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

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

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

WHEREAS, section 38580 of the Health and Safety Code requires the Board to monitor compliance with and enforce any rule, regulation, order, emission limitation, emissions reduction measure, or market-based compliance mechanism adopted by CARB pursuant to Division 25.5;

WHEREAS, section 41510 of the Health and Safety Code authorizes the Executive Officer of CARB to have the right of entry to any premises on which an air pollution emission source is located for the purpose of inspecting such source, including securing samples of emissions, or any records required to be maintained in connection by CARB;

WHEREAS, section 41511 of the Health and Safety Code authorizes CARB to adopt rules and regulations to require the owner or operator of any air pollution emission source to take reasonable actions for the determination of the amount of such emission from such source;

WHEREAS, the Board approved a list of early GHG actions at its June 21, 2007, hearing and approved additions to the list at its October 25, 2007, hearing, and a subset of nine of these early actions were designated as Discrete Early Action Measures,
including the "Low Carbon Fuel Standard" (LCFS) measure to reduce GHG emissions from transportation fuels used in California;

WHEREAS, after several years of development in close consultation with stakeholders and in consideration of public comments received, the Board approved at its April 2009 hearing the LCFS regulation in Resolution 09-31, and the regulation became effective on April 15, 2010;

WHEREAS, the Board approved amendments to the LCFS in December 2011, which became effective on November 26, 2012;

WHEREAS, to comply with a court order and improve the LCFS regulation, on September 25, 2015, with Resolutions 15-36 and Resolution 15-41, the Board set aside the previous LCFS regulation, and adopted a new LCFS regulation, along with a companion regulation for the commercialization of alternative diesel fuels (ADF regulation) designed to, among other things, ensure long term mitigation of any potential NOx emissions increases that might otherwise result from increased use of alternative diesel fuels;

WHEREAS, on September 25, 2015, the Board approved Resolution 15-51, thereby certifying the Final Environmental Analysis for the Low Carbon Fuel Standard and Alternative Diesel Fuel Regulations and approving the responses to comments;

WHEREAS, in 2016, the California legislature adopted Senate Bill 32, codifying a statewide GHG reduction target of at least 40 percent below 1990 levels by 2030;

WHEREAS, in December 2017, the Board adopted California's 2017 Climate Change Scoping Plan, which listed increased LCFS targets among the suite of measures recommended to meet the State's greenhouse gas emissions and air quality goals and enable long-term decarbonization of the transportation sector;

WHEREAS, the Governor of the State of California, in Executive Order B-48-18, established a goal to put at least 5 million zero-emission vehicles on California roads by 2030 and directed CARB staff to recommend ways to expand zero-emission vehicle infrastructure through the LCFS;

WHEREAS, the Board heard a report from program staff at its June 2017 hearing on the progress of the LCFS program against the program targets; ultra-low carbon fuel availability to achieve the standards; and program benefits provided by credits for producing crudes by innovative methods, low-complexity/low-energy-use refineries, refinery investments, renewable hydroge for refineries, and incremental deficits that result from increases in carbon intensity of crude oil;

WHEREAS, with Resolution 18-34 the Board approved amendments to the LCFS in September 2018, which became effective on January 4, 2019;
WHEREAS, the current LCFS regulation is published at sections 95480, 95481, 95482, 95483, 95483.1, 95483.2, 95483.3, 95484, 95485, 95486, 95486.1, 95486.2, 95487, 95488, 95488.1, 95488.2, 95488.3, 95488.4, 95488.5, 95488.6, 95488.7, 95488.8, 95488.9, 95488.10, 95489, 95490, 95491, 95491.1, 95492, 95493, 95494, 95495, 95496, and 95497, 95498, 95499, 95500, 95501, 95502, 95503 of Title 17, California Code of Regulations;

WHEREAS, Resolution 18-34 directed the Executive Officer to monitor the cost containment provisions of the LCFS, including the Credit Clearance Market, and to propose technical adjustments through future rulemaking if needed to further strengthen the cost containment features of the program;

WHEREAS, Resolution 18-34 further directed the Executive Officer work with stakeholders to establish an equity based framework for the possible uses of base credit value from residential charging, consistent with Legislative priorities;

WHEREAS, staff conducted two public workshops, in addition to numerous meetings and teleconferences held with individual stakeholders to discuss concepts for potential proposed amendments to the LCFS regulation,

WHEREAS, staff has proposed amendments to the Low Carbon Fuel Standard Regulation, as set forth in Appendix A to the Initial State of Reasons released to the public on October 1, 2019;

WHEREAS, the Initial Statement of Reasons prepared by staff presents the rationale and basis for the proposed amendments, including updates and revisions compared to the current regulations, and identifies the data, reports, and information relied upon;

WHEREAS, the Initial Statement of Reasons and proposed regulatory language were made available to the public for at least 45 days prior to the public hearing to consider the proposed regulatory action;

WHEREAS, CARB's regulatory program that involves the adoption, approval, amendment, or repeal of standards, rules, regulations, or plans has been certified by the Secretary for Natural Resources under Public Resources Code section 21080.5 of the California Environmental Quality Act (CEQA; California Code of Regulations, title 14, section 15251(d)), and CARB conducts its CEQA review according to this certified program (California Code of Regulations, title 17, sections 60000-60007);

WHEREAS, staff determined that for the proposed amendments, CARB can rely on the environmental analysis (EA) prepared under its certified regulatory program included in the Initial Statement of Reasons (ISOR) for the Proposed Amendments to the Low Carbon Fuel Standard and the Alternative Diesel Fuels Regulations, entitled Appendix D: Final Environmental Analysis Prepared for the Proposed Amendments to the Low Carbon Fuel Standard and the Alternative Diesel Fuels Regulations, dated 2018, and no additional environmental review is required because the record evidence shows that the
amendments will not result in new significant adverse environmental impacts, as described in Appendix D of the aforementioned Staff Report;

WHEREAS, a public hearing and other administrative proceedings have been held according to the provisions of Chapter 3.5 (commencing with section 11340), part 1, division 3, title 2 of the Government Code; and

WHEREAS, in consideration of the ISOR, written comments, and public testimony, and the entirety of the record, the Board finds that:

California’s transportation sector is the leading source of GHG emissions in the state, contributing almost 50 percent of the state’s annual GHG emissions;

The fuels used in cars, trucks and other transportation sources have a significant impact on GHG emissions; reducing the impact these fuels have on GHG emissions will provide important environmental and possibly economic opportunities;

The proposed regulation was developed using the best available economic and scientific information and will achieve the maximum technologically feasible and cost-effective reductions in GHG emissions from transportation fuel used in California;

The proposed regulation itself establishes no motor vehicle fuel specifications and therefore no multimedia evaluation is required under section 43830.8 of the Health and Safety Code;

The scientific basis of the LCFS regulation was peer reviewed in 2015 consistent with Health and Safety Code section 57004;

The proposed LCFS was developed in an open public process, in consultation with affected parties, through numerous public workshops, individual meetings, and other outreach efforts, and these efforts are expected to continue as the regulation is implemented and future revisions to it are considered;

No reasonable alternatives to the amendments considered to date, or that have otherwise been identified and brought to the attention of CARB, would be more effective at carrying out the purpose for which the regulation is proposed or would be as effective and less burdensome to affected entities than the proposed regulation;

The proposed amendments are consistent with CARB’s environmental justice policies and do not disproportionately impact people of any race, culture, or income; and
The proposed amendments are covered by the prior environmental analysis prepared to comply with CEQA, and no additional environmental review, or revisions to the prior environmental analysis, are required, because substantial evidence in the records shows there are no changes that will result in new significant adverse environmental impacts.

NOW, THEREFORE, BE IT RESOLVED that the proposed amendments are covered by the prior environmental analysis prepared to comply with CEQA, as identified above in the recitals, and no additional environmental review, or revisions to the prior environmental analysis, are required because substantial evidence in the records shows that the proposed amendments do not change the regulation evaluated in the prior environmental analysis in such a manner that will result in new significant adverse environmental impacts or a substantial increase in the severity of previously identified significant adverse impacts.

BE IT FURTHER RESOLVED that the Board hereby approves for adoption amendments to sections 95481, 95483, 95485, 95486.1, 95487, 95491, and 95495 of Title 17, California Code of Regulations, as set forth in Attachment A.

BE IT FURTHER RESOLVED that the Board directs the Executive Officer to determine if additional conforming modifications to the regulation are appropriate. If no additional modifications are appropriate, the Executive Officer shall take final action to adopt the regulation, as set forth in Attachment A. If the Executive Officer determines that additional conforming modifications are appropriate, the modified regulatory language shall be made available for public comment, with any additional supporting documents and information. The Executive Officer shall 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 may present the regulation to the Board for further consideration if warranted, and if not, the Executive Officer shall take final action to adopt the regulation after addressing all appropriate conforming modifications.

BE IT FURTHER RESOLVED that the adopted regulatory text may be further revised with non-substantial or grammatical changes, which will be added to the rulemaking record and indicated as such.

BE IT FURTHER RESOLVED that the Board directs the Executive Officer to finalize the Final Statement of Reasons, submit the completed rulemaking package to the Office of Administrative Law.

BE IT FURTHER RESOLVED that the Board directs the Executive Officer to continue monitoring the cost containment provisions of the Low Carbon Fuel Standard and to continue to work with stakeholders to evaluate proposals intended to further strengthen the program and, as appropriate, consider future program adjustments to ensure the long-term effectiveness of the cost-containment features and ability of regulated entities to comply, while maintaining overall emission reduction goals of the program.
BE IT FURTHER RESOLVED that the Board directs the Executive Officer to report to the Board annually on implementation of the Low Carbon Fuel Standard including program progress against targets, status of new credit generating mechanisms approved by the Board in 2018, status of the Clean Fuel Reward program, and status of the cost containment mechanism.

I hereby certify that the above is a true and correct copy of Resolution 19-27 as adopted by the California Air Resources Board.

Ryan Sakazaki, Board Clerk
Resolution 19-27

November 21, 2019

Identification of Attachments to the Board Resolution

Attachment A*: Proposed Regulation Order for the Amendments to the Low Carbon Fuel Standard Regulation, California Code of Regulations, title 17, sections 95481, 95483, 95485, 95486.1, 95487, 95491, and 95495, as set forth in Appendix A to the Initial Statement of Reasons, released October 1, 2019.

*Attachment A is NOT attached to the proposed resolution; it is simply described on this page.