore, the act of receiving the ethanol into the first stationary tank in California is considered the importation of the ethanol. Accordingly, the owner of the imported ethanol as it is received into that first stationary tank is considered to be the importer.

- (10) *My ethanol arrives in California by railcar and is transferred to a cargo tank truck, after which is it transported to a facility for dispensing the product into motor vehicles. When is the ethanol considered imported in this case?*** [Back to TOC](#)

In addition to the definition for “import facility” noted in Question VII(9) above, the regulation further defines “import facility” to mean the cargo tank truck if the product is imported by cargo tank truck and delivered directly to a facility at which it can be dispensed into motor vehicles (e.g., imported CaRFG or CARB diesel). In this case, the owner of the fuel in the cargo tank truck is the importer. Therefore, the act of receiving the ethanol into the cargo tank truck that transports it to a facility for dispensing the product into motor vehicles is considered to be the importation of the ethanol.

- (11) *My ethanol arrives in California by railcar, goes directly to a transloading facility, and is then transferred directly to a cargo tank truck without being stored first in a stationary tank. After it's loaded into the cargo tank truck, it is transported to a customer's facility and offloaded into a stationary tank. When is the ethanol considered imported in this case?*** [Back to TOC](#)

A transloading facility presents unique challenges in that the transloading facility would normally be considered the import facility but for the lack of a storage tank. It is our understanding that, at a transloading facility, no physical inventory of ethanol is maintained. When a train carrying ethanol arrives at the facility, the ethanol is offloaded

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shortly afterward directly into cargo tank trucks and subsequently delivered to the buyers' storage tanks at another location.

Because no physical inventory is maintained, only one carbon intensity (CI) ethanol is available to load into cargo tank trucks at any given time. Buyers must receive deliveries virtually every day, so it is not possible to deliver the ethanol with the CI contracted to each buyer on each individual truckload. Depending on which unit train is being unloaded on any given day, some customers will receive lower-CI ethanol than contracted, and some will receive higher-CI ethanol than contracted. Therefore, to properly address the use of a transloading facility in these circumstances, we will administratively employ the concept of a "virtual tank" in order for a transloading facility to be considered an "import facility."

For purposes of this guidance, we are defining a "transloading facility" as: (1) a permanent, stationary facility in California, (2) that is the first such facility in which a transportation fuel blendstock is delivered from outside California, (3) which has no permanent ethanol storage tanks, and (4) all transportation fuel blendstock that arrives at the facility is transferred directly from one transportation mode (e.g. train) to another transportation mode (e.g. cargo tank truck) for transport out of the facility. The "transloading facility" includes the associated railyard and other related non-storage points located within California.

In the case of a transloading facility, we will allow the use of an accounting construct to serve as a "virtual tank" in place of a physical storage tank. The idea is that the virtual tank can be used for accounting purposes to aggregate incoming and outgoing streams of ethanol with the same CI in a calendar quarter. As long as there are a sufficient number of separate virtual tanks to account for each different CI ethanol that arrives at the transloading facility in a calendar quarter, a regulated party should theoretically be able to account for the different CI ethanol products and their volumes that came into and left the transloading facility in a given quarter.

The concept of a virtual tank is based on the aggregation allowed in section 95484(c)(3). This provision allows a regulated party to aggregate the volume of each blendstock per compliance period (in the case of the progress reports, the compliance period is a calendar quarter). In that case, the regulated party may report the total volume of each blendstock aggregated for each distinct carbon intensity value. Thus, the virtual tank concept, to the extent it is used, must involve the use of a separate virtual tank for each distinct CI ethanol product that arrives at the transloading facility in a given calendar quarter.

The next question involves the timeframe covered by the virtual tank. Suppose a train is on its way to California but has not yet arrived at the transloading facility. Further, suppose ethanol at a specific CI has been contracted for by the regulated party, but is weeks away from being produced and sent to California. To what extent can and should a virtual tank be permitted to include the volume of ethanol that has not yet arrived at the transloading facility? To answer this question, we look to two provisions



of the regulation. In section 95485(b), the regulation provides that a regulated party “may generate credits quarterly.” However, section 95485(c)(2)(B) prohibits a regulated party from borrowing or using credits from “anticipated carbon intensity reductions.”

For purposes of this guidance, a reasonable interpretation of these provisions, one that allows both provisions to coexist, is that a regulated party using a virtual tank can include any volume of ethanol that arrives at the transloading facility before the end of the quarter. To illustrate, a volume of ethanol with 98.0 CI that is on its way to the transloading facility can be used in a reportable transaction for that quarter, as long as that volume arrives at the transloading facility before the end of the quarter. Similarly, a volume of ethanol that has been contracted for but not yet produced can also be included in the virtual tank, as long as that ethanol is actually produced and arrives at the transloading facility by the end of the quarter.

By requiring that all volumes included in a virtual tank arrive at the transloading facility by the end of the quarter, we are ensuring that the credits generated are attributable to that quarter, which is consistent with section 95485(b). Moreover, by requiring the volumes to arrive within that quarter, we are also providing consistency with the prohibition in section 95485(c)(2)(B) against borrowing from “anticipated” reductions (i.e., the reductions in Quarter 1 are not borrowing from “anticipated” reductions in Quarter 2 or subsequent quarters since the reductions actually occurred in Quarter 1).

Another question is the use of virtual tanks from one quarter to the next. The LCFS is designed such that a calendar quarter in a given year is intended to be independent of other quarters in that same year. For example, the credits/deficits for Q1 are calculated just for Q1, the credits/deficits for Q2 are calculated independent of what happened in Q1, and so on, until the end of the calendar year when all the credits and all the deficits from each quarter are tallied and a negative or positive credit balance is determined.

Because each quarter is treated independent of the previous quarter, it follows that any virtual tank in a given quarter would have to start with zero volume at the start of each quarter for reporting purposes<sup>3</sup>. While a virtual tank would need to start each quarter with a zero volume, this does not have any effect on LCFS credits generated in a previous quarter; unless such credits are sold to another party, they can be retained through subsequent quarters in that calendar year<sup>4</sup>.

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<sup>3</sup> Physically, ethanol may still be present in the virtual tank at the end of the calendar quarter. However, for reporting purposes, at the end of each calendar quarter, credits or deficits must be generated based on this remaining volume of ethanol.

<sup>4</sup> However, note that if, at the end of a calendar year, a regulated party has an overall balance resulting in an overall deficit, the regulated party must use any retained credits (a.k.a. *Credit<sup>CarriedOver</sup>*) still remaining to reconcile such a deficit. See section 95484(b)(4)(A) and (B) and [Question I\(4\)](#).



Guidance on “Virtual Tank” Use

Based on the above, we have determined that a regulated party for ethanol imported into a transloading facility may use a virtual tank for accounting purposes to input volumes, CI values, and other relevant transactional information into the Reporting Tool, provided the use of such a virtual tank meets the following criteria:

- 1) A regulated party must use a virtual tank in the same manner as a physical “storage tank,” as that term is used in the definition for “import facility” set forth in section 95481(a)(25).
- 2) When a virtual tank is used, there must be a separate virtual tank for each distinct carbon-intensity (CI) value in each calendar quarter. For example, if an 80-car ethanol train arrives at the transloading facility carrying ethanol with five different CI values, the regulated party must use five virtual tanks for that train and quarter. Similarly, if additional trains with other CI values arrive at the transloading facility later in the same quarter, a commensurate number of additional virtual tanks must be used for each distinct CI not already covered by an existing virtual tank.
- 3) For each calendar quarter, the virtual tank for a specific CI ethanol must include the volume of ethanol that arrives at the transloading facility by the end of the quarter.
- 4) All credits that are generated for a calendar quarter by a regulated party using a virtual tank must be based only on volumes of ethanol that arrive at the transloading facility during that calendar quarter.
- 5) At the start of a new quarter, the regulated party must use a new virtual tank for each distinct CI value ethanol accounted for in that new quarter, as described above.
- 6) The calculation of the regulated party’s credit balance at the end of a quarter is based on the sum of all the credits and deficits for each virtual tank in that quarter, where credits and deficits are calculated in accordance with the existing provisions in the regulation.
- 7) Records for each virtual tank in each calendar quarter must be generated, maintained and submitted to the Executive Officer as provided in section 95484(c)(3)(A) and (d)(1).

**Additional Reading: Sec. 95484(c)(3), 95485(b), 95485(c)(2)(B)**

**(12) We buy ethanol in the Midwest, which is shipped into California, and we take title at discharge in California. Since we are the first party to have ownership of the product at a facility in California, are we classified as an importer/regulated party for the ethanol?** [Back to TOC](#)

Yes. You would be designated as an importer, and you are a regulated party until the ethanol and associated obligation is transferred to a downstream party.

**(13) My company produces biofuel and sells it to a marketer who then imports the fuel into California. Are we a regulated party, and do we file quarterly reports?** [Back to TOC](#)

If you do not own the fuel in California, you do not have any reporting requirements under the LCFS. However, your customers need the CI and approved physical pathway information. In order to receive this approval, you should register your fuel using the Biofuel Producer Registration Form.

**(14) The regulation appears to allow any regulated party to transfer its regulated party status to another party upon title transfer of ethanol. Can a marketer that never intends to retain its regulated party status always transfer its regulated party status to its title transfer counterparties?** [Back to TOC](#)

The regulation provides for the transfer of regulated party status under specified circumstances. Depending on the fuel or blendstock and the type of transaction, the transfer of regulated party status may either be automatic or by mutual agreement (i.e., contract) between the seller and buyer. In those cases where the regulation specifies that regulated party status can only be transferred by contract, the marketer will need to get the assent of the buyer in order to transfer its regulated party status. In either case, the regulated party that has title and a CI-reduction obligation must report the transfer of title to the ARB, per the LCFS, for transfers within California.

**(15) If a marketer transfers its regulated party status, would the marketer not have to meet the CI requirements?** [Back to TOC](#)

If you transfer the CI obligation for a fuel, you are not subject to meeting the CI reductions of the LCFS for that fuel.

**(16) With respect to liquid biofuels, in what instances is the CI-reduction obligation transferred automatically between two parties? In which case is it not?** [Back to TOC](#)

For transfers of oxygenate, biodiesel or renewable diesel, the obligation goes by default to the recipient. (For oxygenate, the recipient is typically the oil company that will be blending it with the CARBOB.) For transfers of CARBOB, the obligation stays by default with the initial producer or importer (i.e., does not transfer downstream to the station owner) unless the CARBOB is transferred to another producer or importer. In that case,

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compliance obligation transfers to the other producer or importer. The retention of the compliance obligation can be modified by contract between buyer and seller and noted on the PTD.

If you blend extra ethanol into CARBOB (e.g. making E85), then you are responsible for the compliance obligation for the extra ethanol.

**(17) Is a marketer a regulated party under section 95484(a), or do I just function as a "Transferor" of E100 and biodiesel (B100, B99.9 and B99) to Regulated Parties? [Back to TOC](#)**

If you did not produce or import the fuel, and you do not have an obligation to meet the average CI requirements of the regulation, you are not a regulated party. In other words, if you are acting as an intermediary between the producers/importers (e.g., ethanol and biodiesel importers) and the companies introducing the fuels into the market (e.g., major oil companies), you are not a regulated party unless you agreed in writing to become one.

**(18) Does ARB require reporting fuel volumes at the rack? [Back to TOC](#)**

The regulation does not require reporting at the rack.

## VIII. Determining CIs

**(1) An ethanol producer has a few plants that produce a mix of wet and dry distiller's grains with solubles (DGS) during the quarter. What CI value do I use for that plant? [Back to TOC](#)**

The ethanol plant would have two separate CIs from the Lookup Table, one for wet DGS and one for dry DGS. On the Biofuel Producer Registration Form, you would fill out one worksheet for wet DGS and one worksheet for dry DGS for that facility. When you sell/ship ethanol, you would report the CI of the volume of fuel you are transferring. You would not use a weighted-average CI for that facility.

**(2) I have a plant with a CI value that is not located on the CI Lookup Table provided by ARB. What steps do I need to take in order to get the CI value for that plant? [Back to TOC](#)**

If your method of production is not represented in the table, you can apply for a new CI through Method 2A/2B. In order to begin the Method 2A/2B process, please contact Mr. Wes Ingram, Manager, Fuels Evaluation Section, at (916) 327-2965 or at [wingram@arb.ca.gov](mailto:wingram@arb.ca.gov).

- (3) ***How does a plant revise its CI as more fuel sub-pathways are added to the table?*** [Back to TOC](#)

If you are affected by the addition of new fuel sub-pathways to the regulation, please contact us and we will discuss how you could update your registration information.

- (4) ***Can we register a plant for which we plan to submit an application for a Method 2A or 2B CI value?*** [Back to TOC](#)

You can begin to register a facility for which you plan on submitting a 2A/2B application, but until the application is approved, your CI will be listed as pending. We ask that you please note in section 4 of the registration form the materials that you will be submitting with an application for Method 2A/2B and for which facilities.

## **IX. Commingling of Products**

- (1) ***An ethanol producer produces some wet DGS and some dry DGS, so they have registered for two different CIs. Do they need to store that ethanol in different tanks?*** [Back to TOC](#)

No. You can commingle ethanol of different CIs. For each CI you must track the volumes produced and the volumes sold in your inventory.

- (2) ***Is “first in first out” an acceptable practice for keeping track of our inventory of ethanol that is physically commingled in our tankage?*** [Back to TOC](#)

Yes, you may use “first in first out” or any other accounting method that provides accurate tracking of your inventory. We understand that “first in first out” inventory is common practice for federal RIN credits, which expire after two years. However, over time, you may find your California customers requesting lower-CI biofuels, and you may decide to use a different method to track your ethanol CI inventory than you use to track your RIN credits.

- (3) ***I purchase ethanol of various CIs. How do I assign CIs of the fuel I sell?*** [Back to TOC](#)

You should be keeping track of both the volumes of fuel and the CI of that fuel as it is put into your inventory. When you sell a volume of fuel from your inventory, you can assign it any CI in your inventory. For example, if you have 1,000 gallons of fuel with a CI of 95, 500 gallons with a CI of 84, and 2,000 gallons with a CI of 97, you would have a total of 3,500 gallons to sell. In this case, you can sell 500 gallons of fuel with a CI of 84, 1,000 gallons with a CI of 95, and 2,000 gallons with a CI of 97.

## **X. Product Transfer Documents (PTDs)**

**(1) Do PTD requirements take effect immediately once the rule becomes effective? [Back to TOC](#)**

Yes, the LCFS regulation, including the PTD requirements, is currently in effect.

**(2) The LCFS regulation requires the volume and CI of the fuel, and whether the recipient will have regulated party status to be on the PTD. May we use a combination of documents to serve as the PTD? [Back to TOC](#)**

Although the current regulation uses the term PTD in the singular form (as though it is a single, pre-established document), it is ARB's position for purposes of the LCFS that PTD can constitute a document or combination of documents that authenticates the transfer of ownership of fuel from the transferor to the transferee. The document or collection of documents must identify (except as provided below), at a minimum:

- the name of the transferor and transferee,
- the date of the transaction,
- whether the CI obligation is retained by the transferor or passed to the transferee (optional unless different than default stated in regulation),
- the type of fuel,
- the volume of the fuel, and
- the CI value of the fuel, which is directly linked to the facility ID of the facility that produced the fuel.

The PTD may include, but is not limited to, one or more of the following: contract, invoice, bill of lading, RFS2 product transfer document, meter ticket, and rail inventory sheet. The PTD should be a document or combination of documents that is commonly used and accepted in the industry for the subject fuel. If multiple documents are used for an authentication, each document must contain information that identifies their association to each other.

To clarify the original question, the regulation does not require that the PTD state the CI value of the fuel when it is transferred from a seller to a buyer without the compliance obligation (i.e. the seller is retaining the compliance obligation for the fuel). If the seller chooses not to inform the buyer of the CI of the fuel, the buyer may report a default value for that fuel. See LCFS Advisory 10-02, 03, and 04. To operate properly, the LRT requires that the "CI" field be populated with a value, even when a report is submitted by the buyer of a fuel without obligation. Note that in this case, using any value in that CI field would have no effect on the buyer's credits/deficits because the LRT would not calculate any credits/deficits for the buyer when no obligation for that fuel has been transferred to the buyer.

- (3) ***There is a PTD requirement that the transferor state that the recipient is now the regulated party or that the transferor is retaining its regulated party status. We believe this communication can be accomplished entirely through contract language and not necessarily be on each and every title transfer PTD? Is this correct?*** [Back to TOC](#)

As mentioned above, the PTD can be a collection of documents, as long as this collection contains all of the necessary information and can be linked together through a common date or transaction ID. There must be documentation that demonstrates a sale has occurred and that both parties assent to the resulting regulated party status. The information on the PTD needs to be clear regarding the passing of compliance obligation, including the CI and the parties involved in transfer on the PTD.

- (4) ***Regarding the requirements for a PTD, can a commercial invoice serve as a PTD if the appropriate clauses are included on the invoice demonstrating either the intention to retain or pass along the LCFS compliance obligation?*** [Back to TOC](#)

The regulation requires you to retain PTDs. The PTD should include all applicable items in the bulleted list above, and indicate if you are retaining or transferring the CI-compliance obligation. The best way to confirm what a facility or importer has reported as its CI is to provide ARB with the facility ID, and we will review our database to determine if we have a reported CI for that facility ID. If the commercial invoice has the required information on it, then, yes, it can serve as the PTD.

- (5) ***Should the LCFS product transfer documentation be generated on a transaction-by-transaction basis, or can it be generated with a form and frequency acceptable to the commercial parties involved?*** [Back to TOC](#)

A PTD must be generated for every transaction and kept on file for three years.

## **XI. Interim Reporting of CI Values**

- (1) ***I am currently using ethanol that has an unknown CI. What CI values can I use for reporting purposes?*** [Back to TOC](#)

For 2011, ARB will allow a default CI value of 99.40 to be applied to any ethanol for which the CI is indeterminate (unknown) and incapable of being determined. Similarly, ARB will allow the use of a default CI value of 94.71 for biomass-based diesel for which the CI is indeterminate and incapable of being reasonably determined. The circumstances under which those default CI values can be used are described in LCFS Regulatory Advisory 10-04, as amended in Advisory 10-04A, both of which are included in [Appendix A](#). (When using the default CI value of 99.40 for ethanol or 94.71 for biomass-based diesel in the reporting tool, there is no need to enter a facility ID or physical pathway.)

**(2) *On January 1, 2011, what is the CI of the ethanol stored in my tank?***

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For sales of ethanol in Q1 2011, the regulated party may use the CI of the ethanol reported in Q4 2010 up to the volume reported as net obligated amount in Q4 2010 or physical inventory in CA as of January 1, 2011, whichever is the lower volume. If the CI in Q4 2010 is not known, the regulated party must use the default CI value of 99.4 gCO<sub>2</sub>e/MJ, as stated above.

**(3) *What is the default carbon intensity value for biodiesel?*** [Back to TOC](#)

For 2011, if the regulated party buys biodiesel that is indeterminate and incapable of being reasonably determined, the carbon intensity default value will be that of CARB diesel, 94.71.

## **XII. Interim Reporting of RINs**

***The regulation states that regulated parties must report federal RINs “that are retired for facilities in California.” How do we determine which RINs are retired for California facilities?*** [Back to TOC](#)

Due to significant changes in the federal program and questions from regulated parties on how to comply, ARB will not require reporting of RINs. Staff will propose regulatory changes to remove the RIN reporting requirements.

**June 10, 2011**

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**June 10, 2011**

## Appendix A

### LCFS Regulatory Advisories

10-04A (<http://www.arb.ca.gov/fuels/lcfs/070111lcfs-rep-adv.pdf>)

10-04 (<http://www.arb.ca.gov/fuels/lcfs/122310lcfs-rep-adv.pdf>)

10-03 (<http://www.arb.ca.gov/fuels/lcfs/093010lcfs-rep-adv.pdf>)

10-02 (<http://www.arb.ca.gov/fuels/lcfs/070910lcfs-rep-adv.pdf>)

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# Regulatory Advisory

July 2011



## **Low Carbon Fuel Standard (LCFS) Supplemental Regulatory Advisory 10-04A**

### **SCOPE**

*The Air Resources Board (ARB) is issuing a Supplemental Regulatory Advisory today, 10-04A (Supplemental Advisory 10-04A), which goes into effect July 1, 2011. This Supplemental Advisory 10-04A further elaborates on the guidance provided in Regulatory Advisory 10-04, which remains in effect, as specified in that advisory, and is unmodified except as clarified in this supplemental advisory. This Supplemental Advisory 10-04A will remain in effect in conjunction with Regulatory Advisory 10-04 through March 31, 2012, unless superseded by a subsequent ARB advisory or notice.*

### **BACKGROUND**

On April 23, 2009, the California Air Resources Board (ARB, CARB or Board) approved for adoption the LCFS regulation pursuant to the California Global Warming Solutions Act of 2006. The regulation became effective on January 12, 2010, and was codified at title 17, California Code of Regulations, sections 95480-95490. Additional provisions became effective on April 15, 2010, and were codified in the same sections. The combined final regulation order can be found at: <http://www.arb.ca.gov/regact/2009/lcfs09/lcfscombofinal.pdf>. The LCFS will reduce greenhouse gas (GHG) emissions by reducing the carbon intensity of transportation fuels used in California by an average of 10 percent by the year 2020. Carbon intensity is a measure of the GHG emissions associated with the combination of all of the steps in the “lifecycle” of a transportation fuel. While carbon intensity (CI) standards were not applicable in 2010 (the first year of the regulation), compliance with the reporting and recordkeeping requirements is required for all years, including 2010.

On November 18, 2010, staff presented to the Board an update on LCFS implementation activities, including the development of the LCFS Reporting Tool, the proposed path forward on addressing land use change after receiving recommendations from the Expert Workgroup subgroups, the development of a screening tool for high-carbon-intensity crude oils, and several others. Through Resolution 10-49, the Board directed staff to issue guidelines regarding the implementation of the LCFS for 2011. Regulatory Advisory 10-04 represents those guidelines, and this Supplemental Advisory 10-04A clarifies specific provisions in Advisory 10-04.

### **DEFINITIONS**

For purposes of this Supplemental Regulatory Advisory, “we” means ARB, the Board, or ARB staff, and “Executive Officer” refers to the ARB Executive Officer or his or her designee. Also, “this advisory period” means the period during which this Supplemental Regulatory Advisory will remain in effect, which is January 1, 2011, through March 31, 2012, except as otherwise specified below or superseded by a subsequent ARB advisory or notice. Unless otherwise stated, all references to “section” are to the LCFS regulation, and references to the “Lookup Table” are to one or both of the carbon intensity lookup tables in section 95486(b)(1) of the LCFS regulation.

### **OVERVIEW**

There are three main objectives for this supplemental advisory. First, this supplemental advisory addresses the need for guidance on the use of a generic CI value for biomass-based diesel products, similar to what was provided in Regulatory Advisories 10-02 and 10-03 but was inadvertently omitted in Regulatory Advisory 10-04. Second, this supplemental advisory extends to the end of 2011 the guidance relating to high-carbon-intensity crude oil (HCICO) that was provided in Regulatory Advisory 10-04. Further, this supplemental advisory provides additional guidance on the treatment of credits and deficits generated from the blending of CARBOB or CARB diesel derived from potential-HCICO with ethanol or biomass-based diesel, respectively, which was noted as a future action in Regulatory Advisory 10-04.

## **ELECTRONIC REPORTING REQUIREMENTS**

### **A. Current Action: Use of Generic CI Value for Ethanol and Biomass-Based Diesel**

Typically, a regulated party that purchases biomass-based diesel (as defined in section 95481(a)(9)) for blending with CARB diesel would be provided with documentation on the carbon intensity of that biomass-based diesel. However, there may be situations during this advisory period where a regulated party is in a position to purchase biomass-based diesel for which the CI is indeterminate and incapable of being reasonably determined. In such cases, we will administratively allow the regulated party for that biomass-based diesel to use the CI value of 94.71 g CO<sub>2</sub>e per megajoule (MJ), which is the baseline CI value for diesel in the Lookup Table in section 95486(b). For purposes of this Supplemental Advisory 10-04A and to amend Advisory 10-04, "incapable of being reasonably determined" means no CI value for the biomass-based diesel (or ethanol, as was discussed in Advisory 10-04) has been established by a person or otherwise listed by ARB through its list of registered biofuel facilities (see <http://www.arb.ca.gov/fuels/lcfs/reportingtool/registeredfacilityinfo.htm>) or the Method 2A/2B application process (see <http://www.arb.ca.gov/fuels/lcfs/2a2b/2a-2b-apps.htm>).

### **B. Current Action: Use of Interim CI Value for HCICO-Related Reporting and Annual Credit Balances**

In LCFS Regulatory Advisory 10-04, we stated that a regulated party for CARBOB or diesel fuel derived from any HCICO or potential HCICO "may continue to use" the Lookup Table values for CARBOB and diesel, provided specified contract and delivery date criteria were met. In this Part B, we are extending but further clarifying the phrase "may continue to use" for HCICO or potentially HCICO feedstocks as follows. Specifically, for purposes of reporting through the LCFS Reporting Tool (LRT) and in annual credit balance calculations, a regulated party may use through March 31, 2012, the baseline CI value of 95.86 g CO<sub>2</sub>e/MJ for CARBOB or 94.71 g CO<sub>2</sub>e/MJ for diesel fuel, whichever applies, irrespective of whether the fuel or blendstock was derived from a non-HCICO, a HCICO, or a potential-HCICO. This provision applies only if the contract for such crude is executed by December 31, 2011, and the crude is delivered by March 31, 2012. A regulated party operating under this administrative action must maintain, and submit to the Executive Officer within 20 days after a written request, records of the volumes and crude marketing names (aka "marketable crude oil name") for all imported crudes.

Note that the CI and volumes of fuels and blendstocks derived from all crudes, including HCICOs and potential HCICOs, which are delivered prior to December 31, 2011, must be accounted for in the 2011 annual credit balance calculation. On the other hand, products derived from HCICO or potential HCICO, which are delivered between January 1, 2012 and March 31, 2012, inclusive, and for which the contract was executed by December 31, 2011, must be accounted for in the 2012 annual credit balance calculation. Such HCICOs and potential HCICOs delivered in Q1 2012 are subject to Part C below except for subpart C(2) and Table 2. The treatment of non-HCICOs, HCICOs, and potential-HCICOs for credit/deficit generation is addressed in the next section.

### **C. Current Action: Calculation and Treatment of Credits & Deficits for Fuels/Blendstocks Derived from Potentially High Carbon-Intensity Crude Oils**

While Part B above addresses the use of the baseline CI values for reporting and annual credit balance calculations for CARBOB and diesel fuels and blendstocks, there remains the question of how to treat credits/deficits generated for a fuel pool that is comprised in some part of fuel/blendstock derived from potential-HCICO. Pursuant to Resolution 10-49, ARB staff is addressing the generation and banking of credits during this advisory period, as potentially affected by 2011 crude oil purchases that are not part of the 2006 baseline. Accordingly, we will administratively provide the following actions:

- (1) No fuel or blendstock sold, supplied, or offered for sale in California during this advisory period will be deemed in violation of the LCFS regulation solely because it was derived wholly or in part from non-HCICO, HCICO, or potential HCICO; and
- (2) A regulated party's annual credit balance is to be calculated pursuant to section 95484(b)(2) and using the approach specified in Part B above. Accordingly, any credits generated during this advisory period must be adjusted by the incremental deficits due to HCICO and potential-HCICO, as specified in Tables 1 and 2 below:

**Table 1: Incremental Deficits and Credit Adjustments for Products Derived from Non-HCICO**

If a crude:	Then:	Therefore, the regulated party:
<ul style="list-style-type: none"> <li>• is “included in the 2006 California base crude mix”;</li> <li>• is listed in Table 3 of the Attachment to this Supplemental Advisory;</li> <li>• is not listed in Table 3 of the Attachment to this Supplemental Advisory at this time but is listed as a “non-HCICO” in a subsequent ARB advisory or notice;</li> <li>• has been determined by the Executive Officer or by ARB staff analysis to have a crude oil production and transport CI of 15.00 g CO<sub>2</sub>e/MJ or less; or</li> <li>• is used to produce CARBOB, finished gasoline, or diesel fuel outside California, and that CARBOB, finished gasoline, or diesel fuel is subsequently imported into California.</li> </ul>	<p>the crude is deemed not a HCICO</p>	<p>has no incremental deficits. All credit/deficit calculations for a fuel or blendstock derived from such crude shall use the baseline CI values for CARBOB and diesel (95.86 gCO<sub>2</sub>e/MJ and 94.71 gCO<sub>2</sub>e/MJ, respectively).</p>

**Table 2: Incremental Deficits and Credit Adjustments for Products Derived from HCICO or Potential-HCICO**

If a crude:	Then:	Therefore, the regulated party:
<ul style="list-style-type: none"> <li>is none of the above in Table 1, and is either: <ul style="list-style-type: none"> <li>one for which the Executive Officer has approved a Method 2B application pursuant to section 95486(b)(2)(A)2.a.ii., or</li> <li>one for which the Executive Officer or ARB staff analysis has determined that the crude oil production and transport CI is greater than 15.00 g CO<sub>2</sub>e/MJ.</li> </ul> </li> </ul>	<p>the crude is deemed a HCICO</p>	<ul style="list-style-type: none"> <li>must calculate its HCICO incremental deficits pursuant to section 95486(b)(2)(A)2.a. using either the CI value approved by the Executive Officer under Method 2B or the CI value determined by ARB staff analysis for the HCICO-derived product, and</li> <li>may use without restriction any credits remaining after the regulated party's 2011 annual credit balance has been adjusted with the incremental deficits.</li> </ul>
<ul style="list-style-type: none"> <li>is none of the above</li> </ul>	<p>the crude is deemed to be a potential-HCICO</p>	<p>has the following options that apply only when its 2011 annual credit balance is positive (i.e. there is a net credit); if the balance is negative (i.e. there is a net deficit), that deficit must be carried over into 2012 for reconciliation in all cases.</p> <p><u>Option 1</u></p> <ul style="list-style-type: none"> <li>Incremental HCICO deficits are set at zero; and</li> <li>No net credits for 2011 can be traded or transferred to 2012 or any subsequent year.</li> </ul> <p>or</p> <p><u>Option 2</u></p> <ul style="list-style-type: none"> <li>Any net credit for 2011 stays in the regulated party's bank, but it cannot be accessed until the crude has been determined to be either non-HCICO or HCICO with a designated CI value, and adjusted as follows; <ul style="list-style-type: none"> <li>If the crude is determined to be non-HCICO, there are no incremental deficits and no further adjustments are needed;</li> <li>If the crude is determined to be HCICO, its CI value, determined either under Method 2B or other Executive Officer-approved method, must be used to calculate incremental deficits pursuant to section 95486(b)(2)(A)2.a. and the 2011 net credits must be adjusted accordingly; and</li> </ul> </li> <li>Any net credit remaining after the above incremental deficit adjustment can be carried over to 2012 and beyond.</li> </ul> <p>or</p> <p><u>Option 3</u></p> <ul style="list-style-type: none"> <li>The CI values of 107.79 gCO<sub>2</sub>e/MJ for CARBOB and 106.64 gCO<sub>2</sub>e/MJ for diesel fuel must be used to calculate incremental deficits pursuant to section 95486(b)(2)(A)2.a. and the 2011 annual credit balance; and</li> <li>Any remaining 2011 net credits can be carried over into 2012 and beyond without restriction.</li> </ul>

The incremental deficits applied toward credit carry forward restrictions as specified in Table 2 will be retained by CARB in an account that cannot be accessed by the regulated party subject to further clarification of the treatment of crudes in the LCFS. Under no circumstances shall ARB be held liable for any change in value for any credits held in such accounts or for any other consequences related to or resulting from the holding of credits in such accounts.

As already provided in the LCFS regulation, a regulated party applying the above guidance to its credit/deficit calculation will need to keep and maintain adequate documentation to support its claimed volumes and CI of fuels/blendstocks.

#### **FOR MORE INFORMATION**

Currently, the LRT can be accessed at <https://ssl.arb.ca.gov/LCFSRT>, as specified in a listserv announcement on September 2, 2010. Other LRT-related materials can be accessed at: <http://www.arb.ca.gov/fuels/lcfs/workgroups/workgroups.htm>. The final regulation order and other rulemaking documents can be found in the LCFS rulemaking website at: <http://www.arb.ca.gov/regact/2009/lcfs09/lcfscombofinal.pdf>. For any questions regarding this supplemental advisory, please contact Mr. Floyd Vergara, Chief, Alternative Fuels Branch at (916) 327-5986 or via email at [fvergara@arb.ca.gov](mailto:fvergara@arb.ca.gov), or Mr. Mike Waugh, Chief, Transportation Fuels Branch at (916) 322-6020 or via email at [mwaugh@arb.ca.gov](mailto:mwaugh@arb.ca.gov). If you need this document in an alternate format or language, please contact Mr. Stephen d'Esterhazy at (916) 323-7227 or [sdesterh@arb.ca.gov](mailto:sdesterh@arb.ca.gov). TTY/TDD/Speech to Speech users may dial 711 for the California Relay Service.

## ATTACHMENT

During this advisory period, the Air Resources Board's Executive Officer considers each of the following marketable crude oil names as representing a crude oil source that is "not a high carbon intensity crude oil" (aka "non-HCICO"), as that term is used in section 95486(b)(2)(A)1. of the Low Carbon Fuel Standard regulation. Note that this list is subject to change based on further ARB staff review and analysis.

**Table 3. List of Non-HCICO Sources**

<b>Designation</b>	<b>Country</b>	<b>Load Point</b>
Algerian Condensate	Algeria	Loading Ports: Arzew & Bejaia
Saharan Blend	Algeria	Loading Ports: Arzew, Bejaia, Sidi Kerir, Skikda
Zarzaitine	Algeria	Loading Port: La Skhirra, Tunisia
Canadon Seco	Argentina	Caleta Olivia Single Buoy Mooring (SBM) off Comodoro Rivadavia
Escalante	Argentina	Caleta Cordova Single Buoy Mooring (SBM) off Comodoro Rivadavia
Medanito	Argentina	Puerto Rosales in the port of Bahia Blanca - two offshore SBMs
Rincon	Argentina	San Vicente Bay loading terminal in Concepcion, Chile
Bayu-Undan	Australia	Loading Port: Liberdade FPSO
Cossack	Australia	Loading Port: Cossack Pioneer FPSO
Enfield	Australia	Loading Port: Nganhurra FPSO
Gippsland	Australia	Loading Port: Westernport Bay at Long Island Point and Crib Point
Laminaria Blend	Australia	Loading Port: The Northern Endeavour FPSO
Northwest Shelf Condensate	Australia	Loading Port: Dampier at Withnell Bay
Pyrenees	Australia	Loading Port: Pyrenees Venture FPSO
Stybarrow	Australia	Loading Port: Stybarrow Venture FPSO
Van Gogh	Australia	Loading Port: Ningaloo Vision FPSO
Vincent	Australia	Loading Port: Maersk Ngujima-yin FPSO
Azeri (BTC)	Azerbaijan	Loading Port: Ceyhan (Turkey)
Azeri Light	Azerbaijan	Loading Ports: Supsa, Batumi, Kulevi
Brunei Light	Brunei	Loading Port: Seria
Champion	Brunei	Loading Port: Seria
Seria Light	Brunei	Loading Port: Seria
Bow River	Canada	Pipeline: Enbridge Pipeline
Hibernia	Canada	Loading Port: Whiffen Head
Koch Alberta	Canada	Loading Port: Westbridge Marine Terminal
Sweet Mixed Blend	Canada	Enbridge Pipeline
Terra Nova	Canada	Loading Port: Whiffen Head
White Rose	Canada	Loading Port: Sea Rose FPSO
Doba Blend	Chad	Loading Port: Kome Kribi 1 FSO (Cameroon)
Changqing	China	Pipeline: Ma-Hui-Ning



<b>Designation</b>	<b>Country</b>	<b>Load Point</b>
Daqing	China	Loading Port: Dairen (Dalian)
Liu Hua	China	Loading Port: Nanhai Sheng Li FPSO
Nanhai Light	China	Loading Port: Nan Hai Fa Xian FPSO
Panyu	China	Loading Port: Panyu FPSO
Peng Lai	China	Loading Port: Hai Yang Shi You 117 FPSO
Shengli	China	Loading Port: Qingdao (T'sing Tao)
Cano Limon	Colombia	Loading Port: Covenas via 480-mile Cano Limon Pipeline
Castilla Blend	Colombia	Loading Port: Covenas via pipeline
Cusiana	Colombia	Loading Port: Covenas via 500-mile Ocesa pipeline
South Blend	Colombia	Loading Port: Tumaco
Vasconia	Colombia	Loading Port: Covenas via the Vasconia-Covenas pipeline
DUC	Denmark	Loading Port: Fredericia
Belayim Blend	Egypt	Loading Port: Wadi Feiran
Suez Blend	Egypt	Loading Port: Ras Shukheir
Alba Condensate	Equatorial Guinea	Loading Port: Punta Europa
Ceiba	Equatorial Guinea	Loading Port: Sendje Ceiba FPSO
New Zafiro Blend	Equatorial Guinea	Loading Port: Serpentina FPSO
Ardjuna	Indonesia	Loading Port: Ardjuna Terminal
Arun Condensate	Indonesia	Loading Port: Blang Lancang
Attaka	Indonesia	Loading Port: Santan Marine Terminal
Belanak	Indonesia	Loading Port: Belanak FPSO
Belida	Indonesia	Loading Port: Belida Platform
Bontang Return Condensate	Indonesia	Loading Port: Santan Terminal
Cepu	Indonesia	Loading Port: Cepu FSO
Cinta	Indonesia	Loading Port: Cinta Terminal
Handil Mix	Indonesia	Loading Port: Senipah Sea Terminal
Minas	Indonesia	Loading Port: Dumai Terminal
Senipah Condensate	Indonesia	Loading Port: Senipah Sea Terminal
West Seno	Indonesia	Loading Port: Santan
Widuri	Indonesia	Loading Port: Widuri
Azadegan	Iran	Loading Port: Kharg Island
Doroud	Iran	Loading Port: Kharg Island
Foroozan (Fereidoon)	Iran	Loading Port: Kharg Island & Sidi Kerir
Iranian Heavy	Iran	Loading Port: Kharg Island
Iranian Light	Iran	Loading Port: Kharg Island
Lavan Blend	Iran	Loading Port: Lavan Island
Nowruz-Soroush	Iran	Loading Port: Soorena FSU
Sirri	Iran	Loading Port: Sirri Island

<b>Designation</b>	<b>Country</b>	<b>Load Point</b>
Baobab	Ivory Coast	Loading Port: Baobab FPSO
CPC Blend	Kazakhstan	Loading Port: Yuzhnaya Ozereevka (Russia)
Karachaganak Condensate	Kazakhstan	Loading Ports: Primorsk (Russia), Odessa (Ukraine)
Kashagan	Kazakhstan	Loading Port: Ceyhan (Turkey)
Kumkol	Kazakhstan	Loading Ports: Batumi (Georgia) & Atasu-Alashankou Pipeline to China
Tengiz	Kazakhstan	Loading Ports: Odessa, Feodosiya, Batumi, Supsa, Kulevi
Kuwait Export	Kuwait	Loading Port: Mina al-Ahmadi
Ratawi (Wafra)	Kuwait	Loading Port: Mina Saud/Mina al-Zour
Abu Attifel	Libya	Loading Port: Zueitina
Al-Jurf	Libya	Loading Port: Farwah FPSO
Amna	Libya	Loading Port: Ras Lanuf
Bouri	Libya	Loading Port: Bouri FPSO
Brega	Libya	Loading Port: Marsa al-Brega
El-Sharara	Libya	Loading Port: Zawia Terminal via 435-mile Pipeline
Es Sider	Libya	Loading Port: Es Sider via Pipeline
Mellitah	Libya	Loading Port: Mellitah Terminal via Pipeline
Sarir	Libya	Loading Port: Marsa al-Hariga
Sirtica	Libya	Loading Port: Marsa al-Brega
Zueitina	Libya	Loading Port: Zueitina
Bintulu Condensate	Malaysia	Loading Port: Bintulu
Dulang	Malaysia	Loading Port: Dulang Terminal
Kikeh	Malaysia	Loading: Kikeh FPSO
Labuan	Malaysia	Loading Port: Labuan
Miri Light	Malaysia	Loading Port: Miri
Tapis	Malaysia	Loading Port: Terengganu
Khafji	Neutral Zone	Loading Port: Ras al-Khafji
Maari	New Zealand	Loading Port: Raroa FPSO
Tui	New Zealand	Loading Port: Umuroa FPSO
Alvheim	Norway	Loading Port: Alvheim FPSO
Asgard Blend	Norway	Loading Port: Asgard Platform
Balder	Norway	Loading Port: Balder FPSO
Draugen	Norway	Loading Port: Draugen Terminal
Ekofisk Blend	Norway	Loading Port: Tees River, Teesside, UK
Grane	Norway	Loading Port: Sture
Gulfaks Blend	Norway	Loading Ports: Gulfaks Platform, Mongstad Terminal
Heidrun	Norway	Loading Port: Mongstad
Jotun	Norway	Loading Ports: Jotun A FPSO
Njord	Norway	Loading Port: Njord Platform

<b>Designation</b>	<b>Country</b>	<b>Load Point</b>
Norne	Norway	Loading Ports: Norne FPSO & Mongstad
Ormen Lange Condensate	Norway	Loading Port: Nyhamna
Oseberg	Norway	Loading Port: Sture
Sleipner Condensate	Norway	Loading Port: Karsto
Snohvit Condensate	Norway	Loading Port: Melkoya
Statfjord Blend	Norway	Loading Ports: Statfjord Platforms, Mongstad
Troll	Norway	Loading Port: Mongstad
Volve	Norway	Loading Port: Navion Saga FSO
Loreto	Peru	Loading Port: Bayovar
Al Shaheen	Qatar	Loading Port: Al-Shaheen Platform
Dukhan	Qatar	Loading Port: Umm Said
Low Sulfur Condensate	Qatar	Loading Port: Ras Laffan
North Field Condensate	Qatar	Loading Port: Ras Laffan
Qatar Condensate	Qatar	Loading Port: Ras Laffan
Qatar Marine	Qatar	Loading Port: Halul Island
Dar Blend	Sudan	Loading Port: El Khair (Port Sudan)
Nile Blend	Sudan	Loading Port: Marsa Bashaver Crude Oil Marine Terminal
Souedie	Syria	Loading Ports: Banias, Tartous
Syrian Light	Syria	Loading Ports: Banias, Tartous
Bualuang	Thailand	Loading Port: Rubicon Vantage FPSO
Calypso	Trinidad & Tobago	Loading Port: Guayaguayare Bay Terminal
Murban	UAE - Abu Dhabi	Loading Port: Jebel Dhanna
Umm Shaif	UAE - Abu Dhabi	Loading Port: Das Island
Upper Zakum	UAE - Abu Dhabi	Loading Port: Zirku Island
Zakum	UAE - Abu Dhabi	Loading Port: Das Island
Dubai	UAE - Dubai	Loading Port: Fateh
Alba	United Kingdom	Loading Port: Alba FPSO
Anasuria	United Kingdom	Loading Port: Anasuria FPSO
Beryl	United Kingdom	Loading Port: Beryl
Brent Blend	United Kingdom	Loading Port: Sullom Voe
Captain	United Kingdom	Loading Port: Captain FPSO
Clair	United Kingdom	Loading Port: Sullom Voe
Flotta	United Kingdom	Loading Port: Flotta
Foinaven	United Kingdom	Loading Port: Flotta West
Forties	United Kingdom	Loading Port: Hound Point
Liverpool Bay	United Kingdom	Loading Port: Liverpool Bay Platform
Schiehallion	United Kingdom	Loading Port: Sullom Voe
Triton	United Kingdom	Loading Port: Triton FPSO

<b>Designation</b>	<b>Country</b>	<b>Load Point</b>
Heavy Louisiana Sweet	USA	Pipeline Terminal: Empire
Light Louisiana Sweet	USA	Pipeline Terminal: St. James
Mars Blend	USA	Pipeline Terminal: Loop/Clovelly
Poseidon	USA	Pipeline Terminal: Houma
Southern Green Canyon	USA	Pipeline Terminals: Port Arthur, Texas City
Thunder Horse	USA	Pipeline Terminal: Loop/Clovelly
West Texas Intermediate	USA	Pipeline Terminals: Cushing, Midland
West Texas Sour	USA	Pipeline Terminal: Midland
Anaco Wax	Venezuela	Loading Port: Puerto La Cruz
Boscan	Venezuela	Loading Port: Bajo Grande
Merey	Venezuela	Loading Port: Puerto La Cruz Refinery
Mesa 30	Venezuela	Loading Port: Puerto La Cruz
Santa Barbara	Venezuela	Loading Port: Puerto La Cruz Refinery
Bach Ho	Vietnam	Loading Port: Bach Ho Platform
Rang Dong	Vietnam	Loading Port: Rang Dong MV17 FSO
Su Tu Den	Vietnam	Loading Port: Su Tu Den Terminal



# Regulatory Advisory

December 2010



## **Low Carbon Fuel Standard (LCFS) Regulatory Advisory 10-04**

### **Compliance Obligations for 2011 and Related Items**

#### **SCOPE**

*The Air Resources Board (ARB) is issuing a Regulatory Advisory today, 10-04 (Advisory 10-04), which goes into effect January 1, 2011. This Advisory 10-04 replaces, in their entirety, the provisions of LCFS Regulatory Advisory 10-03 (Advisory 10-03) that apply in 2011. The remaining provisions of Advisory 10-03 that apply only to 2010 will remain in effect through December 31, 2010, as discussed in this Advisory 10-04. This Advisory 10-04 will remain in effect through December 31, 2011, unless superseded by a subsequent ARB advisory or notice.*

#### **BACKGROUND**

On April 23, 2009, the California Air Resources Board (ARB or Board) approved for adoption the LCFS regulation pursuant to the California Global Warming Solutions Act of 2006. The regulation became effective on January 12, 2010, and was codified at title 17, California Code of Regulations, sections 95480-95490. Additional provisions became effective on April 15, 2010, and were codified in the same sections. The combined final regulation order can be found at: <http://www.arb.ca.gov/regact/2009/lcfs09/lcfscombofinal.pdf>. The LCFS will reduce greenhouse gas (GHG) emissions by reducing the carbon intensity of transportation fuels used in California by an average of 10 percent by the year 2020. Carbon intensity is a measure of the GHG emissions associated with the combination of all of the steps in the "lifecycle" of a transportation fuel. While carbon intensity (CI) standards are not applicable in 2010 (the first year of the regulation), compliance with the reporting and recordkeeping requirements is required for all years, including 2010.

On November 18, 2010, staff presented to the Board an update on LCFS implementation activities, including the development of the LCFS Reporting Tool, the proposed path forward on addressing land use change after receiving recommendations from the Expert Workgroup subgroups, the development of a screening tool for high-carbon-intensity crude oils, and several others. Through Resolution 10-49, the Board directed staff to issue guidelines regarding the implementation of the LCFS for 2011. This Regulatory Advisory represents those guidelines.

#### **DEFINITIONS**

For purposes of this Regulatory Advisory, "we" means ARB, the Board, or ARB staff, and "Executive Officer" refers to the ARB Executive Officer or his or her designee. Also, "this advisory period" means the period during which this Regulatory Advisory will remain in effect, which is January 1, 2011, through December 31, 2011, unless superseded by a subsequent ARB advisory or notice. Unless otherwise stated, all references to "section" are to the LCFS regulation, and references to the "Lookup Table" are to one or both of the carbon intensity lookup tables in section 95486(b)(1) of the LCFS regulation.

#### **OVERVIEW**

As noted by the Board in Resolution 10-49, the compliance obligation for regulated parties in 2011 to meet the carbon intensity standard for gasoline and diesel is necessary to ensure that continuous progress is maintained in implementing the LCFS regulation. However, there is a need for discretionary enforcement of the LCFS during the initial implementation year of 2011. Accordingly, ARB staff will implement in 2011 the 0.25% carbon-intensity (CI) reduction requirement with recognition of the need to recognize reasonable, good-faith compliance efforts while focusing enforcement actions on willful, intentional, egregious, or other substantial and material violations of the LCFS regulation.

## **ELECTRONIC REPORTING REQUIREMENTS**

### **Current Action: Retention of Advisory 10-03 Timeliness Guidance for 2010 Q4 Report and 2010 Annual Compliance Report**

As noted in Advisory 10-03, the 2010 fourth quarter (Q4) report and 2010 annual compliance report remain due February 28, 2011, and April 30, 2011, respectively. However, like the 2010 Q1, Q2, and Q3 reports, the 2010 Q4 report and the 2010 annual compliance report will not be subject to enforcement actions for lack of accuracy or completeness. Also, as noted in Advisory 10-03, ARB will not enforce the 2010 quarterly and annual compliance reports retroactively for lack of accuracy or completeness.

### **Current Action: Timely, Complete, and Accurate Submittal Is Required for 2011 Quarterly and Annual Reports**

Because the LCFS Reporting Tool (LRT) is currently operational, regulated parties should use the LRT to submit their 2011 annual and quarterly reports. This Advisory 10-04 does not affect any of the submittal deadlines in 2011, and all 2011 quarterly and annual compliance reports will be subject to enforcement action for their timeliness, completeness, accuracy, and any other applicable requirements specified in the regulation and discussed in this Advisory 10-04.

### **Current Action: 2011 Enforcement Actions to Be Focused on Substantial Non-Compliance**

In accordance with the Board's directives in Resolution 10-49, we are administratively taking the actions described in this section and elsewhere in this Advisory 10-04 with regard to enforcement actions. We will only take enforcement action for substantial noncompliance with the reporting requirements in 2011. This means that the failure of a regulated party to completely meet all reporting requirements in 2011, despite its reasonable, good-faith efforts to compile the required records and submit quarterly and annual compliance reports in accordance with the provisions of the LCFS regulation, will not trigger enforcement actions. Instead, ARB will focus its enforcement actions on regulated parties that fail to make reasonable, good-faith efforts to meet the reporting requirements in 2011. Put another way, ARB will pursue enforcement actions and penalties only for materially egregious violations, such as willful or persistent disregard of material reporting requirements or material non-compliance with the other provisions of the LCFS regulation, taking into account reasonable, good-faith efforts a regulated party takes to comply.

Examples of substantial non-compliance include, but are not limited to:

- Completely or substantially ignoring the requirement, or otherwise failing, to electronically report the information specified in the regulation by the applicable due date without a demonstration to the written satisfaction of the Executive Officer that the failure was beyond the regulated party's reasonable control (e.g., failure to report was due to the LRT system being non-operational or inaccessible for more than a week);
- Repeated failures to submit the required reports or to submit them in a timely fashion;
- Reporting patently false or misleading information (e.g., reporting another regulated party's name as your own, reporting credits as having been generated based on the purchase of low carbon intensity fuel/blendstock when no such purchase occurred); and
- Omitting substantial and material information in the electronic reporting, including omitting CI values (i.e., because this Advisory 10-04 provides default "catch-all" CI values for ethanol and high-carbon intensity crude oils, there will be no reasonable basis for omitting a CI value in a submitted report).

Examples of substantial compliance include, but are not limited to:

- Submitting in good faith all or most of the material information specified in the reporting provisions of the LCFS regulation, but the submittal contains errors that are of a typographical, transpositional, spelling, or similar nature and determined by the Executive Officer to be inadvertent and reasonable under the circumstances; and
- Submitting in good faith a complete electronic report late, but the date of actual submittal is within 5 business days of the deadline specified in the regulation; the regulated party notified ARB staff in writing (e.g., email) before the deadline that it would be late with its submittal; and the lateness is due to an inadvertent and reasonable failure (e.g., the party's computer system that holds the information required by the LCFS regulation failed just before the deadline, the person(s) who is registered with the LRT system as that party's designated contact person(s) was unavailable to electronically submit the report due to sickness or death, etc.); and
- Submitting in good faith based on the written LCFS regulation, regulatory advisories, and guidance documents as of the time of the reported transactions. Subsequent regulatory advisories, rule changes, and guidance documents will not be enforced retroactively, except as otherwise noted in those subsequent documents.

In determining whether a regulated party failed to make reasonable, good-faith efforts to comply with the LCFS requirements or, conversely, whether a regulated party committed a willful, intentional, or materially egregious violation, ARB will consider the totality of the circumstances based on information provided by the regulated party and any other available information.

#### **Current Action: Use of Generic CI Value for Ethanol**

Typically, a regulated party that purchases ethanol for fuel blending would be provided with documentation on the carbon intensity of that ethanol. However, there may be situations in 2011 where a regulated party is in a position to purchase ethanol for which the CI is indeterminate and incapable of being reasonably determined. In such cases, we will administratively allow the regulated party for that ethanol to use the CI value of 99.40 g CO<sub>2</sub>e per megajoule (MJ), which is the default CI value for ethanol in the Lookup Table in section 95486(b). For purposes of this Advisory 10-04, the ethanol's CI is "incapable of being reasonably determined" when the production facility for the ethanol cannot reasonably be identified with certainty through CARB's list of registered biofuel facilities, product transfer documents, invoices, or other available documentation or information.

#### **Current Action: Use of Draft CI Values for Pathways Reviewed and Posted by ARB Staff Prior to Formal Rulemaking Adoption**

Because time is a consideration when regulated parties contract for the purchase of fuels and blendstocks, we will administratively allow regulated parties to use, for reporting and credit generation purposes, a draft CI value for a pathway that has been evaluated by ARB staff and posted on ARB's web site for public review prior to the start of a 45-day comment period that initiates a formal rulemaking to adopt and incorporate the proposed CI value into the LCFS regulation. In the event a CI value is posted by ARB staff for public review and is subsequently modified in the course of the rulemaking, regulated parties must use for all purposes the final adopted CI value no later than six months after the effective date of adoption of the CI value. In the event a proposed CI value is posted by ARB staff and subsequently disapproved in the course of the rulemaking, regulated parties using that proposed CI value must cease using that CI value for all purposes no later than six months after the effective date of the disapproval. We will not require any retroactive adjustment of reports and credits that are based on the draft CI value posted by ARB staff that was either modified or disapproved in the course of the rulemaking.

#### **Current Action: Use of Interim CI Value for Fuels/Blendstocks Derived from Potentially High Carbon-Intensity Crude Oils**

A screening method is currently under development by ARB staff to assist regulated parties to better identify high carbon intensity crude oils (HCICO). In the interim, we will take the following administrative actions for HCICO or potentially HCICO feedstocks (for purposes of this Advisory 10-04, we will refer to these collectively as "HCICO"):

1. For any HCICO purchased under contract that is executed by June 30, 2011, the regulated party may continue to use the CI value for gasoline (95.86 g CO<sub>2</sub>e/MJ) or diesel fuel (94.71 g CO<sub>2</sub>e/MJ) in the Lookup Table, whichever applies provided the crude oil is delivered to California no later than September 30, 2011.
2. For any HCICO purchased under contract that is executed after July 1, 2011, or for any HCICO delivered to California after September 30, 2011, a regulated party must use whatever CI value is most applicable and established at that time for HCICO in the Lookup Table or, if no HCICO CI values are established in the Lookup Table, use a CI value that is determined as specified in section 95486(b)(2)(A)2. We will not require any retroactive adjustment of reports and calculations that are based on the interim CI values used during the interim period above; and
3. Pursuant to Resolution 10-49, ARB staff will continue to work with stakeholders to develop guidelines addressing the generation and banking of credits during 2011, as potentially affected by crude oil purchases that are not part of the 2006 baseline. These guidelines will be promulgated as an amendment to this Regulatory Advisory (10-4).

#### **Current Action: Miscellaneous**

As noted in prior advisories 10-02 and 10-03, we will not enforce the Renewable Identification Numbers (RIN) reporting requirement in section 95484(c)(3)(A)4., and staff will be proposing regulatory changes to codify this in a future rulemaking.

## FOR MORE INFORMATION

Currently, the LRT can be accessed at <https://ssl.arb.ca.gov/LCFSRT>, as specified in a listserv announcement on September 2, 2010. Other LRT-related materials can be accessed at: <http://www.arb.ca.gov/fuels/lcfs/workgroups/workgroups.htm>. The final regulation order and other rulemaking documents can be found in the LCFS rulemaking website at: <http://www.arb.ca.gov/regact/2009/lcfs09/lcfscombfinal.pdf>. For any questions regarding this advisory, please contact Mr. Floyd Vergara, Manager, Industrial Section at (916) 327-5986 or via email at [fvergara@arb.ca.gov](mailto:fvergara@arb.ca.gov), or Ms. Renee Littaua, Manager, Fuels Section at (916) 322-6019 or via email at [rlittaua@arb.ca.gov](mailto:rlittaua@arb.ca.gov). If this document is needed in an alternate format or language, please contact Ms. Michelle Buffington at (916) 324-0368 or [mbuffing@arb.ca.gov](mailto:mbuffing@arb.ca.gov). TTY/TDD/Speech to Speech users may dial 711 for the California Relay Service.





# **Regulatory Advisory**

**September 2010**



## **Low Carbon Fuel Standard Regulatory Advisory: 10-03**

### **Optional Reporting of First and Second Quarter 2010 Reports, Limited Enforcement of Third and Fourth Quarter 2010 Reports, and Related Items**

#### **SCOPE**

*The Air Resources Board (ARB) is issuing a Regulatory Advisory today, 10-03, which replaces the September 30, 2010 reporting deadline specified in Low Carbon Fuel Standard (LCFS) Regulatory Advisory 10-02, as well as provides additional guidance on related items noted in Regulatory Advisory 10-02. This Regulatory Advisory 10-03 will remain in effect through April 30, 2011, or a later date as specified in a subsequent ARB advisory or notice.*

#### **BACKGROUND**

On November 25, 2009, the ARB adopted the LCFS regulation pursuant to the California Global Warming Solutions Act of 2006. The regulation became effective on January 12, 2010, and was codified at title 17, California Code of Regulations, sections 95480-95490. Additional provisions became effective on April 15, 2010, and were codified in the same sections. The combined final regulation order can be found at: <http://www.arb.ca.gov/regact/2009/lcfs09/lcfscombofinal.pdf>. The LCFS will reduce greenhouse gas (GHG) emissions by reducing the carbon intensity of transportation fuels used in California by an average of 10 percent by the year 2020. Carbon intensity is a measure of the GHG emissions associated with the combination of all of the steps in the "lifecycle" of a transportation fuel. While carbon intensity (CI) standards are not applicable in 2010 (the first year of the regulation), compliance with the reporting and recordkeeping requirements is required for all years, including 2010.

#### **DEFINITIONS**

For purposes of this Regulatory Advisory, "we" means ARB, the Board, or ARB staff. Also, "this advisory period" means the period during which this Regulatory Advisory will remain in effect, which is through April 30, 2011 or a later date as specified in a subsequent ARB advisory or notice. Unless otherwise stated, all references to "section" are to the LCFS regulation.

#### **ELECTRONIC REPORTING REQUIREMENT**

As described below, we are administratively treating 2010 as a year in which regulated parties have the opportunity to become familiar with the electronic reporting tool that ARB staff has developed to assist regulated parties with the electronic submittal of their 2010 quarterly reports. The requirement that regulated parties submit the first quarter (Q1) and second quarter (Q2) 2010 reports will not be enforced, and while third quarter (Q3) and fourth quarter (Q4) 2010 reports and the annual compliance 2010 report are being required, any enforcement will be limited to timeliness requirements. By contrast, 2011 will be treated as a full compliance year, and all requirements, including but not limited to timeliness, accuracy and completeness, will be enforced for all quarter and annual compliance reports for 2011.

#### **Current Action: Submittal of 2010 Q1 and Q2 Reports Is Recommended But Optional**

Since the issuance of the first and second LCFS advisories, the beta version of the Reporting Tool has been released for regulated parties to become familiar with the Reporting Tool ("LCFS RT Test Release Version 1.0" or simply "beta version"). At this time, the beta version is designed for acceptance testing but not for actual submittal of quarterly reports to ARB. Accordingly, the most important objective for the beta version LRT at this time is to encourage all regulated parties to register online and access the beta version and use it on a trial basis before 2011 to become familiar with all its features and identify any questions users may have that need to be addressed. Therefore, we are administratively taking the following actions:

- The Q1 and Q2 reports are no longer mandatory and no longer due September 30, 2010. Nonetheless, ARB highly encourages regulated parties to take the opportunity to use the LRT beta version and voluntarily submit their Q1 and Q2 reports. Actual electronic submittal of reports for these quarters is recommended but optional. The voluntary submittal of these reports will help ARB determine the progress of fuel producers, importers, and other providers are making toward meeting the 2011 requirements and will help ARB determine steps that may be needed to help facilitate further progress. Q1 and Q2 reports that are submitted will not be subject to enforcement actions for lack of timeliness, completeness, or accuracy, at any point in the future (i.e., ARB will not enforce 2010 Q1 and Q2 reports retroactively).

#### **Current Action: Timely Submittals of 2010 Q3 and Q4 Reports and Annual Compliance Report Are Required**

Because we expect the LRT beta version will achieve operational status in Fall 2010, the regulation's reporting dates for the Q3 and Q4 reports remain in effect and are unaffected by this Regulatory Advisory 10-03; Q3 and Q4 reports therefore remain due November 30, 2010, and February 28, 2011, respectively. Further, the 2010 annual compliance report remains due April 30, 2011. However, like the Q1 and Q2 reports, the Q3 and Q4 reports and the 2010 annual compliance report will not be subject to enforcement actions for lack of accuracy or completeness. Also, ARB will not enforce 2010 Q3 and Q4 reports and the 2010 annual compliance report retroactively for lack of accuracy or completeness. Again, the emphasis here is on regulated parties using the LRT beta version for their Q3 and Q4 Reports, with the added emphasis for Q3 and Q4 reports on their timely submittals.

#### **Current Action: Timely, Complete and Accurate Submittal Is Required for 2011 Quarterly and Annual Reports**

Because we expect the LRT will be fully operational before the end of 2010, this Regulatory Advisory does not affect any of the submittal deadlines in 2011, and all 2011 quarterly and annual compliance reports will be subject to enforcement action for their timeliness, completeness, accuracy, and any other applicable requirements specified in the regulation.

#### **Current Action: Extension of Actions Taken in Regulatory Advisory 10-02**

For purposes of this advisory, the following actions noted in LCFS Regulatory Advisory 10-02 remain in effect through this advisory period or as otherwise noted below ("no change" means the action taken in Regulatory Advisory 10-02 for that item has not changed except as noted):

- Reporting of Renewable Identification Numbers (RINs) – no change;
- Reporting of Interim Carbon Intensity Values – no change;
- Interim Reporting of Physical Pathway Information – no change;
- Retroactive Correction or Adjustments of 2010 Q1 or Q2 Reported Values – no change;
- High Carbon-Intensity Crude Oils (HCICO) – no change except that the submittal of carbon intensity values of fuels or blendstocks derived from HCICO will be treated as described above for other data contained in the 2010 quarterly and annual compliance reports. Further, the "supporting records and documentation needed to make the carbon intensity determination" for HCICO-derived fuels or blendstocks are no longer required to be submitted to ARB by September 30, 2010. Instead, the Executive Officer may request such records be submitted to ARB as provided in section 95484(d).

#### **FOR MORE INFORMATION**

Currently, the LRT beta version itself can be accessed at <https://ssl.arb.ca.gov/LCFSRTUAT/>, as specified in a listserv announcement on September 2, 2010. However, this site is likely to change when the LRT is released in final form. Other LRT-related materials can be accessed at: <http://www.arb.ca.gov/fuels/lcfs/workgroups/workgroups.htm>. The final regulation order and other rulemaking documents can be found in the LCFS rulemaking website at: <http://www.arb.ca.gov/regact/2009/lcfs09/lcfscombofinal.pdf>. For any questions regarding this advisory, please contact Mr. Floyd Vergara, Manager, Industrial Section at (916) 327-5986 or via email at [fvergara@arb.ca.gov](mailto:fvergara@arb.ca.gov), or Ms. Renee Littaua, Manager, Fuels Section at (916) 322-6019 or via email at [rlittaua@arb.ca.gov](mailto:rlittaua@arb.ca.gov). If this document is needed in an alternate format or language, please contact Ms. Michelle Buffington at (916) 324-0368 or [mbuffing@arb.ca.gov](mailto:mbuffing@arb.ca.gov). TTY/TDD/Speech to Speech users may dial 711 for the California Relay Service.



# **Regulatory Advisory**

July 2010



## **Low Carbon Fuel Standard Regulatory Advisory: 10-02**

### **Additional Administrative Extension to September 30, 2010 and Other Items Related to the Electronic Reporting Requirements**

#### **SCOPE**

*The Air Resources Board (ARB) is issuing a Regulatory Advisory today, 10-02, which replaces the Low Carbon Fuel Standard (LCFS) Reporting Advisory 10-01 (Reporting Advisory 10-01) in its entirety. Please discard LCFS Reporting Advisory 10-01; it is out of date. This Regulatory Advisory 10-02 will remain in effect through September 30, 2010 or a later date as specified in a subsequent ARB advisory or notice.*

#### **BACKGROUND**

On November 25, 2009, the ARB adopted the LCFS regulation pursuant to the California Global Warming Solutions Act of 2006. The regulation became effective on January 12, 2010 and was codified at title 17, California Code of Regulations, sections 95480-95490. Additional provisions became effective on April 15, 2010 and were codified in the same sections. The combined final regulation order can be found at: <http://www.arb.ca.gov/regact/2009/lcfs09/lcfscombofinal.pdf>. The LCFS will reduce greenhouse gas (GHG) emissions by reducing the carbon intensity of transportation fuels used in California by an average of 10 percent by the year 2020. Carbon intensity is a measure of the GHG emissions associated with the combination of all of the steps in the "lifecycle" of a transportation fuel. While carbon intensity (CI) standards are not enforced in 2010 (the first year of the regulation), compliance with the reporting and recordkeeping requirements is required for all years, including 2010.

#### **DEFINITIONS**

For purposes of this Regulatory Advisory, "we" means ARB, the Board, or ARB staff. Also, "this advisory period" means the period during which this Regulatory Advisory will remain in effect, which is through September 30, 2010 or a later date as specified in a subsequent ARB advisory or notice. Unless otherwise stated, all references to "section" are to the LCFS regulation.

#### **ELECTRONIC REPORTING REQUIREMENT**

##### **Current Action: Administrative Extension of Electronic Reporting Requirements to September 30, 2010**

Starting in 2010, the LCFS regulation requires regulated parties to submit quarterly progress reports. The first 2010 quarterly report, covering the calendar quarter from January through March, was due on May 31, 2010. Quarterly progress reports are to be submitted using an interactive, internet web-based form for use in reporting the information specified in section 95484(c) of the LCFS regulation and other required data. To facilitate the orderly, effective, and complete reporting by all regulated parties, ARB contracted for the development of an interactive web-based LCFS Reporting Tool (Reporting Tool or LRT), which was expected to be released for beta testing in mid-March 2010. Based on the anticipated release of the Reporting Tool, we administratively extended the May 31, 2010 reporting deadline to June 30, 2010, in Reporting Advisory 10-01.

Since the issuance of the first reporting advisory, contracting delays now require additional time to finalize the Reporting Tool and for regulated parties to become familiar with the Reporting Tool. The contract has been initiated and we anticipate the Reporting Tool and supporting documentation to be released in August 2010 for beta testing, with a final rollout expected on or about August 31, 2010, the deadline for the 2nd-quarter report submission. Therefore, we are administratively providing a further extension to September 30, 2010 for both 1st-quarter and 2nd-quarter electronic reports, as explained below.

To ensure that regulated parties have sufficient time and opportunity to become familiar with the Reporting Tool when it is finalized and to use it to submit their reports, we will administratively delay enforcement of the May 31, 2010 and August 31, 2010 deadlines for electronically submitting the 1st and 2nd quarterly reports of 2010, respectively, as follows:

- Both the 1st-quarter and 2nd-quarter reports that were due May 31, 2010 and August 31, 2010, respectively, under section 95484(c)(1)(A) of the regulation will now be due September 30, 2010. ARB will not enforce the May 31, 2010 and August 31, 2010 deadlines for electronic reporting until after September 30, 2010.
- It remains ARB's intent that, as of the OAL approval date, regulated parties are required to maintain and keep records containing the information specified in section 95484(c), including the interim carbon intensity values discussed in "Current Action: Reporting of 'Interim' Carbon Intensity Values" below, and provide these records to the Executive Officer upon request or as otherwise provided in the LCFS regulation. The OAL approval date applicable for all fuels was January 12, 2010, except for biodiesel and renewable diesel made from Midwest soybean, for which the OAL approval date was April 15, 2010. The ARB will consider enforcement action for failure to maintain and keep such records after the applicable OAL approval date, irrespective of the Reporting Tool's completion in 2010.

#### **Current Action: Reporting of Renewable Identification Numbers (RIN)**

In Reporting Advisory 10-01, we stated that, as part of the quarterly reporting requirements for gasoline and diesel fuel, regulated parties must report federal "Renewable Identification Numbers" (RIN) that are retired for facilities in California. ARB staff has subsequently determined that this requirement is of limited utility. We will therefore not enforce the RIN reporting requirement, and staff will be proposing regulatory changes to codify this in a future rulemaking.

#### **Current Action: Reporting of "Interim" Carbon Intensity Values**

In Reporting Advisory 10-01, ARB staff noted that it intended to release additional guidance on the use of default values, technical calculations or other interim methods for deriving certain values to be reported as one of the fields set forth in Table 3 of section 95484(c). We have since developed guidance on two interim values, as follows:

- 96 – interim CI reporting value for gasoline replacements when CI is unknown, and
- 95 – interim CI reporting value for diesel replacements when CI is unknown.

The interim values noted above may be used for first, second, and third quarter reporting in 2010.

#### **Current Action: Interim Reporting of Physical Pathway Information**

Interim guidance was also developed for the reporting of physical pathway information. In the Reporting Tool, regulated parties will be asked to choose an appropriate "Physical Pathway" code (e.g., "PHY01" denotes "Fuel produced in California"). We have received comments from some stakeholders that obtaining physical pathway information has been problematic under certain circumstances. To address this concern, we will administratively permit, during this advisory period, regulated parties to select in the Reporting Tool whatever physical pathway code they believe is most applicable for a given fuel or blendstock. Further, we will not enforce the initial demonstration of physical pathway requirements in section 95484(d)(2)(A) through (E) during this advisory period for any regulated party or other fuel provider, producer, or importer. This means, for example, that a corn ethanol producer does not need to meet the initial demonstration of physical pathway requirements in order for one of its customers (e.g., a gasoline refiner) to use the physical pathway code previously described above to denote the corn ethanol purchased from the corn ethanol producer. In other words, during this advisory period a regulated party may use a physical pathway code provided by a fuel producer or importer, irrespective of whether that producer or importer has obtained ARB approval of its initial demonstration of physical pathway.

#### **Current Action: Retroactive Correction or Adjustments of 2010 1st-Quarter or 2nd-Quarter Reported Values**

ARB will not retroactively enforce the accuracy of any value, calculated result, or any other information contained in the 2010 1st-quarter or 2nd-quarter reports submitted prior to the expiration of this advisory period. For example, a regulated party is not required to adjust, replace or otherwise revisit an interim value reported as part of its 1st-quarter or 2nd-quarter 2010 report or any portion of a physical pathway demonstration submitted to ARB staff before or during this

advisory period, including any value that was reported as “Unable to Determine” or “Data Unavailable” before or during this advisory period.

#### **Current Action: High Carbon-Intensity Crude Oils (HCICO)**

Regulated parties remain obligated to meet the regulatory requirements pertaining to HCICO. The regulation (section 95484(c) and 95486(b)(2)(A)) requires, among other things, a regulated party to identify, maintain records of, and report the quantities and carbon intensity of its blendstocks, including CARBOB and diesel fuel derived from HCICO. The calculation of carbon intensity, using the CA-GREET tool and other methods as provided in the regulation, is a requirement that is independent of the Reporting Tool.

Because the Lookup Tables in section 95486(b)(1) currently do not specify carbon intensity values for fuels derived from HCICO, under section 95486(b)(2)(A)2.a.ii.I-III, a regulated party of a fuel or blendstock derived from HCICO would need to propose and obtain approval for a new pathway for that fuel or blendstock. Such a new pathway would need to be supported by appropriate records and documentation, which a regulated party is required to obtain, maintain and report to the Executive Officer as provided in the regulation. Alternatively, a regulated party may request approval to use the average carbon intensity value for CARBOB, gasoline, or diesel fuel as provided in section 95486(b)(2)(A)2.a.ii.II. For either of these alternatives, ARB will not enforce the requirement to report the carbon intensity of a fuel or blendstock derived from HCICO until after September 30, 2010, provided the regulated party has collected and provided to ARB by September 30, 2010 the supporting records and documentation needed to make the carbon intensity determination. Also, ARB will not require that Method 2B applications for new pathways of HCICO-derived fuels or blendstocks be approved by September 30, 2010. See 95486(b)(2)(A)2.a.ii.I-III for the exact regulatory provisions.

With regard to identifying crudes that fall within the “2006 California baseline crude mix,” affected regulated parties will need to review their records to determine whether the fuel or blendstock they are reporting for a given compliance period was derived from crudes that meet the definition of “2006 California baseline crude mix” or otherwise does not fall within the definition of “high carbon-intensity crude oil,” both of which are specified in section 95486(b)(2)(A).

#### **FOR MORE INFORMATION**

The final regulation order and other rulemaking documents can be found in the LCFS rulemaking website at: <http://www.arb.ca.gov/regact/2009/lcfs09/lcfscombofinal.pdf>. For any questions regarding this advisory, please contact Mr. Floyd Vergara, Manager, Industrial Section at (916) 327-5986 or via email at [fvergara@arb.ca.gov](mailto:fvergara@arb.ca.gov), or Ms. Renee Littaua, Manager, Fuels Section at (916) 322-6019 or via email at [rlittaua@arb.ca.gov](mailto:rlittaua@arb.ca.gov). If this document is needed in an alternate format or language, please contact Ms. Manisha Singh at (916) 323-0014 or [mansingh@arb.ca.gov](mailto:mansingh@arb.ca.gov). TTY/TDD/Speech to Speech users may dial 711 for the California Relay Service.