State of California
AIR RESOURCES BOARD

Second Notice of Public Availability of Modified Text

PROPOSED RE-ADOPTION OF THE LOW CARBON FUEL STANDARD

Public Hearing Date: February 19, 2015
First Public Availability Date: June 4, 2015
Deadline for First Public Comment: June 19, 2015
Second Public Availability Date: June 23, 2015
Deadline for Second Public Comment: July 8, 2015

At its February 19, 2015, public hearing, the Air Resources Board (ARB or Board) considered staff's proposed sections 95480, 95481, 95482, 95483, 95483.1, 95483.2, 95484, 95485, 95486, 95487, 95488, 95489, 95490, 95491, 95492, 95493, 95494, 95495, 95496, and 95497, Title 17, California Code of Regulations (CCR) to reduce the carbon intensity (CI) of transportation fuels used in California by at least 10 percent by the year 2020. In addition to substantially reducing greenhouse gas emissions from transportation fuels, the Low Carbon Fuel Standard (LCFS) is expected to help diversify the transportation fuels market in California, thereby cutting petroleum dependency and creating a sustainable and growing market for cleaner fuels.[1] The proposed action includes repeal of the existing LCFS regulation (CCR, title 17, sections 95480-95490) in its entirety.

The Board directed the Executive Officer to determine whether additional conforming modifications to the regulation were appropriate and to make any proposed modified regulatory language available for public comment, with any additional supporting documents and information, for a period of at least 15 days in accordance with Government Code section 11346.8. The Board further directed the Executive Officer to consider written comments submitted during the public review period and make any further modifications that are appropriate available for public comment for at least 15 days. The Executive Officer was directed to evaluate all comments received during the public comment periods, including comments raising significant environmental issues, and prepare written responses to such comments as required by ARB's certified regulations at California Code of Regulations, title 17, sections 60000-60007 and Government Code section 11346.9(a). The Executive Officer was further directed to present to the Board, at a subsequently scheduled public hearing, staff's written responses to environmental comments and the final environmental analysis for consideration for approval, along with the finalized regulation for consideration for adoption.

---

[1] Governor's White Paper, *The Role of a Low Carbon Fuel Standard in Reducing Greenhouse Gas Emissions and Protecting Our Economy*, http://www.arb.ca.gov/fuels/lcfs/lcfs_wp.pdf.

Staff released the first "Notice of Public Availability of Modified Text and Availability of Additional Documents and Information" on June 4, 2015 (the June 4th Notice). The public comment period ended on June 19, 2015.

The resolution and all other regulatory documents for this rulemaking are available online at the following ARB website:

http://www.arb.ca.gov/regact/2015/lcfs2015/lcfs2015.htm

The text of the modified regulatory language is shown in Attachment A. The originally proposed regulatory language is shown in ~~strikethrough~~ to indicate deletions. In the originally proposed regulatory language, regular text indicates additions for readability. Deletions and additions to the proposed language that are made public with the June 4th Notice are shown in ~~double strikethrough~~ and double underline format, respectively. Deletions and additions to the proposed language that are made public with this notice are shown in **~~bold double strikethrough~~** and **bold double underline** format, respectively

In the Final Statement of Reasons, staff will respond to comments received on the record during the comment periods. The Administrative Procedure Act requires that staff respond to comments received regarding all changes that are noticed. Therefore, staff will address only comments received during this second 15-day comment period that are responsive to this notice or the changes detailed in Attachment A.

Summary of Proposed Modifications

1. In section 95481, the definition of "Aggregation Indicator" has been modified to "Aggregated Transaction Indicator" for clarity and consistency throughout the regulation.

2. In sections 95483(e)(7) and 94591(a)(3)(D)7., staff is proposing to allow electric forklift fleet operators to opt-in to the LCFS and generate credits. Under the current regulation, the Electrical Distribution Utility is the only party that is allowed to generate LCFS credits for electrical forklifts. To encourage technology innovations and foster capital investments in electric forklifts, staff is proposing this change.

3. In section 95488, staff is proposing a streamlined recertification process by which "legacy pathways" certified under prior versions of the LCFS regulation could be recertified, pursuant to the proposed regulation, by ARB staff using the CA-GREET 2.0 model. The goal of these changes is to minimize disruption of credit generation in the program due to the move from CA-GREET 1.8b to CA-GREET 2.0.

   The program currently has over 270 Method 2 legacy pathways, including pathways posted as recently as May of 2015. During the first 15-day comment

period stakeholders requested additional clarity on the fate of these existing pathways.

For many of these pathways ARB staff already has all of the information needed to conduct recertification without any submission of additional data by the applicant, and an abbreviated pathway re-certification process is appropriate. Under the proposed changes, ARB staff could request additional information if required.

4. In section 95488(c)(3)(A)3. and 95488(c)(4)(I)3., staff is proposing to add receipts or invoices for "energy consumption" to the list of materials that may be checked by third-party auditors. This category was inadvertently omitted in prior text.

5. In section 95486(a)(2), section 95488(d)(1) and section 95488(d)(2), staff is proposing to remove limitations on the sale or transfer of credits generated under temporary pathway codes and provisional pathways. Stakeholders commented that these limitations created a barrier to project financing for low carbon fuel production.

6. In section 95488(d)(2) and section 95495, modifications were made to clarify the Executive Officer's authority to revoke or adjust the number of credits issued under a provisional CI at any time and without undertaking the process described in section 95495.

7. In addition to the modifications described above, additional modifications correcting grammar, punctuation and spelling have been made throughout the proposed changes. These changes are nonsubstative.

These modifications do not change implementation of the regulation or the environmental setting in any way that affects the conclusions of the draft environmental analysis that was prepared for the proposed LCFS and ADF regulations. The modifications consist primarily of clarifications and limited substantive changes. Those changes relate primarily to ARB's administration of the proposed program, and will not substantially alter the compliance response to the proposed regulations. ARB staff anticipates changes to the environmental analysis to clarify and amplify the draft analysis, but does not anticipate revising the conclusions in its draft environmental analysis or recirculating the analysis for further public comment before the Board considers approving the analysis.

Agency Contacts

Inquiries concerning the substance of the proposed regulation may be directed to Samuel Wade, Branch Chief, Transportation Fuels Branch, at (916) 322-8263, or Katrina Sideco, Air Resources Engineer, at (916) 323-1082.

Public Comments

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

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

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

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

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

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

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

CALIFORNIA AIR RESOURCES BOARD

Richard W. Corey
Executive Officer

Date: June 23, 2015

Attachments

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