

State of California
AIR RESOURCES BOARD

Second Notice of Public Availability of Modified Text

PUBLIC HEARING TO CONSIDER PROPOSED
AMENDMENTS TO THE AB 32 COST OF IMPLEMENTATION FEE REGULATION

Public Hearing Date: October 20, 2011
First Public Availability Dates: April 2, 2012 – April 17, 2012
Second Public Availability Date: June 21, 2012
Deadline for Public Comment: July 6, 2012

At its October 20, 2011, public hearing, the Air Resources Board (ARB or Board) approved for adoption the proposed amendments to the California Code of Regulations, title 17, sections 95200 to 95205, which comprise the AB 32 Cost of Implementation Fee Regulation (Fee Regulation). The Fee Regulation imposes fees on sources of greenhouse gas emissions to carry out Assembly Bill 32 (AB 32; Stats. 2006, Chapter 488), the California Global Warming Solutions Act of 2006.

At the hearing, staff presented, and the Board approved modifications to the Fee Regulation originally proposed in the Initial Statement of Reasons released on August 31, 2011. These modifications were made available for a 15-day public comment period beginning on April 2, 2012.

The Executive Officer is proposing additional modifications to the regulatory text in this Second Notice of Public Availability of Modified Text (Second Notice). As described below, the modifications are being proposed to modify reporting deadlines for 2011 report year data and clarify that electricity imported into California is reported pursuant to the Regulation for the Mandatory Reporting of Greenhouse Gas Emissions (Mandatory Reporting Regulation).

Board Resolution 11-33 approved Sections 95200 to 95205, as modified. The resolution and all other regulatory documents for this rulemaking are available online at the following ARB website:

<http://www.arb.ca.gov/regact/2011/feereg11/feereg11.htm>

In accordance with Government Code Section 11346.8, the Board directed the Executive Officer to adopt in the California Code of Regulations, title 17, sections 95200 to 95205, after making them available to the public for comment for a period of at least fifteen days. The Board further provided that the Executive Officer shall consider such written comments as may be submitted during this period, shall make such modifications as may be appropriate in light of the comments received, and shall present the regulation to the Board for further consideration if warranted.

Summary of Proposed Modifications

1. In Section 95201, modifications were made to clarify that electricity delivered on or after January 1, 2011, is reported pursuant to Section 95103 of the Mandatory Reporting Regulation.
2. In Section 95203, modifications were made to clarify that the Electricity Fee Rate for electricity delivered in California on or after January 1, 2011, is based on data reported pursuant to Section 95103 of the Mandatory Reporting Regulation. Additionally, for specified sources that are electricity generating facilities or units, emission factors and calculation methods for report years 2011 and subsequent years are based on data reported pursuant to Section 95103 of the Mandatory Reporting Regulation. Further, Section 95203(j) was removed because multi-jurisdictional retail providers' wholesale sales delivered to a first point of delivery in California are calculated according to methods in Section 95203(f).
3. In Section 95204, modifications were made to allow affected entities to report 2011 report year data to ARB by June 30 of the following year. Additionally, modifications were made to clarify that 2012 and subsequent report year data, must be submitted to ARB no later than April 10 of the following year and each year thereafter, excluding electricity importers which must submit 2012 and subsequent report year data to ARB pursuant to Section 95103(e) of the Mandatory Reporting Regulation. Finally, modifications were made to clarify that Section 95204(d)(8) is reported pursuant to the provisions in Section 95204(c).

Written comments will only be accepted 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 oral 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 regulation shall 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 alternativo o 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.

Attachment

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.