

Overview of the Peer Reviews on the Proposed Low Carbon Fuel Standard

On April 12, 2009, the Air Resources Board (ARB) received the final of four peer review comments on the proposed Low Carbon Fuel Standard (LCFS). These peer reviews were solicited to comply with Health and Safety Code section 57004 and to help inform ARB's analysis of the LCFS. Today, we are posting these comments on a webpage specific to the LCFS peer review (<http://www.arb.ca.gov/fuels/lcfs/peerreview/peerreview.htm>), as well as the formal rulemaking webpage containing the Board Meeting Comments Log for the LCFS (<http://www.arb.ca.gov/lispub/comm/bccommlog.php?listname=lcfs09>). The peer reviews will be included in the formal rulemaking record.

We are also posting two memoranda between ARB staff and staff of the State Water Resources Control Board (SWRCB), who served as the intermediary between ARB and the peer reviewers to ensure their independence. The request memorandum describes the elements of the LCFS proposal for which scientific peer review was requested and identifies the scientific issues for the reviewers to address (<http://www.arb.ca.gov/fuels/lcfs/peerreview/request.pdf>). The approval memorandum identifies the four reviewers and specifies additional guidance that was sent to the reviewers on the nature and scope of the requested review (<http://www.arb.ca.gov/fuels/lcfs/peer/approval.pdf>).¹ Both the request memorandum and supplemental guidance (<http://www.arb.ca.gov/fuels/lcfs/peerreview/supguidance.pdf>) were forwarded by SWRCB staff to each peer reviewer before the reviews began.

The purpose of the review was to gain expert analyses of the scientific portions of the proposed rule and to obtain the reviewers' assessment on whether ARB has demonstrated that the scientific portions of the rule are based upon sound scientific knowledge, methods, and practices. Each review was performed independently of the other reviews and without interaction with any ARB staff or other significant contributors to the proposed regulations. The comments are those of each individual reviewer; therefore, the comments do not represent a consensus of the reviewers.

Under Health and Safety Code section 57004(d)(2), ARB may accept the findings of the reviews in whole or part, and may revise the proposed rule to reflect the peer review comments. If ARB disagrees with any aspect of the reviews concerning the scientific validity of the proposed regulations, it must explain its reasoning and include this explanation in the rulemaking record.

ARB staff has conducted a preliminary evaluation of each of the four reviews, and we have, where appropriate, sought clarification from the reviewers. A number of comments identify questions or issues that one or more reviewers suggest be further addressed in order to clarify or improve the report. ARB staff is preparing a point-by-point discussion of and response to each of the comments and suggestions, and we will include this discussion in the final rulemaking record for this item. We will make appropriate technical changes to the report or add supplemental technical material to the rulemaking record as necessary. However, based on our review of the comments, staff believes that none of the comments require major modifications to either the proposed rule or the analysis used to support the proposal.

¹ The additional guidance supplements the overall guidance, "Cal/EPA External Scientific Peer Review Guidelines," (Guidelines) which was forwarded to the peer reviewers prior to the start of their reviews. The Guidelines are set forth in Exhibit F (http://www.arb.ca.gov/fuels/lcfs/peerreview/exhib_f.pdf) of the Interagency Agreement between Cal/EPA and the University of California, Berkeley, which governs the overall peer review process (<http://www.arb.ca.gov/fuels/lcfs/peerreview/agreement.pdf>).