

UPDATED INFORMATIVE DIGEST

AB 32 COST OF IMPLEMENTATION FEE REGULATION AND AMENDMENT TO THE EXISTING REGULATION FOR THE MANDATORY REPORTING OF GHG EMISSIONS

Sections Affected: Adoption of California Code of Regulations, title 17, new article 3, sections 95200, 95201, 95202, 95203, 95204, 95205, 95206, and 95207. Amendment to California Code of Regulations, title 17, article 2, section 95104.

Background:

AB 32 Cost of Implementation Governor Schwarzenegger signed the California Global Warming Solutions Act of 2006 (AB 32) on September 27, 2006. When the Legislature adopted AB 32, it declared that global warming poses a serious threat to the economic well-being, public health, natural resources, and the environment of California. AB 32 directed ARB to establish a statewide greenhouse gas (GHG) emissions limit for 2020 based on 1990 emissions.

AB 32 directs the Board to carry out specific tasks related to reducing GHG emissions. These tasks include monitoring GHG emissions, implementing a program of annual reporting of GHG emissions from GHG emission sources, and accounting for all GHG emissions, including emissions from all electricity generated in California or imported from other states, providing reporting tools for such data, and ensuring the sources of GHG emissions maintain records of GHG emissions.

AB 32 also specifically directed ARB to adopt a Scoping Plan by January 1, 2009, that shows how emission reductions will be achieved from significant GHG sources via regulations, market mechanisms, and other actions.

ARB's approved Climate Change Scoping Plan identifies the proposed regulation as necessary to carry out AB 32. ARB and other State agencies are developing and implementing regulations and other programs to carry out the Scoping Plan. The Scoping Plan states:

Administration, implementation, and enforcement of the emissions reduction measures contained in the Proposed Scoping Plan will require a stable and continuing source of funding. AB 32 authorizes ARB to collect fees to fund implementation of the statute. This fall ARB will initiate a rulemaking for a fee program to fund administration of the program. (Scoping Plan, page 112.)

AB 32 authorizes ARB, through Health and Safety Code section 38597, to adopt a schedule of fees to be paid by sources of GHG emissions to support the costs of carrying out AB 32. ARB staff is proposing this regulation pursuant to section 38597.

GHG Mandatory Reporting Tool ARB's Regulation for the Mandatory Reporting of GHG Emissions is set forth in California Code of Regulations, title 17, sections 95100-95133, and became effective January 2, 2009. The regulation requires specified sources of GHG emissions to report those emissions to ARB every year beginning in 2009. The reporting of GHG emissions is required by operators of cement plants, petroleum refineries, hydrogen plants, electricity generating facilities, cogeneration facilities, electricity retail providers and marketers, and other industrial facilities emitting 25,000 tonnes or more of carbon dioxide (CO₂) in a calendar year. To ensure complete and efficient reporting of required data for mandatory reporting, ARB staff contracted with an environmental consulting firm to develop a web-based reporting tool for the required data submittal. The tool, referred to as "The California GHG Reporting Tool," allows the reporting of emissions and other data in a manner that directly addresses the requirements of the Mandatory Reporting regulation. It also enables public access to verified emissions information. Information entered in the tool reflects only that information required by the Mandatory Reporting Regulation. The tool facilitates complete reporting by ensuring that collected data are consistent with the requirements of the Mandatory Reporting Regulation and provides reporters with automated quality assurance checks on data entered in the tool. All information collected through the tool is housed in a secure, password-protected database. The tool eases the administrative burden on reporters and the State by eliminating the transfer of hard-copy reports. ARB developed a comprehensive user guide and sector-specific reporting guidance documents to assist reporters in using the tool.

Description of Regulatory Action:

AB 32 Cost of Implementation

The regulation imposes fees to fund ARB's actions, as well as other State agencies' actions, associated with carrying out AB 32. The fees are based on a "common carbon cost," which represents the cost of one metric ton of carbon dioxide (MTCO₂) emissions. The regulation specifies that ARB's Executive Officer shall calculate the fees due for each fiscal year, using formulas specified in the regulation, and send the fee determination notice to fee payers no later than 30 days after the end of each calendar year. The proposed regulation imposes fees on entities in six sectors of the economy: natural gas entities, producers and importers of gasoline and diesel fuel, refineries, cement manufacturers, retail providers and marketers of imported electricity, and facilities that combust coal. Natural gas entities include public utility gas corporations, owners and operators of interstate and intrastate natural gas pipelines, and entities that consume natural gas or associated gas produced on-site that are

also subject to the Mandatory Reporting Regulation. The regulation does not apply to any of the following fuels, or to emissions related to the combustion of the following fuels: aviation gasoline, jet fuel, kerosene, liquefied petroleum gas, biodiesel, renewable diesel, residual fuel oil, propane, or any fuel exported for use outside of California. The regulation also specifies reporting and recordkeeping requirements, and requires fee-paying entities to report this information using ARB's "GHG Reporting Tool." The tool has recently been completed and will be modified to accommodate the reporting requirements of the fee regulation as well as the requirements of the Mandatory Reporting Regulation.

Amendment to the Mandatory Reporting Regulation

The Board amended California Code of Regulations, title 17, section 95104, to require entities subject to the Regulation for the Mandatory Reporting of GHG Emissions to use ARB's "GHG Reporting Tool" to electronically report the required data. The amendment applies to all entities that are currently required to report GHG emissions pursuant to the Regulation for the Mandatory Reporting of GHG Emissions.

Comparable Federal Regulations: There are no comparable federal regulations that impose fees to implement a GHG emissions reduction law, or that require the use of a reporting tool for sources of GHG emissions.