

FINAL REGULATION ORDER

AB 32 COST OF IMPLEMENTATION FEE REGULATION

Amend title 17, California Code of Regulations, sections 95201, 95202, 95203, 95204, and 95205, to read as follows:

[Note: Amendments are shown in underline to indicate additions and ~~strikeout~~ to indicate deletions. “[No change]” indicates that regulatory language not being amended is not shown.]

SUBCHAPTER 10 CLIMATE CHANGE

Article 3: Fees

Subarticle 1: AB 32 Cost of Implementation Fee Regulation

§ 95201. Applicability.

(a) This subarticle applies to the following entities. The terms used below are defined in section 95202.

(1) *Natural Gas Utilities, Users, and Pipeline Owners and Operators that ~~distribute~~deliver or use natural gas in California.*

(A) All public utility gas corporations and publicly owned natural gas utilities operating in California. Fees shall be paid for each therm of natural gas delivered to any end user in California, excluding natural gas delivered to electricity generating facilities.

(B) All owners and operators that are end users of natural gas received directly from interstate pipelines, except for electricity generating facilities and facilities that combust or consume less than 100,000 therms of natural gas received directly from an interstate pipeline in a reporting year. Fees shall be paid for each therm of natural gas directly ~~distributed~~delivered by interstate pipelines.

(C) All owners or operators of interstate pipelines that are not included in subsection 95201(a)(1)(A), and that ~~distribute~~deliver natural gas directly to end users in California. These entities are included for the purposes of reporting only. Each owner or operator shall report those end users in California to which they ~~supply natural gas~~ deliver 100,000 therms of natural gas or more in a reporting year.

(D) All owners or operators of intrastate pipelines that are not included in subsection 95201(a)(1)(A), that ~~distributed~~deliver natural gas directly to end users. Fees shall be paid for each therm of natural gas ~~distributed~~delivered directly to end users, except for natural gas delivered to electricity generating facilities.

(E) - (F) [No change]

(2) - (3) [No change]

(4) *First Deliverers of Electricity.*

(A) For electricity delivered in California prior to January 1, 2011, ~~any~~Any owner or operator of an electricity generating facility in California that delivers electricity to the California transmission and distribution system, ~~or~~and any electricity importer that is the purchasing ~~or~~ selling entity that delivers electricity at its first point of delivery in California. Fees shall be paid for each megawatt-hour of net power generated by combustion of natural gas, coal or other fossil fuels (except California diesel) at an electricity generating facility in California, and reported pursuant to section 95111(a)(1)(A) ~~or 95111(a)(2)(A)~~ of the Mandatory Reporting Regulation. Fees shall also be paid for each megawatt-hour of imported electricity reported pursuant to sections 95111(b)(2)(~~B~~ and C) ~~and 95111(b)(3)(N)~~ of the Mandatory Reporting Regulation if the electricity is from either unspecified sources or specified sources that combust natural gas, coal, petroleum coke, catalyst coke, refinery gas or other fossil fuels (except California diesel).

~~(B)~~ 1. No fee shall be paid for any megawatt-hour generated at any electricity generating facility that has a nameplate generating capacity of less than one megawatt, or that emits less than 2,500 metric tons of CO₂ from electricity generating activities during the reporting year.

~~(C)~~ 2. No fee shall be paid for any megawatt-hour of electricity generated at a cogeneration facility.

(B) For electricity delivered in California on or after January 1, 2011, and reported pursuant to section 95103 of the Mandatory Reporting Regulation, any owner or operator of a grid-dedicated, stand-alone electricity generating facility in California that delivers electricity to the California transmission and distribution system, and any electricity importer that delivers electricity to a first point of delivery located in California. Fees shall be paid for each

megawatt-hour of net power generated by combustion of natural gas, coal or other fossil fuels (except California diesel) at a grid-dedicated, stand-alone electricity generating facility in California, and reported pursuant to section 95112 of the Mandatory Reporting Regulation. Fees shall also be paid for each megawatt-hour of imported electricity reported pursuant to section 95111 of the Mandatory Reporting Regulation if the electricity is from either unspecified sources or specified sources that combust natural gas, coal, or other fossil fuels (except California diesel). For multi-jurisdictional retail providers, fees shall be paid only for each megawatt-hour of wholesale sales delivered to a first point of delivery in California.

1. No fee shall be paid for any megawatt-hour generated at any electricity generating facility that emits less than 10,000 metric tons of CO₂ from electricity generating activities during the report year.

- (5) *Facilities that Combust or Consume Coal, Petroleum Coke (Fee Regulation only), Catalyst Coke (Fee Regulation only) or Refinery Fuel Gas.*

Any owner or operator of a facility in California, except for electricity generating facilities, that is subject to verification requirements in Section 95103 of the Mandatory Reporting Regulation, and combusts as fuel or consumes as feedstock any of the following substances:

- (A) Coal;
- (B) Petroleum coke (Fee Regulation only);

For coal and petroleum coke (Fee Regulation only), fees shall be paid on the annual quantity of emissions as calculated pursuant to 95203(i)(k).

- (C) Catalyst coke (Fee Regulation only); or
- (D) Refinery fuel gas.

For catalyst coke (Fee Regulation only) or refinery fuel gas, fees shall be paid on the reported emissions.

- (b) This subarticle does not apply to any of the following fuels, or to emissions resulting from combustion of any of the following fuels, unless said fuels are used at electricity generating facilities:
- (1) aviation gasoline;
 - (2) kerosene type jet fuel;
 - (3) kerosene;
 - (4) liquefied petroleum gas;
 - ~~(5) biodiesel;~~
 - ~~(6) renewable diesel;~~

- (7 5) residual fuel oil;
- (8 6) propane; or
- (9 7) any fuel exported for use outside of California.

(c) This subarticle does not apply to any of the following fuels, or to emissions resulting from combustion of any of the following fuels.

- 1. biodiesel;
- 2. renewable diesel;
- 3. biomass;
- 4. biogas; or
- 5. municipal solid waste.

(e d) The fees associated with this subarticle shall be based upon the reported data from the most recent calendar year for which the mandatory reporting data verification process is completed, except for fiscal year 2010/2011. 2008 calendar year data shall be used for fiscal year 2010/2011.

NOTE: Authority: Sections 38510, 38597, 39600 and 39601, Health and Safety Code. Reference: Sections 38501, 38505 and ~~39300~~39600, Health and Safety Code.

§ 95202. Definitions.

- (a) For the purposes of this subarticle, the following definitions shall apply:
- (1) “AB 32” means the California Global Warming Solutions Act of 2006, Assembly Bill 32, Chapter 488, Statutes of 2006, as codified in Health and Safety Code section 38500 *et seq.*
 - (2) “Acid gas reagent” means a substance used to chemically remove acid gases from industrial exhaust streams.
 - (3) “Acid gas scrubbers” mean a diverse group of air pollution control devices that can be used to remove some particulates and/or gases from industrial exhaust streams.
 - (4) “Annual” means with a frequency of once a year; unless otherwise noted, annual events, such as reporting requirements, ~~the fee payment and liability~~ will be based on the calendar year.
 - (5) “ARB” or “Board” means the California Air Resources Board.
 - (6) “Asset-controlling supplier” means any entity that owns or operates electricity generating facilities or serves as an exclusive marketer for certain generating facilities even though it does not own them, and is assigned a supplier-specific identification number and specified source emission factor by ARB for the wholesale electricity procured from its

system and imported into California. Bonneville Power Administration (BPA) is recognized by ARB as an asset-controlling supplier for its fleet of generating facilities under the provisions of subarticle 2, title 17 of the California Code of Regulations.

- (7) “Asset-owning supplier” means any entity that owns electricity generating facilities that deliver electricity to a transmission or distribution line, and is assigned a supplier-specific identification number for its fleet of generating facilities under the provisions of article 2, title 17 of the California Code of Regulations.
- (8 7) “Associated gas (Fee Regulation only)” means hydrocarbon-based gaseous a natural gas fuel produced in association with crude oil from any oil well and subsequently burned in the field as a fuel.
- (8) “Aviation gasoline” means a complex mixture of volatile hydrocarbons, with or without additives, suitably blended to be used in aviation reciprocating engines. Specifications can be found in ASTM Specification D910–07a, Standard Specification for Aviation Gasolines, which is incorporated by reference herein.
- (9) “Balancing authority” means the responsible entity that integrates resource plans ahead of time, maintains load-interchange-generation balance within a balancing authority area, and supports interconnection frequency in real time.
- (10) “Balancing authority area” means the collection of generation, transmission, and loads within the metered boundaries of a balancing authority. A balancing authority maintains load-resource balance within this area.
- (9 11) “Billing address” means the address where the party responsible for payment would receive an invoice.
- (12) “Bigeneration unit” means a unit that simultaneously generates electricity and useful thermal energy from the same fuel source but without waste heat recovery. An example of bigeneration includes a boiler generating steam that is split into two streams, and one stream powers a steam turbine to generate electricity, while the other stream is used for other industrial, commercial, or heating and cooling purposes that are not in support of or a part of the electricity generation system.
- (10 13) “Biodiesel” means a diesel fuel substitute produced from nonpetroleum renewable resources that meet the registration requirements for fuels and fuel additives established by the U.S.

Environmental Protection Agency under section 211 of the Clean Air Act. It includes biodiesel ~~that is meeting~~ all of the following:

- (A) Registered as a motor vehicle fuel or fuel additive under title 40, Code of Federal Regulations, part 79;
- (B) A mono-alkyl ester;
- (C) ~~Meets American Society for Testing and Material designation~~ ASTM D 6751-08 (*Standard Specification for Biodiesel Fuel Blendstock Blend Stock (B100) for Middle Distillate Fuels, 2008*) which is incorporated by reference herein;
- (D) Intended for use in engines that are designated to run on conventional diesel fuel; and
- (E) Derived from nonpetroleum renewable resources.

~~(14-14)~~ “Biogas” (also called biomethane) means gas that is produced from the breakdown of organic material in the absence of oxygen. Biogas is produced in processes including, but not limited to, anaerobic digestion, anaerobic decomposition, and thermo-chemical decomposition. These processes are applied to biodegradable biomass materials, such as manure, sewage, municipal solid waste, green waste, and waste from energy crops, to produce landfill gas, digester gas, and other forms of biogas.

(15) “Biomass” means non-fossilized and biodegradable organic material originating from plants, animals and micro-organisms, including products, byproducts, residues and waste from agriculture, forestry and related industries as well as the non-fossilized and biodegradable organic fractions of industrial and municipal wastes, including gases and liquids recovered from the decomposition of non-fossilized and biodegradable organic material. For the purpose of this subarticle, biomass includes both California Renewables Portfolio Standard (RPS) eligible and non-eligible biomass as defined by the California Energy Commission.

~~(12 16)~~ “Busbar” means ~~the~~ a power conduit of an facility with electricity generating ~~facility~~ units that serves as the starting point for the electricity transmission ~~and distribution~~ system.

~~(13 17)~~ “Calendar year” means the time period from January 1 through December 31.

(18) “California balancing authority” means a balancing authority with control over a balancing authority area primarily located in the State of California. A California balancing authority is responsible for the operation of the transmission grid within its metered boundaries which may extend beyond the geographical boundaries of the State of California.

(44 ~~19~~) “California gasoline” has the same meaning as defined in title 13, of the California Code of Regulations, section 2260(a).

For California gasoline,

(A) “Produce” for California gasoline has the same meaning as defined in title 13, of the California Code of Regulations, section 2260(a).

(B) “Producer” for California gasoline has the same meaning as defined in title 13, of the California Code of Regulations, section 2260(a).

(C) “Supply” for California gasoline has the same meaning as defined in title 13, of the California Code of Regulations, section 2260(a).

(D) “Importer” for California gasoline means the majority owner of the California gasoline when it first enters the sState of California. For rail cars, cargo tanks, and pipelines, it is the point where the product first crosses the California State border. For imports by marine vessel it is the point where the fuel leaves the vessel.

(E) “Import” for California gasoline means movement of California gasoline into the sState of California. For rail cars, cargo tanks, and pipelines it is when the product first crosses the California State border. For imports by marine vessel, it is the point where the fuel leaves the vessel.

(45 ~~20~~) “California reformulated gasoline blendstock for oxygenate blending,” or “CARBOB,” has the same meaning as defined in title 13, of the California Code of Regulations, section 2260(a).

For CARBOB,

(A) “Produce” for CARBOB has the same meaning as defined in title 13, of the California Code of Regulations, section 2260(a).

(B) “Producer” for CARBOB has the same meaning as defined in title 13, of the California Code of Regulations, section

2260(a).

- (C) “Supply” for CARBOB has the same meaning as defined in title 13, ~~of the~~ California Code of Regulations, section 2260(a).
- (D) “Importer” for CARBOB means the majority owner of the CARBOB when it first enters the ~~s~~State of California. For rail cars, cargo tanks, and pipelines it is the point where the product first crosses the California State border. For imports by marine vessel it is the point where the fuel leaves the vessel.
- (E) “Import” for CARBOB means movement of CARBOB into the ~~s~~State of California. For rail cars, cargo tanks, and pipelines it is when the product first crosses the California ~~s~~State border. For imports by marine vessel it is the point where the fuel leaves the vessel.

(46 21) “California diesel fuel” has the same meaning as “Vehicular Diesel Fuel,” as defined in title 13, California Code of Regulations, section 2282(b).

For California diesel fuel,

- (A) “Produce” for California diesel fuel has the same meaning as “Vehicular Diesel Fuel,” as defined in title 13, ~~of the~~ California Code of Regulations, section 2282(b).
- (B) “Producer” for California diesel fuel has the same meaning as “Vehicular Diesel Fuel,” as defined in title 13, ~~of the~~ California Code of Regulations, section 2282(b).
- (C) “Supply” for California diesel fuel has the same meaning as defined in title 13, ~~of the~~ California Code of Regulations, section 2282(b).
- (D) “Importer” for California diesel fuel means the majority owner of the California diesel fuel when it first enters the ~~s~~State of California. For rail cars, cargo tanks, and pipelines it is the point where the product first crosses the California ~~s~~State border. For imports by marine vessel it is the point where the fuel leaves the vessel.
- (E) “Import” for California diesel fuel means movement of product into the ~~s~~State of California. For rail cars, cargo tanks, and pipelines it is when the product first crosses the California

sState border. For imports by marine vessel it is the point where the fuel leaves the vessel.

(17 22) "Carbon dioxide" or "CO₂" means the most common of the six primary greenhouse gases, consisting on a molecular level of a single carbon atom and two oxygen atoms.

(18 23) "Carbon dioxide equivalent" or "CO₂ equivalent" or "CO₂e"~~"CO₂E"~~ or "~~CO₂ equivalent"~~ means the number of metric tons of CO₂ emissions with the same global warming potential as one metric ton of another greenhouse gas. For the purposes of this subarticle, global warming potential values listed in Table A-1 of 40 CFR Part 98 are used to determine the CO₂ equivalent of emissions~~a measure for comparing carbon dioxide with other greenhouse gases, based on the quantity of those gases multiplied by the appropriate global warming potential factor and commonly expressed as metric tons of carbon dioxide equivalents (MTCO₂E).~~

(19 24) "Catalyst" means a substance added to a chemical reaction, which facilitates or causes the reaction, and is not consumed by the reaction.

(20 25) "Catalyst coke (Fee Regulation only)" means carbon that is deposited on a catalyst, thus deactivating the catalyst.

(21 26) "Cement" means a building material that is produced by heating mixtures of limestone and other minerals or additives at high temperatures in a rotary kiln to form clinker, followed by cooling and grinding with blended additives. Finished cement is a powder used with water, sand and gravel to make concrete and mortar.

(22 27) "Cement manufacturer" means an owner or operator of a cement plant.

(23 28) "Cement plant" means an industrial structure, installation, plant or building primarily engaged in manufacturing Portland, natural, masonry, pozzolanic, or other hydraulic cements, and typically identified by North American Industry Classification System Code 327310.

(24 29) "Clinker" means the mass of fused material produced in a cement kiln from which finished cement is manufactured by milling and grinding.

(25 30) "Coal" means all solid fuels classified as anthracite, bituminous, sub-bituminous, or lignite by ~~the American Society for Testing and Materials Designation ASTM D388-05~~ "Standard Classification of

Coals by Rank”- (September 2005), which is incorporated by reference herein.

(31) “Cogeneration” means an integrated system that produces electric energy and useful thermal energy for industrial, commercial, or heating and cooling purposes, through the sequential or simultaneous use of the original fuel energy. Cogeneration must involve generation of electricity and useful thermal energy and some form of waste heat recovery. Some examples of cogeneration include: (A) a gas turbine or reciprocating engine generating electricity by combusting fuel, which then uses a heat recovery unit to capture useful heat from the exhaust stream of the turbine or engine; (B) steam turbines generating electricity as a byproduct of steam generation through a fired boiler; (C) Cogeneration systems in which the fuel input is first applied to a thermal process such as a furnace and at least some of the heat rejected from the process is then used for power production. For the purposes of this subarticle, a combined-cycle power generation unit, where all of the generated steam is used for electricity generation, is not considered a cogeneration unit.

~~(26~~ 32) “Cogeneration facility” means an industrial structure, installation, plant, or building or self-generation facility, which may include one or more cogeneration ~~systems~~ units configured as either a topping cycling or bottoming cycling plant, ~~and in which electricity is generated solely from cogeneration systems.~~

~~(27~~ 33) “Cogeneration system” means individual cogeneration components including the prime mover (heat engine), generator, heat recovery, and electrical interconnection, configured into an integrated system that provides sequential or simultaneous generation of multiple forms of useful energy, one of which must be electricity, and ~~(usually electrical and thermal)~~, at least one form of which the facility consumes on-site or makes available to other users for an end-use other than electricity generation.

(34) “Cogeneration unit” means a unit that produces electric energy and useful thermal energy for industrial, commercial, or heating and cooling purposes, through the sequential or simultaneous use of the original fuel energy and waste heat recovery.

~~(28~~ 35) “Combust” means the process of burning or setting fire to a fuel.

~~(29~~ 36) “Combustion emissions” means greenhouse gas emissions occurring during the exothermic reaction of a fuel with oxygen.

(37) “Consumption” means to use, decay or destruct.

- (38) “Consumed on-site” means to consume at a facility.
- (39) “Covered emissions” mean all emissions included in a compliance obligation under sections 95852 through 95852.2 of the Cap-and-Trade Regulation, regardless of whether the Cap-and-Trade Regulation imposes a compliance obligation for the data year.
- (30 40) “Cracking” means the process of breaking down larger molecules into smaller molecules, utilizing catalysts and/or elevated temperatures and pressures.
- (34 41) “Debt” means those loans obtained by the Board, and required by the Legislature to be repaid, to carry out AB 32 for fiscal years 2007/2008, 2008/2009, and 2009/2010.
- (32 42) “Delivered electricity” means electricity that was distributed from a PSE and received by a PSE or electricity that was generated, transmitted, and consumed is delivered to a point of interconnection with the California electricity transmission and distribution system. For electricity that is generated in California, the electricity is delivered from a specified source at the busbar. For electricity generated outside California from specified or unspecified sources, the electricity is delivered to a point of delivery in California for consumption in California.
- (43) “Direct delivery of electricity” or “directly delivered” means electricity that meets any of the following criteria:
- (A) The facility has a first point of interconnection with a California balancing authority;
 - (B) The facility has a first point of interconnection with distribution facilities used to serve end users within a California balancing authority area;
 - (C) The electricity is scheduled for delivery from the specified source into a California balancing authority via a continuous transmission path from interconnection of the facility in the balancing authority in which the facility is located to a final point of delivery located in the State of California; or
 - (D) There is an agreement to dynamically transfer electricity from the facility to a California balancing authority.
- (44) “EIA” means the Energy Information Administration. The EIA is a statistical agency of the United States Department of Energy.

- (45) “Electricity delivered in California” means electricity that is delivered to a point of interconnection with the California electricity transmission and distribution systems. For electricity that is generated in California, the electricity is delivered from a specified source at the busbar. For electricity generated outside California from specified or unspecified sources, the electricity is delivered to a point of delivery in California for consumption in California.
- (33 46) “Electricity Fee Rate” means the rate charged per megawatt-hour (MWh) of electricity generated at a specified source based on a specified source’s emission factor, or generated at unspecified sources and based on the or an unspecified source based on source-specific emission factors, or a default emission factor for unspecified sources.
- (34 47) “Electricity generating facility” or “Generating facility” means a facility that generates electricity and includes one or more generating units at the same location inside or outside California. “Electric generating facility” or “Generating facility” does not include a cogeneration facility or a self-generation facility.
- (48) “Electricity generating unit” or “EGU” means any combination of physically connected generator(s), reactor(s), boiler(s), combustion turbine(s), or other prime mover(s) operated together to produce electric power.
- (35 49) “Electricity importers” are marketers and retail providers that deliver imported electricity. For electricity delivered between balancing authority areas, the electricity importer is identified on the NERC E-tag as the purchasing-selling entity (PSE) on the last segment of the tag’s physical path with the point of receipt located outside the State of California and the point of delivery located inside the State of California. For facilities physically located outside the State of California with first point of interconnection to a California balancing authority’s transmission and distribution system, the importer is the facility operator or scheduling coordinator. Federal and State agencies are subject to the regulatory authority of ARB under this article and include Western Area Power Administration (WAPA), Bonneville Power Administration (BPA), and California Department of Water Resources (DWR) means an owner of electricity generated outside of California as it is delivered to the first point of delivery in California, for electricity having a final point of delivery in California.
- (50) “Eligible renewable energy resource” has the same meaning as defined in Section 399.12 of the Public Utilities Code.

- (36 51) “Emissions” means the release of greenhouse gases into the atmosphere from sources and processes in a facility, including from the combustion of transportation fuels, such as natural gas, petroleum products, and natural gas liquids.
- (37 52) “Emissions data report” or “greenhouse gas emissions data report” or “report” means the report prepared by an operator or fuel supplier each year and submitted by electronic means to ARB that provides the information required by the Mandatory Reporting Regulation and to comply with this subarticle.
- (38 53) “Emission factor” means a unique value for determining an amount of a greenhouse gas emitted for a given quantity of activity (e.g., metric tons of carbon dioxide emitted per gallon of gasoline burned).
- (39 54) “End user” means a final purchaser of an energy product, such as electricity, thermal energy, or natural gas not for the purposes of retransmission or resale. In the context of natural gas consumption, an “end user” is the point to which natural gas is delivered for consumption or combustion. ~~the entity to which natural gas is delivered for combustion or consumption.~~
- (40 55) “Entity” means a person, firm, association, organization, partnership, business trust, corporation, limited liability company, company, government agency, or public district.
- (41 56) “Exclusive marketer” means a marketer that has exclusive rights to market electricity for a generating facility or group of generating facilities.
- (42 57) “Executive Officer” means the Executive Officer of ~~ARB~~ the California Air Resources Board, or his or her delegate.
- (58) “Exported electricity” means electricity generated inside the State of California and delivered to serve load located outside the State of California. This includes electricity delivered from a first point of receipt inside California, to the first point of delivery outside California, with a final point of delivery outside the State of California. Exported electricity delivered across balancing authority areas is documented on NERC E-Tags with the first point of receipt located inside the State of California and the final point of delivery located outside the State of California. Exported electricity does not include electricity generated inside the State of California then transmitted outside of California, but with a final point of delivery inside the State of California. Exported electricity does not include electricity generated inside the State of California that is allocated to serve the California retail customers of a

multi-jurisdictional retail provider, consistent with a cost allocation methodology approved by the California Public Utilities Commission and the utility regulatory commission of at least one additional state in which the multi-jurisdictional retail provider provides retail electric service.

- (43 ~~59~~) "Facility" means any physical property, plant, building, structure, ~~stationary source, or stationary equipment or grouping of stationary equipment or stationary sources~~ located on one or more contiguous or adjacent properties, in actual physical contact or separated solely by a public roadway or other public right-of-way, and under common ~~operational~~ ownership or common control, that emits or may emit any greenhouse gas. Operators of military installations may classify such installations as more than a single facility based on distinct and independent functional groupings within contiguous military properties.
- (44 ~~60~~) "Fee determination notice" means the notice or invoice provided by ARB to entities regulated by this subarticle stating the dollar amount due.
- (45 ~~61~~) "Feedstock" means the raw material supplied to a process.
- (46 ~~62~~) "First deliverer of electricity" means either the owner or operator of an electricity generating facility in California, or an electricity importer.
- (47 ~~63~~) "Fiscal year" means the time period from July 1 to June 30.
- (48 ~~64~~) "Fossil fuel" means ~~a fuel, including but not limited to coal, oil, natural gas, and petroleum, coal, or any form of solid, liquid, or gaseous fuel derived from such material by products, produced by the decomposition of ancient (fossilized) plants and animals.~~
- (49 ~~65~~) "Fuel" means solid, liquid or gaseous combustible material. Volatile organic compounds burned in destruction devices are not fuels unless they can sustain combustion without use of a pilot fuel and such destruction does not result in a commercially useful end product.
- (50 ~~66~~) "Fuel fee rate" means the rate charged per MTCO₂ produced by greenhouse gas sources specific to the fuel combusted and calculated by ARB.
- (67) "Fuel supplier" means a supplier of petroleum products, a supplier of biomass-derived transportation fuels, a supplier of natural gas, or a supplier of liquid petroleum gas as specified in the Mandatory Reporting Regulation.

- (51 68) "Gallon" means the United States gallon of 231 cubic inches or the volumetric gallon adjusted to 60 degrees Fahrenheit when the invoice and settlement is made on the temperature corrected gallonage.
- (69) "Generated electricity" means electricity generated by an electricity generating unit at the reporting facility. Generated electricity does not include any electricity that is generated outside the facility and delivered into the facility with final destination outside of the facility.
- (52 70) "Generating unit" means any combination of physically connected generator(s), reactor(s), boiler(s), combustion turbine(s), or other prime mover(s) operated together to produce electric power.
- (53 71) "Global warming potential" or "GWP factor" means the ratio of the time-integrated radiative forcing from the instantaneous release of one kilogram of a trace substance relative to that of one kilogram of a reference gas, i.e., CO₂ radiative forcing impact of one mass-based unit of a given greenhouse gas relative to an equivalent unit of carbon dioxide over a given period of time.
- (54 72) "Government agency" means any agency as defined in Government Code section 11000.
- (55 73) "Greenhouse gas source" means any physical unit, process, or other use or activity that releases a greenhouse gas into the atmosphere.
- (74) "Grid" or "electric power grid" means a system of synchronized power providers and consumers connected by transmission and distribution lines and operated by one or more control centers.
- (75) "Grid-dedicated facility" means an electricity generating facility in which all net power generated is destined for distribution on the grid through retail providers or electricity marketers, ultimately serving wholesale or retail customers of the grid.
- (76) "Gross generation" or "gross power generated" means the total electrical output of the generating facility or unit, expressed in megawatt hours (MWh) per year.
- (56 77) "Imported electricity" means electricity that is generated outside the State of California and delivered to a first point of delivery into serve load located inside the State of California. Imported electricity includes electricity delivered across balancing authority areas from a first point of receipt located outside the State of California, to the first point of delivery located inside the State of California, having a final point of delivery in California. Imported electricity includes electricity imported

into California over a multi-jurisdictional retail provider's transmission and distribution system, or electricity imported into the State of California from a facility or unit physically located outside the State of California with the first point of interconnection to a California balancing authority's transmission and distribution system. Imported electricity includes electricity that is a result of cogeneration located outside the State of California. Imported electricity does not include electricity wheeled through California, defined pursuant to this subsection. Imported electricity does not include electricity imported into the California Independent System Operator (CAISO) balancing authority area to serve retail customers that are located within CAISO balancing authority area, but outside the State of California, with a final point of delivery in California. Imported electricity does not include:

(A) ~~Power wheeled through California, which is power that is imported into California that terminates in a location outside of California; or~~

(B) ~~Power transactions in which imported power is simultaneously exchanged for exported power.~~

(57 78) "Interstate Pipeline" means any entity engaged in that owns or operates a natural gas transportation pipeline delivering natural gas to consumers in the State and is subject to the jurisdiction of rate regulation by the Federal Energy Regulatory Commission, (FERC) under the Natural Gas Act.

(58 79) "Intrastate Pipeline" means a natural gas pipeline that operates wholly in California, any pipeline wholly within the State of California that is not regulated as a public utility gas corporation by the California Public Utility Commission (CPUC), not a publicly-owned natural gas utility and is not regulated as an interstate pipeline by the Federal Energy Regulatory Commission.

(59 80) "Kerosene" means is a light petroleum distillate fuel that includes with a maximum distillation temperature of 400°F at the 10-percent recovery point, a final maximum boiling point of 572°F, a minimum flash point of 100°F, and a maximum freezing point of -22°F. Included are No. 1-K and No. 2-K, distinguished by maximum sulfur content (0.04 and 0.30 percent of total mass, respectively), as well as all other grades of kerosene called range or stove oil. "Kerosene" does not include kerosene-type jet fuel that have properties similar to those of No. 1 fuel oil.

(81) "Kerosene type jet fuel" means a kerosene-based product used in commercial and military turbojet and turboprop aircraft. The product has a maximum distillation temperature of 400°F at the 10 percent

recovery point and a final maximum boiling point of 572°F. Included are Jet A, Jet A-1, JP-5, and JP-8.

- (82) “Linked jurisdiction” means a jurisdiction which has entered into a linkage agreement pursuant to subarticle 12 of the Cap-and-Trade Regulation¹.
- (60 83) “Liquefied petroleum gas (LPG)” or “LPG” means a flammable mixture of hydrocarbon gases used as a fuel. LPG can be mixtures of primarily propane, primarily butane, or mixtures of propane or butane. LPG includes propane grades HD-5, HD-10, and commercial grade propane. LPG also includes both odorized and non-odorized liquid petroleum gas, and is also referred to as LPG, GLP, LP-Gas and propane normal butane, isobutane, propane, or butylene (including isomers) or mixtures composed predominantly thereof in liquid or gaseous state having a vapor pressure in excess of 40 pounds per square inch absolute at a temperature of 100 degrees Fahrenheit.
- (84) “Local distribution company” or “LDC” for purposes of this article, means a company that owns or operates distribution pipelines, not interstate pipelines, that physically deliver natural gas to end users and includes public utility gas corporations, publicly-owned natural gas utilities and intrastate pipelines.
- (64 85) “Mandatory Reporting Regulation” means ARB’s Regulation for the Mandatory Reporting of Greenhouse Gas Emissions, as set forth in title 17, California Code of Regulations, Chapter 1, Subchapter 10, article 2 (commencing with section 95100).
- (62 86) “Marketer” means a purchasing-/selling entity that delivers electricity and is not a retail provider, and that is the purchaser/seller at the first point of delivery in California for electric power imported into California, or the last point of receipt in California for power exported from California.
- (63 87) “Megawatt hour” or “MWh” means the electrical energy unit of measure equal to one million watts of power supplied to, or taken from, an electric circuit steadily for one hour.
- (64 88) “Meter” means a device designed to measure, record or regulate the amount or volume of the flow of a gas.

¹California Cap on Greenhouse Gas Emissions and Market-based Compliance Mechanisms Regulation, title 17, California Code of Regulations, sections 95800 to 96022.

- (65 89) “Metric ton” or “MT” or “tonne” means a common international measurement for the quantity of greenhouse gas emissions mass, equivalent to about 2204.6 pounds or 1.1 short tons.
- (90) “MMBtu” means million British thermal units.
- (66 91) “Motor vehicle” has the same meaning as defined in section 415 of the Vehicle Code.
- (92) “Multi-jurisdictional retail provider” means a retail provider that provides electricity to consumers in California and in one or more other states in a contiguous service territory or from a common power system.
- (93) “Municipal Solid Waste” means solid phase household, commercial/retail, and/or institutional waste. Household waste includes material discarded by single and multiple residential dwellings, hotels, motels, and other similar permanent or temporary housing establishments or facilities. Commercial/retail waste includes material discarded by stores, offices, restaurants, warehouses, non-manufacturing activities at industrial facilities, and other similar establishments or facilities. Institutional waste includes material discarded by schools, nonmedical waste discarded by hospitals, material discarded by non-manufacturing activities at prisons and government facilities, and material discarded by other similar establishments or facilities. Household, commercial/retail, and institutional wastes include yard waste, refuse-derived fuel, and motor vehicle maintenance materials. Insofar as there is separate collection, processing and disposal of industrial source waste streams consisting of used oil, wood pallets, construction, renovation, and demolition wastes (which includes, but is not limited to, railroad ties and telephone poles), paper, clean wood, plastics, industrial process or manufacturing wastes, medical waste, motor vehicle parts or vehicle fluff, or used tires that do not contain hazardous waste identified or listed under 42 U.S.C. §6921, such wastes are not Municipal Solid Waste. However, such wastes qualify as Municipal Solid Waste where they are collected with other Municipal Solid Waste or are otherwise combined with other Municipal Solid Waste for processing and/or disposal.
- (67 94) “Nameplate generating capacity” means the maximum rated output of a generator under specific conditions designed/designated by the manufacturer. Generator nameplate capacity is usually indicated in units of kilovolt-amperes (kVA) and in Kilowatts (kW) on a nameplate physically attached to the generator.
- (68 95) “Natural gas” means a naturally occurring mixture of hydrocarbons and non-hydrocarbon gases found in geologic formations beneath the

Earth's surface, of which its constituents include methane, heavier hydrocarbons and carbon dioxide. Natural gas may be field quality (which varies widely) or pipeline quality. For the purposes of this subarticle, the definition of natural gas includes similarly constituted fuels such as field production gas, process gas, and fuel gas that maintains a gaseous state at standard atmospheric temperature and pressure under ordinary conditions. "Natural gas" does not include "biogas".

(69 96) "Natural gas importer" means any entity that receives natural gas from a party that is not a public gas corporation, as defined in this subarticle, that consumes and/or distributes natural gas to consumers of natural gas.

(97) "NERC E-tag" means North American Electric Reliability Corporation (NERC) energy tag representing transactions on the North American bulk electricity market scheduled to flow between or across balancing authority areas.

(70 98) "Net generation" or "Net power generated" means the gross generation minus station service or unit service power requirements, expressed in megawatt hours (MWh) per year. In the case of cogeneration, this value is intended to include internal consumption of electricity for the purposes of a production process, as well as power put on the grid.

(74 99) "Operational control" for a facility subject to this subarticle means the entity that has authority to introduce and implement operating, environmental, health and safety policies. In any circumstance where this authority is shared among multiple entities, the entity holding the permit to operate from the local air pollution control district or air quality management district is considered to have operational control for purposes of this subarticle.

(72 100) "Operator" means the entity, including an owner, having operational control of a facility. For onshore petroleum and natural gas production, the operator is the operating entity listed on the State well drilling permit, or a State operating permit for wells where no drilling permit is issued by the State.

(73 101) "Owner" means the entity having title ofto the property or assets which are subject to the fee.

(102) "Oxygenate" is any oxygen-containing, ashless, organic compound, such as an alcohol or ether, which, when added to gasoline, increases the amount of oxygen in gasoline.

- (74 103)“Payment period” means 60 days from the receipt of the billing invoice date, as stated in section 95205, each calendar year.
- (75 104)“Petroleum coke (Fee Regulation only)” means a solid residue high in carbon content and low in hydrogen that is the final product of thermal decomposition in the condensation process in cracking.
- (76 105)“Petroleum refinery” or “refinery” means any facility engaged in producing gasoline, ~~aromatics,~~ gasoline blending stocks, naphtha, kerosene, distillate fuel oils, residual fuel oils, lubricants, or asphalt, ~~or other products (bitumen)~~ through distillation of petroleum or through redistillation, cracking, ~~rearrangement~~ or reforming of unfinished petroleum derivatives. Facilities that distill only pipeline transmix (off-spec material created when different specification products mix during pipeline transportation) are not petroleum refineries, regardless of the products produced.
- (77 106)“Point of delivery” means the point on an electric electricity transmission or distribution system where a ~~power supplier delivers~~ deliverer makes electricity available to a receiver, or available to serve load of that energy. This point can be an interconnection with another system or a substation where the transmission provider’s transmission and distribution systems are connected to another system, or a distribution substation where electricity is imported into California over a multi-jurisdictional retail provider’s distribution system.
- (78 107)“Power” means electricity, except where the context makes clear that another meaning is intended.
- (79 108)“Process” means the intentional or unintentional reactions between substances or their transformation, including, but not limited to, the chemical or electrolytic reduction of metal ores, the thermal decomposition of substances, and the formation of substances for use as product or feedstock.
- (80 109)“Process emissions” means: the emissions from industrial processes (e.g., cement production, ammonia production) involving chemical or physical transformations other than fuel combustion. For example, the calcination of carbonates in a kiln during cement production or the oxidation of methane in an ammonia process results in the release of process CO₂ emissions to the atmosphere. Emissions from fuel combustion to provide process heat are not part of process emissions, whether the combustion is internal or external to the process equipment.

- ~~(A) For cement manufacturing: The greenhouse gas emissions produced through the chemical reactions of feedstock during pyroprocessing to produce cement clinker (which does not include greenhouse gas emissions which are the result of fuel combustion emissions).~~
- ~~(B) For refineries and hydrogen plants: the greenhouse gas emissions resulting from the steam methane reforming process excluding those that occur as a result of the use of natural gas as a feedstock.~~

(110) “Produced on-site” means produced at a facility.

~~(81) “Producer” means any person who owns, leases, operates, controls or supervises a California production facility.~~

~~(82) “Production facility” means a facility in California at which gasoline or CARBOB is produced. Upon request of a producer, the Executive Officer may designate, as part of the producer’s production facility, a physically separate bulk storage facility which (A) is owned or leased by the producer, and (B) is operated by or at the direction of the producer, and (C) is not used to store or distribute gasoline or CARBOB that is not supplied from the production facility.~~

~~(83 111) “Propane” means is a paraffinic hydrocarbon with molecular normally straight chain hydrocarbon that boils at -3.67 degrees Fahrenheit and is represented by the chemical formula C₃H₈.~~

~~(84 112) “Publicly-owned natural gas utility” means a municipality or municipal corporation, a municipal utility district, a public utility district, or a joint powers authority that includes one or more of these agencies that furnishes natural gas services to end users.~~

~~(85 113) “Public utility gas corporation” means a gas corporation as defined in California Public Utilities Code section 222 that is also a public utility as defined in California Public Utilities Code section 216.~~

~~(86 114) “Purchasing or selling entity” or “PSE” means for purposes of this regulation anthe entity that is eligible to purchase or sell energy or capacity and reserve transmission services is identified on a NERC E-tag for each physical path segment.~~

(115) “Qualified exports” means electricity that is exported in the same hour as imported electricity and documented by NERC E-tags. When imports are not documented on NERC E-tags, because a facility or unit located outside the State of California has a first point of interconnection with a California balancing authority area, the reporting

entity may demonstrate hourly electricity delivery consistent with the record keeping requirements of the California balancing authority area, including records of revenue quality meter data, invoices, or settlements data. Only electricity exported within the same hour and by the same importer as the imported electricity is a qualified export. It is not necessary for the imported and exported electricity (as defined in this subarticle) to enter or leave California at the same intertie. Qualified exports shall not result in a negative fee liability for any hour.

(116) “Radiative forcing” means the change in the net vertical irradiance at the atmospheric boundary between the troposphere and the stratosphere due to an internal change or a change in the external forcing of the climate system such as a change in the concentration of carbon dioxide or the output of the sun.

(~~87~~ 117) “Refinery fuel gas” means gas generated at a petroleum refinery or any gas generated by a refinery process unit, and that is combusted separately or in any combination with any type of gas, or used as a chemical feedstock.

(~~88~~ 118) “Renewable diesel” means a motor vehicle fuel or fuel additive whichthat is all of the following:

- (A) Registered as a motor vehicle fuel or fuel additive under 40 CFR part 79;
- (B) Not a mono-alkyl ester;
- (C) Intended for use in engines that are designed to run on conventional diesel fuel; and
- (D) Derived from nonpetroleum renewable resources.

(119) “Renewable energy” means energy from sources that constantly renew themselves or that are regarded as practically inexhaustible. Renewable energy includes energy derived from solar, wind, geothermal, hydroelectric, wood, biomass, tidal power, sea currents, and ocean thermal gradients.

(120) “Reporting entity” means a facility owner or operator, fuel supplier, or electricity importer subject to the requirements of this subarticle.

(~~89~~ 121) “Report Year” or “Reporting Year” means the calendar year for which emissions are being reported in the emissions data report.

- (90 122) “Residual fuel oil” means a general classification for the heavier oils, known as No. 5 and No. 6 fuel oils, that remain after the distillate fuel oils and lighter hydrocarbons are distilled away in refinery operations.
- (94 123) “Retail provider” means an entity that provides electricity to retail end users in California and is an electric corporation as defined in Public Utilities Code section 218, electric service provider as defined in Public Utilities Code section 218.3, local publicly owned electric utility as defined in Public Utilities Code section 224.3, a community choice aggregator as defined in Public Utilities Code section 331.1, or the Western Area Power Administration. For purposes of this subarticle, electrical cooperatives, as defined by Public Utilities Code section 2776, are excluded.
- (92 124) “Self-generation facility” means a facility dedicated to serving a particular electricity end user, usually located on the user’s premises. The facility may either be owned directly by the electricity user or owned by an entity with a contractual arrangement to provide electricity to meet some or all of the user’s load.
- (125) “Short ton” or “Ton” means a common international measurement for mass, equivalent to 2,000 pounds.
- (93 126) “Source” means greenhouse gas source, any physical unit, process, or other use or activity that releases a greenhouse gas into the atmosphere.
- (94 127) “Specified source of electricity” or “~~specified source of power~~” means a particular generating facility or unit or which is permitted to be claimed as the source of electricity delivered. The reporting entity must have either full or partial ownership in the facility/unit or a written power contract to procure electricity generated by that facility/unit. Specified facilities/units include cogeneration systems. Specified source also means electricity procured from an asset-controlling supplier recognized by the ARB. ~~electricity generating facility in California or out of state to which electrical generation can be confidently tracked due to full or partial ownership by a first deliverer, or due to its identification in a power contract with a first deliverer, and also means an asset-owning or asset-controlling supplier.~~
- (128) “Stand-alone electricity generating facility” means an electricity generating facility whose primary business and sole industrial operation is electricity generation, and is not a cogeneration or bigeneration facility.

(95 129) “Stationary” means neither portable nor self propelled, and operated at a single facility.

(96 130) “Steam methane reforming process” means a method in which high temperature steam is used to produce hydrogen from a methane source.

(131) “Substitute power” or “substitute electricity” means electricity that is provided to meet the terms of a power purchase contract with a specified facility or unit when that facility or unit is not generating electricity.

(97 132) “Therm” means a unit of heat equal to 100,000 British thermal units (1.054×10^8 joules).

(133) “Thermal energy” means the thermal output produced by a combustion source used directly as part of a manufacturing process, industrial/commercial process, or heating/cooling application, but not used to produce electricity.

(98) “Ton” means a short ton equal to 2000 pounds.

(99 134) ~~“Unspecified source of electricity power” or “unspecified source” means a source of electricity procured and delivered without limitation at the time of a transaction to a specific facility’s or unit’s generation that cannot be matched to a particular electricity generating unit or facility, or to an asset-owning or asset-controlling supplier. Unspecified sources contribute to the bulk system power pool and typically are dispatchable, marginal resources that do not serve baseload.~~

(135) “Useful thermal output” means the thermal energy made available in a cogeneration system for use in any industrial or commercial process, heating or cooling application, or delivered to other end users, i.e., total thermal energy made available for processes and applications other than electrical generation.

(136) “Wholesale sales” in the context of delivered electricity, means sales for resale.

NOTE: Authority cited: Section 38510, 38597, 39600 and 39601, Health and Safety Code.
Reference: Sections 38530, 39600 and 39601, Health and Safety Code.

§ 95203. Calculation of Fees.

(a) [No change]

(b) *Common Carbon Cost.*

The Executive Officer shall calculate a Common Carbon Cost (CCC), which represents the annual cost per MTCO₂ emitted. The CCC shall be calculated in accordance with the following formula:

$$CCC = \frac{TRR}{(Q_c \times EF_c) + Q_{cc} + Q_{rga} + (Q_{ng} \times EF_{ng}) + (Q_{ag}) + (Q_g \times EF_g) + (Q_d \times EF_d) + (Q_e \times EF_e) + Q_{pe}}$$

Where:

TRR = Total Required Revenue, as specified in subsection 95203(a).

$(Q_c \times EF_c)$ = Statewide quantity of emissions from coal, or petroleum coke (Fee Regulation only), except that used in an electricity generating facility, calculated as the sum of:

$(Q_b \times EF_b)$ = Quantity of bituminous coal (Q_b) x the emission factor for bituminous coal (EF_b);

$(Q_l \times EF_l)$ = Quantity of lignite coal (Q_l) x the emission factor (EF_l) for lignite coal;

$(Q_a \times EF_a)$ = Quantity of anthracite coal (Q_a) x the emission factor (EF_a) for anthracite coal;

$(Q_{sb} \times EF_{sb})$ = Quantity of subbituminous coal (Q_{sb})x the emission factor (EF_{sb}) for subbituminous coal;

$(Q_{pc} \times EF_{pc})$ = Quantity of petroleum coke (Fee Regulation only) (Q_{pc}) x the emission factor (EF_{pc}) for petroleum coke (Fee Regulation only).

Q_{cc} = Statewide quantity of emissions from catalyst coke (Fee Regulation only), except that used in an electricity generating facility.

Q_{rga} = Statewide adjusted quantity of emissions from refinery fuel gas, except that used in an electricity generating facility.

Q_{ng} = Statewide quantity, in therms, of natural gas supplied for all uses except electricity generating facilities during the reporting period.

EF_{ng} = Emission factor of $MTCO_2$ for natural gas.

Q_{ag} = Statewide quantity of emissions from associated gas (Fee Regulation only).

Q_g = Statewide quantity of gasoline supplied during the reporting period. This is the volumetric sum of California gasoline produced or imported into California and the amount of finished CARBOB product produced or imported into California. The finished CARBOB product is calculated as the volume sum of the CARBOB plus the maximum amount of oxygenate designated for each volume of CARBOB.

EF_g = Emission factor of $MTCO_2$ for each supplied gallon of California gasoline.

Q_d = Quantity of California diesel fuel supplied during the reporting period.

EF_d = Emission factor of $MTCO_2$ for each supplied gallon of California diesel fuel.

$(Q_e \times EF_e)$ = Quantity of emissions from ~~delivered all~~ delivered in California electricity as the sum of:

$(Q_{sp} \times EF_{sp})$ = Quantity of MWh of electricity delivered from each specified source multiplied by the emission factor ($MTCO_2$ per MWh) for that specified source;

$(Q_{unsp} \times EF_{unsp})$ = Statewide quantity of MWh of electricity delivered from unspecified sources multiplied by the default emission factor ($MTCO_2$ per MWh) for unspecified sources.

Minus

$(Q_{ge} \times EF_{unsp})$ = Quantity of MWh of qualified exports from each source multiplied by the emission factor ($MTCO_2$ per MWh) for unspecified sources.

Minus

$(Q_{RPS} \times EF_{unsp})$ = Quantity of MWh generated by each California eligible renewable resource located outside the State of California, claimed by the reporting entity, included in the reporting entity's emission data report and meeting requirements pursuant to section 95852(b)(4) of the Cap-and-Trade Regulation multiplied by the default emission factor (MTCO₂ per MWh) for unspecified sources.

Q_{pe} = Quantity of process emissions from cement manufacturing.

(c) *Fuel Fee Rate.*

For entities reporting pursuant to section 95204(d)(1), (d)(2), (d)(3), (d)(5), (e), and (f)(1), and (f)(2) the Executive Officer shall calculate a fuel fee rate for each fuel included in subsection 95203(b) using the following formula:

$$FR_i = CCC \times EF_i$$

Where:

FR_i = Fuel fee rate for the fuel.

CCC = Common Carbon Cost.

EF_i = Emission factor of MTCO₂ for each unit of fuel supplied.

(d) *Fuel Emission Factors.*

For entities reporting pursuant to section 95204(d)(1), (d)(2), (d)(3), (d)(4), (d)(5), (e), (f)(1) and (f)(2) the Executive Officer shall calculate the Common Carbon Cost and the Fuel fee rates using the following emissions factors:

<i>Fuel Type</i>	<i>CO₂ Emission Factor</i>	<i>Emission Factor Units</i>
Coal		
Anthracite	2,597.94	kg CO ₂ / short ton
Bituminous	2,328.35	kg CO ₂ / short ton
Sub-bituminous	1,673.64	kg CO ₂ / short ton
Lignite	1,369.32	kg CO ₂ / short ton
<u>Unspecified (Electric Power)</u>	<u>1,884.86</u>	<u>kg CO₂ / short ton</u>
<u>Unspecified (Other Industrial)</u>	<u>2,082.89</u>	<u>kg CO₂ / short ton</u>
<u>Petroleum coke (Fee Regulation)</u>	<u>2,530.65</u>	<u>kg CO₂ / short ton</u>

<u>only)</u>		
Natural Gas	5.302	kg CO ₂ / therm
California Diesel Fuel	9.96	kg CO ₂ / gallon
California Gasoline	8.55	kg CO ₂ / gallon

- (e) Electricity Fee Rate for electricity delivered in California prior to January 1, 2011.

The Executive Officer shall calculate an Electricity Fee Rate for each source of electricity delivered in California using the following formulas:

$$EFR_{sp} = CCC \times EF_{sp}$$
~~$$EFR_{asp} = CCC \times EF_{asp}$$~~

$$EFR_{usp} = CCC \times EF_{usp}$$

Where:

“sp” denotes a specified source that is an electricity generating facility or unit.

“asp” denotes an ~~asset-owning or~~ asset-controlling supplier.

“usp” denotes an unspecified source.

EFR_{sp} = The Electricity fee rate for the specified source.

EFR_{asp} = The Electricity fee rate for the ~~asset-owning and~~ asset-controlling suppliers.

EFR_{usp} = The Electricity fee rate for unspecified sources.

EF_{sp} = Emission factor for specified source in MTCO₂ per MWh.

EF_{asp} = Emission factor for ~~asset-owning and~~ asset-controlling suppliers in MTCO₂ per MWh.

EF_{usp} = .499 MTCO₂ per MWh, the default Emission Factor for unspecified sources.

- (f) Electricity Fee Rate for electricity delivered in California on or after January 1, 2011, and reported pursuant to section 95103 of the Mandatory Reporting Regulation.

The Executive Officer shall calculate an Electricity Fee Rate for each source of electricity delivered, in California, using the following formulas:

$$\begin{aligned} EFR_{sp} &= CCC \times EF_{sp} \\ EFR_{unsp} &= CCC \times TL \times EF_{unsp} \end{aligned}$$

Where:

“sp” denotes a specified source that is an electricity generating facility or unit.

“unsp” denotes an unspecified source.

EFR_{sp} = The Electricity fee rate for the specified source.

EFR_{unsp} = The Electricity fee rate for unspecified sources.

EF_{sp} = Emission factor for specified source in $MTCO_2$ per MWh.

EF_{unsp} = .427 $MTCO_2$ per MWh, the default Emission Factor for unspecified sources.

TL = Transmission loss correction factor.

TL = 1.02 to account for transmission losses between the busbar and measurement at the first point of receipt in California.

EF_{unsp} = 0 MT of CO_2 /MWh for first points of receipt located in linked jurisdictions.

- (g) Emission Factors for Specified Sources that are Electricity Generating Facilities or Units, Calculation Methods for Report Years 2008 through 2010.

The Executive Officer shall calculate emission factors for specified sources of electricity that are generating units or facilities using the following methodology:

$$EF_{sp} = \frac{E_{sp}}{EG}$$

Where:

E_{sp} = CO₂ emissions from electricity generating facility for a specified ~~electric~~ electricity generating facility/unit for the report year (MTCO₂)

EG = Net generation from a specified electricity generating facility for the report year (MWh)

(1) For specified electricity generating facilities/units whose operators are subject to reporting or who voluntarily report under the Mandatory Reporting Regulation, E_{sp} shall be equal to the sum of CO₂ emissions from fossil fuel combustion, acid gas scrubbers, or acid gas reagents, as reported to ARB. Similarly, EG shall be the net generation reported to ARB.

(2) For specified electricity generating facilities/units whose operators are not subject to Mandatory Reporting Regulation but who are subject to the Acid Rain Program (40 CFR Part 75), E_{sp} shall be equal to the amount of CO₂ emissions reported to U.S. EPA pursuant to 40 CFR Part 75 for the facility in metric tons for the report year. EG shall be data reported to EIA and published in the EIA 923 Excel file for the reporting year available at http://www.eia.doe.gov/cneaf/electricity/page/eia906_920.html (the EIA data).

(3) For specified electricity generating facilities whose operators do not report to ARB under the Mandatory Reporting Regulation and do not report to U.S. EPA under the Acid Rain Program, EG shall be taken from the EIA data for the reporting year. E_{sp} shall be calculated using EIA data as shown below.

$$E_{sp} = 1000 \times \sum(Q_{fuel} \times EF_{fuel})$$

Where:

Q_{fuel} = Heat of combustion for each specified fuel type from the specified ~~electric~~ electricity generating facility for the report year (MMBtu)_z

EF_{fuel} = CO₂ emission factor for the specified fuel type as taken from the title 17, California Code of Regulations, Chapter 1 Subchapter 9, Article 2, Appendix A (kgCO₂/MMBtu).

- (h) Emission Factors for Specified Sources that are Electricity Generating Facilities or Units, Calculation Methods for Report Years 2011 and Subsequent Years, for data reported pursuant to section 95103 of the Mandatory Reporting Regulation.

Emission factors for Specified Sources that are Electricity Generating Facilities or units shall be facility specific or unit specific emission factors for the specified source published on the ARB Mandatory Reporting website calculated by ARB according to the methods in section 95111(b) of the Mandatory Reporting Regulation.

- (g i) Emission Factors for Asset-~~owning~~-Controlling Suppliers for Report Years 2008 through 2010.

The Executive Officer shall calculate emissions factors for ~~asset-owning or asset-controlling~~ suppliers using the following methodology:

Where:

$$EF_{asp} = \frac{\sum E_{asp} + \sum (PE_{sp} * EF_{sp}) + (PE_{usp} * EF_{usp}) - \sum (SE_{sp} * EF_{sp})}{\sum EG_{asp} + \sum PE_{sp} + PE_{usp} - \sum SE_{sp}}$$

$\sum E_{asp}$ = the sum of CO₂ emissions from fossil fuel combustion, acid gas scrubbers, or acid gas reagents from each specified electricity generating facility/unit in the ~~asset owning~~-controlling supplier's fleet, as reported to ARB under the Mandatory Reporting Regulation (MTCO₂).

$\sum EG_{asp}$ = the sum of net generation for each specified electricity generating facility/unit in the ~~asset owning~~-controlling supplier's fleet for the report year as reported to ARB under the Mandatory Reporting Regulation (MWh).

$\sum PE_{sp}$ = Sum of electricity purchased from specified sources by the ~~asset-owning or asset-controlling~~ supplier for the year as reported to ARB under the Mandatory Reporting Regulation (MWh).

PE_{usp} = Amount of electricity purchased from unspecified sources by the ~~asset-owning or asset-controlling~~ supplier for the year as reported to ARB under the Mandatory Reporting Regulation (MWh).

$\sum SE_{sp}$ = Amount of wholesale electricity sold from a specified source by the ~~asset-owning or asset-controlling~~ supplier for the year as reported to ARB under the Mandatory Reporting Regulation (MWh).

EF_{sp} = CO₂ emission factor as defined for electricity generating units and facilities.

(h j) *Fee Liability for Fuels.*

The Executive Officer shall calculate the Fee Liability for each entity reporting pursuant to section 95204(d)(1-3), (d)(5), and (e), based on the quantity of each fuel supplied, consumed or produced, as follows:

$$FS_i = (FR_i \times QF_i)$$

Where:

FS_i = The Fee for each entity.

FR_i = Fuel fee rate for the fuel.

QF_i = Quantity of fuel.

(Note: The Fee Liability calculation formula for associated gas (Fee Regulation only) is addressed under section 95203(k))

(i k) *Fee Liability for Facilities that Combust Coal, Petroleum Coke (Fee Regulation only), Catalyst Coke (Fee Regulation only), or Refinery Fuel Gas.*

(1) Coal and Petroleum Coke (Fee Regulation only)

The Executive Officer shall calculate the Fee Liability for each entity reporting pursuant to sections 95204(f)(1) and 95204(f)(2), based on the quantity of each fuel consumed as follows:

$$FS_i = (FR_i \times QF_i)$$

Where:

FS_i = The Fee for each entity.

FR_i = Fuel fee rate for the fuel.

QF_i = Quantity of fuel.

(2) Catalyst Coke (Fee Regulation only) and Refinery Fuel Gas

For entities reporting pursuant to sections 95204(f)(3), and 95204(f)(4), each entity shall be charged a Fee based on the total number of MTCO₂ emitted and reported annually. The fee shall be calculated as follows:

$$FS_i = CCC \times QE_i$$

Where:

FS_i = The Fee for the Entity,

CCC = Common Carbon Cost,

QE_i = the total amount of emissions associated with the catalyst coke (Fee Regulation only) or refinery fuel gas, as applicable.

(j ~~l~~) *Fee Liability for ~~Delivered Electricity~~ Delivered in California.*

The Executive Officer shall calculate the fee liability for each entity reporting pursuant to section 95204(g) based on the quantity of electricity delivered less ARB's calculated fee liability for qualified exports and RPS MWh specified below as QM_{RPS} , as follows:

$$FS_i = \sum(EFR_d \times QM_d) - \sum(EFR_{unsp} \times QM_{ge}) - \sum(EFR_{unsp} \times QM_{RPS})$$

Where:

FS_i = Fee for each entity (\$)

QM_d = Quantity of MWh of ~~delivered electricity~~ delivered in California from each specified source, ~~asset-owning or asset-controlling supplier,~~ or unspecified source, as appropriate.

EFR_d = Electricity fee rate for electricity from each specified source, ~~asset-owning or asset-controlling supplier,~~ or unspecified source, as appropriate.

$\sum(EFR_{unsp} \times QM_{ge})$ = Sum of products for each hour in which the entity exports electricity.

QM_{ge} = Quantity of MWh from qualified exports as the lower of either the quantity of exports or imports for the hour.

QM_{RPS} = Quantity of MWh generated by each California eligible renewable resource located outside the State of California, procured by the reporting entity, registered with ARB pursuant to section 95111(g)(1) of the Mandatory Reporting Regulation and meeting requirements pursuant to section 95852(b)(4) of the Cap-and-Trade Regulation.

(k ~~m~~) *Fee Liability for Entities.*

For entities reporting pursuant to section 95204(d)~~(46)~~(6), and 95204(h), each entity shall be charged a fee based on the total number

of MTCO₂ emitted and reported annually. The fee shall be calculated as follows:

$$FS_i = CCC \times QE_i$$

Where:

FS_i = Fee for the Entity_i

CCC = Common Carbon Cost_i

QE_i = Total amount of emissions associated with the entity.

NOTE: Authority cited: Sections 38510, 38597, 39600 and 39601, Health and Safety Code.
Reference: 38501, 38510, 38597, 39600 and 39601, Health and Safety Code.

§ 95204. Reporting and Recordkeeping Requirements.

- (a) [No change]
- (b) *All reporting entities subject to this subarticle must report the following:*

(1) *Report Information:*

(A) Report year

(B) Facility information

1. Official responsible for payment
2. Facility name
3. Physical address
4. Mailing address
5. Billing address
6. Description of facility geographic location

(~~2~~ C) *Electricity Importer and fuel supplier Entity Information:*

1. (~~A~~) Entity name
2. (~~B~~) Email address
3. (~~C~~) Telephone number
4. Official responsible for payment
5. Mailing address
6. Billing address

(~~3~~ 2) *Entity Statement of Truth, Accuracy and Completeness.*

Entity signature and date stating: *This report has been prepared in accordance with the AB 32 Cost of Implementation Fee Regulation (subchapter 10, article 3, subarticle 1, sections 95200 to 95207, title 17, California Code of Regulations). The statements and information contained in this emissions data report are true, accurate and complete.*

(c) *Timeline for Reporting.*

- (1) Reports from each affected entity for the 2008 calendar year data and the 2009 calendar year must be submitted to ARB by August 16, 2010.
- (2) Reports for each affected entity for the 2010 calendar report year and the 2011 report year data and subsequent calendar years must be submitted to ARB by June 30 of the following year, each year.
- (3) Reports for each affected entity, excluding electricity importers, for the 2012 report year and subsequent report years must be submitted to ARB no later than April 10 of the following year and each year thereafter.
- (4) Each electricity importer required to report under this subarticle must submit a report for the 2012 and subsequent report years to ARB pursuant to section 95103(e) of the Mandatory Reporting Regulation.

(d) *Natural Gas Utilities, Users and Pipeline Owners and Operators.*

- (1) All public utility gas corporations and publicly owned natural gas utilities operating in California must annually report the aggregate quantity of therms of natural gas delivered at the meter to all end users, including the aggregate quantity of therms of ~~excluding~~ natural gas delivered to electricity generating facilities.
- (2) All owners or operators of intrastate pipelines that ~~distribute~~ deliver natural gas directly to end users must annually report the aggregate quantity of therms of natural gas directly ~~distributed~~ delivered, at the meter to all end users, including the aggregate quantity of therms of ~~excluding~~ natural gas delivered to electricity generating facilities.
- (3) All owners or operators that are end users of natural gas received directly from interstate pipelines, except for electricity generating facilities and facilities that combust or consume less than 100,000 therms of natural gas received directly from an interstate pipeline in a reporting year, must annually report the therms of natural gas directly ~~distributed~~ delivered, at the meter from the interstate pipeline(s).
- (4) All owners or operators of interstate pipelines that ~~distribute~~ deliver natural gas directly to end users must annually report the following information for each end user directly receiving ~~natural gas~~ 100,000

therms of natural gas or more in a reporting year: name, contact address, facility address, and contact phone number.

(5) All California owners or operators that consume natural gas produced on-site and are subject to the verification requirements in Section 95103 of Mandatory Reporting Regulation must report the quantity of therms of natural gas consumed annually of natural gas that is produced on-site, excluding natural gas consumed by an electricity generating facility, in addition to all information required under the Mandatory Reporting Regulation.

(6) All California owners or operators that consume associated gas (Fee Regulation only) produced on-site and that are subject to the verification requirements in Section 95103 of Mandatory Reporting Regulation must report all information required by the Mandatory Reporting Regulation, including the quantities of emissions resulting from the combustion of these fuels, excluding associated gas produced on-site and consumed by on-site electricity generating facilities.

(7) The Executive Officer shall calculate the fee liability for Natural Gas Utilities, Users and Pipeline Owners and Operators based on reported data less ARB's calculated fee liability from deliveries to Electricity Generating Facilities which are customers of the supplier.

(8) For report years 2011 and subsequent years, reported pursuant to 95204(c), the Executive Officer shall provide the Natural Gas Utility, User or Pipeline Owner and Operator a listing of all customers subtracted from the supplier's natural gas delivered, no later than September 1 of the corresponding fee determination notice fiscal year.

(e) *Producers and Importers of Gasoline and Diesel Fuels.*

All producers and importers of California gasoline, CARBOB or California diesel fuel must report the total amount of each variety of fuel sold or supplied for use in California which they produced or imported. Producers and importers of CARBOB must report the designated volume/volumes of oxygenate associated with each volume of CARBOB and the associated designated volume/volumes of oxygenate.

(f) *Coal, Catalyst Coke, Petroleum Coke, or Refinery Gas Combustion or Consumption.*

All entities that are subject to the verification requirements in Section 95103 of the Mandatory Reporting Regulation, except for electricity generating facilities, must report the following information for each of

the following substances that are combusted as fuel or consumed as feedstock:

- (1) Coal;
The number of tons of coal and the grade of coal combusted or consumed in each calendar year must be reported.
- (2) Petroleum coke (Fee Regulation only);
The number of tons of petroleum coke (Fee Regulation only) combusted or consumed in each calendar year must be reported.
- (3) Catalyst coke (Fee Regulation only);
The quantity of emissions from combustion as reported each calendar year under the applicable section of the Mandatory Reporting Regulation must be reported.
- (4) Refinery fuel gas;
The quantity of emissions from combustion or consumption as reported each calendar year under the applicable section of the Mandatory Reporting Regulation must be reported. If known by the reporting entity, the quantity of emissions from natural gas or any remaining useful refinery fuel gas generated from the combustion or consumption of natural gas can be excluded. To exclude the quantity of emissions from natural gas, the following method shall be used:
$$Q_{rga} = Q_{rg} - (Q_{ng} \times EF_{ng}) - Q_{rgr}$$

Where:

Q_{rga} = Adjusted quantity of emissions from refinery gas

Q_{rg} = Quantity of emissions from refinery gas reported through the Mandatory Reporting Regulation

Q_{ng} = Quantity of natural gas

EF_{ng} = Default emission factor for natural gas found in 95203(d)

Q_{rgr} = Quantity of emissions from any remaining useful refinery fuel gas generated from the combustion or consumption of natural gas.

(g) - (i) [No change]

NOTE: Authority cited: Sections 38510, 38597, 39600 and 39601, Health and Safety Code.
Reference: 38501, 38510, 38597, 39600 and 39601, Health and Safety Code.

§ 95205. Payment and Collection.

- (a) Beginning in fiscal year 2010/2011, and thereafter, within 30 days after the State Budget has been signed by the Governor, the Executive Officer shall provide a written fee determination notice to each affected entity of the amount due. The amount of the fee shall be based on the reports submitted pursuant to section 95204 and the fee calculation formulas set forth in section 95203. ARB will not collect the fee from entities whose total amount due, as calculated per section 95203, is less than or equal to fifty dollars (\$50.00).
- (b) *Payment Period.* Each entity that is notified by the Executive Officer that it must remit a specified dollar amount to ARB for the current fiscal year shall transmit that dollar amount to ARB for deposit into the Air Pollution Control Fund within 60 days of receipt of the fee determination notice date.
- (c) *Late Fees.* The Executive Officer shall assess an additional fee on entities failing to pay the fee within 60 days of receipt of the fee determination notice. The Executive Officer shall set the late fee in an amount sufficient to pay ARB's additional expenses incurred by the entity's untimely payment. The late fee is in addition to any penalty that may be assessed as provided in section 95206.
- (d) *Expenditure of Fees.* The fees collected from the entities are to be expended by ARB only for the purposes of recovering the costs of carrying out the provisions of AB 32 and repaying the Debt.

NOTE: Authority: Sections 38510, 38597, 39600 and 39601, Health and Safety Code.
Reference: Sections 38501, 38505 and ~~39300~~39600, Health and Safety Code.