



INITIAL STATEMENT OF REASONS FOR PROPOSED RULEMAKING

PROPOSED AMENDMENTS TO THE AB 32 COST OF IMPLEMENTATION FEE REGULATION

Release Date: August 31, 2011

**State of California
AIR RESOURCES BOARD**

**STAFF REPORT: INITIAL STATEMENT OF REASONS
FOR PROPOSED RULEMAKING**

Public Hearing to Consider

**PROPOSED AMENDMENTS TO THE
AB 32 COST OF IMPLEMENTATION FEE REGULATION**

To be considered by the Air Resources Board at a
Public Hearing on October 20, 2011, at:

Byron Sher Auditorium
Air Resources Board, Cal/EPA Headquarters
1001 I Street
Sacramento, CA 95814

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**State of California
AIR RESOURCES BOARD**

**PROPOSED AMENDMENTS TO THE
AB 32 COST OF IMPLEMENTATION FEE REGULATION**

Acknowledgements

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Executive Summary

In this rulemaking, California Air Resources Board (ARB or Board) staff is proposing amendments to the Assembly Bill (AB) 32 Cost of Implementation Fee Regulation (Fee Regulation). The proposed amendments to the Fee Regulation are primarily designed to modify language to conform with proposed amendments to the Regulation for the Mandatory Reporting of Greenhouse Gas Emissions (MRR) which are anticipated to become legally effective in late 2011. ARB staff currently expects to propose additional revisions to the MRR, after the release of this Initial Statement of Reasons ("Staff Report"). If such revisions are made to the MRR, staff anticipates proposing additional modifications to the Fee Regulation to be consistent with the additional revisions to the MRR. Any additional modifications to the Fee Regulation would be made available for a 15-day comment period after the October 2011, Board Hearing.

The proposed amendments to the Fee Regulation consist of administrative changes that add, revise, or delete definitions; change or exclude emissions reporting for some entities; revise applicability to exclude certain very small entities; and clarify provisions that caused confusion in the first year of implementation.

The amendments to the MRR include raising the applicability threshold on electricity generating facilities (EGFs) from 2,500 metric tons of CO₂ (MTCO₂) to 10,000 metric tons of CO₂ equivalent (MTCO_{2e}) annually. The proposed amendments to the Fee Regulation include conforming language, resulting in some EGFs not being subject to the Fee Regulation. It is expected that this affects a small number of EGFs.

This Staff Report is required by the California Administrative Procedure Act. Appendix A contains the proposed amendments to the Fee Regulation. The proposed changes are shown in underline and ~~strikeout~~ format.

This Executive Summary provides a brief background on the Fee Regulation, a description of the proposed amendments to the Fee Regulation, and explains the rationale for the proposed changes.

What is the purpose of the AB 32 Cost of Implementation Fee Regulation?

AB 32, the California Global Warming Solutions Act of 2006 (Health and Safety Code sections 38501-38599), established a comprehensive, multi-year program to reduce greenhouse gas (GHG) emissions in California. Under AB 32, ARB is required to develop regulations that will ultimately reduce California's GHG emissions to the 1990 baseline year by 2020. AB 32 provides ARB with the authority to adopt a fee schedule to be paid by sources of GHG emissions. The purpose of the Fee Regulation is to establish the means to fund the State's AB 32 costs and to repay loans that were approved by the Legislature and the Governor for fiscal years (FY) 2007-2008 through 2009-2010.

The Fee Regulation assesses fees on sources of GHGs from the most widely used fossil fuels, including gasoline; diesel; coal; petroleum coke; catalyst coke; refinery gases; and natural gas. A fee is also assessed on non-combustion GHG process emissions from refineries and cement manufacturers. Finally, a fee is imposed on the GHG emissions associated with the generation of imported electricity, consistent with treatment of in-state generation. Together, emissions from fuel combustion, refining, manufacturing process emissions, and imported electricity account for over 85 percent of California's GHG emissions.

What is the status of the Implementation of the Fee Regulation?

The Fee Regulation was considered by the Board at its September 25, 2009, public hearing and became effective on July 17, 2010. In April 2011, ARB sent out invoices for FY 2010-2011 to 284 fee payers based on the total required revenue of \$62.1 million. This total revenue includes both AB 32 implementation expenses for the FY 2010-2011 of \$35.2 million and a \$26.9 million repayment on program start-up loans. At the time of publication of this Staff Report, ARB is in the process of sending out invoices for FY 2011-2012 to 294 fee payers based on the total revenue requirement of \$61 million. Revenue requirements are established by the California Budget Act. For more information on implementation see Chapter I of the Staff Report.

Why is ARB proposing amendments?

Staff is proposing amendments to the Fee Regulation to conform with proposed changes to the MRR and to clarify provisions where there has been confusion in the first year of implementation. In December 2010, the Board considered modifications to certain sections of the MRR. Entities subject to the MRR and those subject to the Fee Regulation must use the same Internet-based reporting tool to report all required data.

For many sectors, the reporting requirements of the MRR provide the necessary data to comply with the Fee Regulation. These data are reported only once to limit the administrative burden on the regulated entities. In order for the data to be reported for both regulations simultaneously, in most cases, identical definitions are necessary for clarity. To conform definitions and align reporting dates with the MRR, amendments to the Fee Regulation are proposed to ensure relevant language is as consistent as possible.

While most definitions in the proposed amendments to the Fee Regulation are identical to the MRR, some are different, by necessity, due to specific distinctions between the two regulations. These proposed amendments to definitions include the phrase "(Fee Regulation only)."

In addition, ARB staff is proposing clarifying changes to some specific sections of the Fee Regulation, based on experience gained from the first year of implementation of the Fee Regulation.

The proposed amendments are not intended to revisit decisions previously approved by the Board. The proposed changes are technical in nature and do not significantly change the applicability or calculation of fees established by the Fee Regulation.

What amendments are being proposed?

Amendments are proposed to the following sections of the regulation: section 95201 “Applicability;” section 95202 “Definitions;” section 95203 “Calculation of Fees;” section 95204 “Reporting and Recordkeeping Requirements;” and section 95205 “Payment and Collection.” The proposed amendments to the sections are summarized below. Chapter III of the Staff Report contains more detailed information on each proposed amendment.

1. Applicability (section 95201)

Limited changes in applicability are included in the proposed amendments to clarify applicability of the Fee Regulation, and to conform to the proposed MRR amendments. The proposed amendments to the MRR include raising the applicability threshold on EGFs from 2,500 MTCO₂ to 10,000 MTCO_{2e} annually. The proposed amendments to the Fee Regulation include conforming language, which will result in some EGFs no longer being subject to the Fee Regulation. Based on 2008 reported emissions, there are 24 EGFs with emissions between 2,500 MTCO₂ and 10,000 MTCO_{2e}. Therefore, assuming identical prospective emissions, these 24 entities would be excluded from the fee. However, because reported emissions vary annually, it is expected that 20-25 EGFs would no longer be subject to the Fee Regulation.

2. Definitions (section 95202)

Section 95202 “Definitions,” provides all of the terms used in the Fee Regulation which are not self-explanatory. Numerous changes to the definitions of the Fee Regulation are being proposed as part of the amendments. The proposed amendments to the Fee Regulation include the modification of approximately 50 definitions, the addition of approximately 35 new definitions, and the deletion of three definitions. Most of the modified definitions have been changed to make them consistent with definitions in the amendments to the MRR. These proposed definition changes are further explained in Chapter III of the Staff Report.

3. Calculation of Fees (section 95203)

Minor amendments are being proposed to the fee calculation methodology to ensure consistency with the proposed changes in the definitions. The proposed

amendments to the Fee Regulation would result in different fee calculation procedures for report years 2008 through 2010, and those fee calculation procedures for report years 2011 and later. This differentiation in fee calculation procedures is necessary to reflect how the Fee Regulation determines fees based on the currently effective MRR and the amended MRR, which is anticipated to become legally effective in late 2011.

4. Reporting and Recordkeeping Requirements (section 95204)

Amendments are being proposed to the reporting and recordkeeping requirements to: 1) clarify administrative information such as the billing address and identification of the official responsible for payment that is required for all facilities, fuel suppliers, and electric power entities subject to the Fee Regulation; and 2) conform to the MRR reporting due dates.

5. Payment and Collection (Section 95205)

The proposed amendments would clarify that an entity must remit payment to ARB within 60 days of the fee determination notice date, rather than the date of receipt of a fee determination notice. This clarification is necessary because ARB does not have the ability to determine when an entity receives a fee determination notice.

What are the environmental impacts of the proposed amendments?

1. Environmental Impacts

The proposed amendments to the Fee Regulation are administrative changes that add, revise, or delete definitions, and modify or exclude emissions reporting requirements for some entities. Staff evaluated the potential environmental impacts from the proposed amendments to the Fee Regulation and determined that no potential significant adverse environmental impacts would result from the proposed amendments.

2. Environmental Justice

This proposal is consistent with the ARB's Environmental Justice Policy to reduce health risks in all communities, including low-income and minority communities.

Staff has determined that the proposed amendments to the Fee Regulation would not result in an adverse impact to air quality, and would not result in an increase in exposure to pollutants. Adoption and implementation of amendments to the Fee Regulation will have no adverse impacts on environmental justice communities.

What are the economic impacts of the proposed amendments?

There is no net change in the amount of the fees that are collected. Most of the proposed amendments are changes in language to conform to the MRR. Staff believes approximately 20 to 25 EGFs will no longer be required to report emissions as a result of the MRR amendments, and will no longer be subject to the Fee Regulation. The estimated \$26,000 that would otherwise be paid by these entities will be redistributed, based on fuel and emissions reported data, among the approximately 131 remaining fee payers. The impact of \$26,000 being redistributed to all of the remaining fee payers would range from approximately \$0.03 to \$2,200 per invoice. Examples of estimated changes to fee payer's invoices are as follows: a facility originally invoiced \$5 million would see an increase of \$2,100; a facility originally invoiced \$1 million would see an increase of \$420; a facility originally invoiced \$10,000 would see an increase of \$4; twenty-six local agencies will collectively pay additional fees totaling \$1,465. One State agency will have an \$85 increase in costs and one federal agency will pay an estimated \$30 more in fees.

How did staff develop the proposed amendments?

ARB staff developed the proposed amendments to the Fee Regulation by working closely with staff that developed the MRR, the public, and the regulated entities.

A public workshop was held on January 21, 2011, to receive comments on the proposed amendments. The workshop notice was posted to ARB's website and emailed to subscribers of the climate change list serve. A copy of the workshop notice is contained in Appendix C of this Staff Report. ARB staff received oral comments during the workshop. Three entities also submitted written comments after the workshop. These comments were reviewed by staff and considered in the draft proposed amendments.

What is staff's recommendation?

We recommend that the Board approve the proposed amendments to the Fee Regulation.

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I. Introduction

In this rulemaking, Air Resources Board (ARB or Board) staff is proposing amendments to the Assembly Bill (AB) 32 Cost of Implementation Fee Regulation (Fee Regulation). The purpose of the proposed amendments to the Fee Regulation is primarily to modify language to conform with proposed amendments to the Regulation for the Mandatory Reporting of Greenhouse Gas Emissions (MRR) which are expected to become legally effective in late 2011.

The proposed amendments to the Fee Regulation include changes in applicability to exclude certain small greenhouse gas (GHG) emitters; add, revise, or delete definitions; modify language for clarity and consistency with proposed amendments to the MRR; and change certain reporting deadlines. The regulation is codified in title 17, California Code of Regulations, sections 95200 to 95207.

This Staff Report provides ARB staff's technical justification and analysis of the proposed amendments.

Background and Enabling Legislation

AB 32, the California Global Warming Solutions Act of 2006 (Health and Safety Code sections 38501-38599), established a comprehensive, multi-year program to reduce GHG emissions in California. Under AB 32, ARB is required to develop regulations that will ultimately reduce California's GHG emissions to the 1990 baseline year by 2020. AB 32 also provides ARB the authority to adopt a fee schedule to fund the State's cost to develop, implement and enforce these regulations and other provisions of the law.

The fee is authorized in HSC section 38597, which states:

“The State board may adopt by regulation, after a public workshop, a schedule of fees to be paid by the sources of greenhouse gas emissions regulated pursuant to this division, consistent with Section 57001. The revenues collected pursuant to this section, shall be deposited into the Air Pollution Control Fund and are available upon appropriation, by the Legislature, for purposes of carrying out this division.”

The purpose of the Fee Regulation is to establish the means to fund the State's AB 32 costs and to repay loans that were approved by the Legislature and the Governor for fiscal years (FY) 2007-2008 through 2009-2010. The Fee Regulation assesses fees on sources of GHGs from the most widely used fossil fuels, including gasoline; diesel; coal; petroleum coke; catalyst coke; refinery gases; and natural gas. A fee is also assessed on non-combustion GHG process emissions from refineries and cement manufacturers. Finally, a fee is imposed on the GHG emissions associated with the generation of imported electricity. Together,

emissions from fuel combustion; refining; manufacturing process emissions; and imported electricity account for over 85 percent of California's GHG emissions.

On May 8, 2009, ARB released the staff report: Initial Statement of Reasons for Rulemaking, Proposed AB 32 Cost of Implementation Fee Regulation and Proposed Amendments to the Regulation for the Mandatory Reporting of Greenhouse Gas Emissions. The Board directed the Executive Officer to finalize the AB 32 Cost of Implementation Fee Regulation and the amendments to the MRR at its September 25, 2009, hearing.

In February and March 2010, ARB modified the Fee Regulation to reflect the Board's direction from the September 2009 hearing. All modifications were made available for public comment for a period of 15 days. On May 6, 2010, ARB submitted a Final Statement of Reasons and other necessary documents to the California Office of Administrative Law (OAL). The regulations were approved by OAL on June 17, 2010, and became effective on July 17, 2010.

The Fee Regulation establishes a fee schedule to support implementation of AB 32 by ARB and other State agencies. Funds collected are also used to repay loans appropriated by the Legislature and used by ARB and the California Environmental Protection Agency to pay for the first three fiscal years (FY) of the program, as shown in Table 1. These loans are required to be repaid with interest. The portion of the required revenue that is for loan repayment is estimated to be about \$27 million per year for the first three years (FY 2010-2011 through FY 2012-2013). The remaining due in year four (FY 2013-2014), covers accrued loan interest, which, is expected to be substantially less than \$27 million.

Table 1. AB 32 Loans

Fiscal Year	Loan Source	Loans* (in \$Thousands)
FY 2007-2008	Motor Vehicle Account ¹	\$15,472
FY 2008-2009	Beverage Container Recycling Fund ²	\$32,000
FY 2009-2010	Beverage Container Recycling Fund ³	\$35,000
Total		\$82,472

*Does not include accrued interest.

¹ SB 77 (Ducheny, Chapter 171, Budget Act of 2007)

² AB 1781 (Laird, Chapter 268, Budget Act of 2008)

³ SBX3 1 (Ducheny, Chapter 1, Budget Act of 2009)

Funds are deposited in the Air Pollution Control Fund and are made available upon appropriation by the Legislature.

ARB determines the fee amounts for each of the affected entities based on:

1) required revenue set in the FY budget approved by the Legislature and Governor to implement AB 32 and repay loans, and 2) metric tons of CO₂ (MTCO₂) determined from fuels and emissions data reported, using the fee calculation methodology described in the Fee Regulation.

A. Implementation Status

In April 2011, ARB sent out invoices for FY 2010-2011 to 284 fee payers based on the total required revenue of \$62.1 million. This total includes both AB 32 implementation expenses for the FY 2010-2011 of \$35.2 million and \$26.9 million of repayment on program start-up loans. At the time of publication of this Staff Report, ARB is in the process of sending out invoices for FY 2011-2012 to 294 fee payers based on the total revenue requirement of \$61 million. Revenue requirements are established by the California Budget Act.

B. Process to Develop Proposed Amendments

A public workshop was held on January 21, 2011, to solicit comments on the proposed amendments. The workshop notice was posted to ARB's website and emailed to subscribers of the climate change list serve. A copy of the workshop notice is contained in Appendix C of this Staff Report.

ARB staff received oral comments during the workshop. Three entities also submitted written comments after the workshop. These comments were reviewed by staff and considered in the draft proposed amendments. The proposed amendments to the Fee Regulation can be found in Appendix A of this Staff Report.

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II. Need for Amendments

This chapter describes the need for amendments to the Fee Regulation. The amendments to the Fee Regulation are necessary to conform requirements of the Fee Regulation to the Mandatory Reporting Regulation (MRR) and to clarify some provisions of the regulation based on experience gained from implementation of the fee.

In December 2010, the Board considered modifications to certain sections of the MRR. The proposed amendments to the MRR were implemented to conform the MRR to the U.S. Environmental Protection Agency's mandatory greenhouse gas (GHG) reporting requirements contained in 40 Code of Federal Regulations (CFR), part 98, and to support the proposed California Cap on Greenhouse Gas Emissions and Market-based Compliance Mechanisms Regulation (Cap-and-Trade Regulation). Entities subject to the MRR and those subject to the Fee Regulation must use the same Internet-based reporting tool to report all required data.

For many sectors, reporting pursuant to the MRR provides data to comply with the Fee Regulation; as such, data are reported only once to limit the administrative burden on regulated entities. In order for the data to be reported for both regulations simultaneously, in most cases, identical definitions are necessary for clarity. To conform definitions and reporting dates to the MRR, staff proposes to amend the Fee Regulation to ensure relevant language is as consistent as possible.

While most definitions in the proposed amendments to the Fee Regulation are identical to the MRR, some are different by necessity, due to specific distinctions between the two regulations. These proposed amendments to definitions include the phrase "(Fee Regulation only)."

MRR amendments are anticipated to be effective for the 2011 report year (reported in 2012). To conform to the MRR requirements, the proposed amendments to the Fee Regulation are different for reporting years 2008 through 2010, and for report years 2011 and later. This differentiation is necessary to reflect how the Fee Regulation determines fees based on the currently effective MRR and the amended MRR, which is scheduled to become legally effective in late 2011.

Staff expects these proposed amendments to the Fee Regulation to become legally effective prior to the 2011 report year due dates of April 1, 2012, for facilities and fuel suppliers and June 1, 2012, for electric power entities. This will ensure that the Fee Regulation's reporting requirements conform to the MRR requirements for emissions data reports beginning with the 2011 report year.

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III. Proposed Amendments

In this chapter, we provide plain language descriptions of the proposed amendments to the Fee Regulation and explain the rationale and necessity for the proposals. The regulation is codified in title 17, California Code of Regulations, sections 95200 to 95207. The listed sections include only those sections that are proposed to be amended, added, or deleted. Sections revised only due to renumbering are not listed here. Appendix A contains the proposed amendments to the Fee Regulation. The proposed changes are shown in underline and ~~strikeout~~ format.

The proposed amendments are not intended to revisit decisions previously approved by the Board. The proposed changes are technical in nature and do not significantly change applicability or the calculation of fees established by the Fee Regulation.

A. Applicability (section 95201) – Emission Sources Subject to the Fee

The types of entities subject to the Fee Regulation are not significantly changed by the proposed amendments to section 95201. The Fee Regulation applies to the following entities:

- Natural gas entities (gas utilities, pipeline owners and operators, and end users receiving natural gas from an interstate pipeline);
- Producers and importers of California gasoline, California Reformulated Gasoline Blendstock (CARBOB), and California diesel;
- Oil refineries;
- Cement manufacturers;
- Electricity producers and importers; and
- Facilities that combust coal, petroleum coke, catalyst coke, or refinery gas.

Limited changes to section 95201 “Applicability” are proposed to clarify who is subject to the Fee Regulation, and to conform to the MRR. The changes are as follows:

1. Establish a threshold for combustion or consumption of 100,000 therms of natural gas in a report year for end users that receive natural gas directly from an interstate pipeline.

This change is proposed to exclude small sources that combust or consume natural gas received directly from an interstate pipeline. It was not ARB’s intention to require reporting or apply the fee to small sources that are simply part of the operation of the pipeline.

To determine an appropriate exemption threshold, staff applied the minimum fee amount in the Fee Regulation, fifty dollars (\$50), found in 95205(a), to the amount of therms delivered to any interstate pipeline end user. Based on the total program expenditures of approximately \$35.2 million in the

FY 2010/2011 State budget and estimated total emissions of 362 million MTCO₂, the amount of therms equating to a fee of \$50 (rounded for administrative simplicity) is determined as follows:

$$\frac{\text{Total program expenditures (\$35.2 million)}}{\text{estimated emissions (362 MMTCO}_2\text{)}} = \$0.097/\text{MTCO}_2$$

$$\frac{\$50}{\$0.097/\text{MTCO}_2} = 515 \text{ MTCO}_2 \text{ emissions (natural gas)}$$

$$\frac{515 \text{ MTCO}_2 \text{ emissions (natural gas)}}{5.302 \text{ KgCO}_2/\text{therm emission factor}} * 1000 \text{ KgCO}_2 = 97,220 \text{ therms}$$

Based on the above analysis, we propose that those end users receiving natural gas from interstate pipelines that combust or consume less than 100,000 therms of natural gas per report year, should not report under the requirements of the Fee Regulation. Likewise, staff proposes that operators or owners of interstate pipelines do not need to report end users to which they deliver less than 100,000 therms per report year. Because the Fee Regulation prohibits ARB from collecting fees of \$50 or less, this proposal is based on the fact that reporting would have no impact on the fees collected. As such, the reporting of less than 100,000 therms, delivered or received, would impose a cost and not provide a benefit.

2. Clarify that among electricity generating facilities (EGF) that deliver electricity in California, the fee applies only to a megawatt-hour (MWh) delivered from grid-dedicated, stand-alone EGFs. The proposed amendments have the effect of excluding each MWh delivered from cogeneration and self-generation facilities, from determination of a fee based on the generation of electricity. This is consistent with the current Fee Regulation. This modification to the regulatory language for first deliverers and the associated changes in definitions conform to changes in the MRR, and will further clarify fee applicability and simplify administration of the fee. As is the case with the current Fee Regulation, EGFs that are not grid-dedicated, stand-alone EGFs (for example, cogeneration and self-generation facilities), will continue to pay the fee directly or indirectly based on fuels used at the facility.
3. Exclude from fee liability any MWh of electricity generated at a grid-dedicated, stand-alone EGF that is not subject to reporting under the MRR. The current Fee Regulation excludes any EGF that emits less than 2,500 MTCO₂ per year. Based on changes in MRR, EGFs emitting less than 10,000 metric tons of CO₂ equivalent (MTCO₂e) would not be subject to MRR. This change is proposed to conform to the MRR and to maintain consistency with the existing Fee Regulation for the 2011 report year and subsequent years.

4. This amendment is proposed to clarify that direct delivery of renewable energy is not subject to the fee. Replacement electricity for variable renewable energy is reported pursuant to the MRR and must meet the requirements of the proposed Cap-and-Trade Regulation in order to reduce an electricity importer's compliance obligation.
5. Clarify applicability for kerosene-type jet-fuel; biodiesel; renewable diesel; biogas; biomass; and municipal solid waste.

This amendment is proposed to clarify that kerosene-type jet-fuel is not subject to the fee unless it is used in an EGF, and that the renewable fuels and municipal solid waste are not subject to the Fee Regulation, without regard to use at an EGF.

B. Definitions (section 95202)

Numerous changes in the definitions section of the Fee Regulation are being proposed as part of the amendments. Changes include deleting definitions that are no longer applicable, adding new definitions, and amending existing definitions. While most definitions in the proposed amendments to the Fee Regulation are identical to the MRR, some are different, by necessity, due to specific distinctions between the two regulations. Section 95202 contains three definitions, Associated gas, Catalyst coke, and Petroleum coke followed by the phrase "(Fee Regulation only)" to demonstrate definitions that differ from the MRR. In the proposed amendments to the MRR, the amendments to the definitions for Associated gas, Catalyst coke, and Petroleum coke would not conform with the existing, established structure of the Fee Regulation. To maintain that there is no net change in the amount of fees that are collected, staff believes that these three definitions should differ in the Fee Regulation from the MRR, by necessity.

C. Calculation of Fees (section 95203)

Minor amendments are being proposed to the fee calculation methodology to ensure consistency with the proposed changes in the definitions. The proposed amendments to the Fee Regulation would result in different fee calculation procedures for report years 2008 through 2010, and those fee calculation procedures for report years 2011 and later. This differentiation in fee calculation procedures is necessary to reflect how the Fee Regulation determines fees based on the currently effective MRR and the amended MRR, which is scheduled to become effective in late 2011.

The proposed amendments to the Fee Regulation would result in different fee calculation procedures for report years 2008 through 2010, and those fee calculation procedures for report years 2011 and later. This differentiation in fee calculation procedures is necessary to reflect how the Fee Regulation determines fees based on the currently effective MRR and the amended MRR, which is scheduled to become legally effective in late 2011.

D. Reporting and Recordkeeping Requirements (section 95204)

Minor amendments are needed to the reporting and recordkeeping requirements to: 1) clarify administrative information such as a billing address and identification of an official responsible for payment for all facilities, fuel suppliers, and electric power entities subject to the Fee Regulation; and 2) conform to the MRR reporting due dates.

E. Payment and Collection (section 95205)

ARB staff proposes amendments to clarify that an entity must remit payment within 60 days of the date of a fee determination notice, rather than the date of receipt of a fee determination notice. This clarification is necessary because we do not have the ability to determine when an entity receives a fee determination notice.

F. Regulatory Alternatives

California Government Code section 11346.2 requires ARB to consider and evaluate reasonable alternatives to the proposed amendments to the Fee Regulation and provide reasons for rejecting those alternatives. This section discusses the alternative evaluated and provides the reasons why it was not included in the proposed rulemaking. No alternative considered by the agency would be more effective in carrying out the purpose for which the amendments to the Fee Regulation are proposed or would be as effective as or less burdensome to affected private parties than the proposed Fee Regulation amendments.

No Changes to the AB 32 Cost of Implementation Fee

A “no action” alternative means that the Fee Regulation would be substantially different than the MRR in a number of important ways.

This alternative was rejected as it would create confusion and inconsistencies for regulated entities in complying with the MRR and the Fee Regulation. Examples of inconsistencies include:

- 1) Applicability for EGFs, and importers and marketers of electricity in the current Fee Regulation reference subsections 95111(a)(1)(A); 95111(a)(2)(A); 95111(b)(2)(B); 95111(b)(2)(C); and 95111(b)(3)(N) in the MRR. In the amended MRR, these subsections either do not exist or no longer apply to the same reporting entities. Therefore, some reporting sectors subject to the existing Fee Regulation would no longer have to pay fees and this would not be clear unless the regulation was changed to conform with MRR.
- 2) Definitions such as asset controlling supplier, delivered electricity, and electricity importer in the Fee Regulation are not consistent with the amended MRR. Unless amended, this would create confusion in how these terms are used in the two regulations. All electricity sector reporting for the Fee Regulation is the same as

required under the MRR. To allow reporting pursuant to MRR to be used for the fee determination under the Fee Regulation and limit administrative burden to regulated entities, the definitions should be identical.

G. Rationale for Amendments

The following section explains in detail the rationale behind each of the proposed amendments to the Fee Regulation.

Applicability – Section 95201

95201(a)(1)(B) – This subsection is revised to clarify that the Fee Regulation does not apply to end users receiving less than 100,000 therms of natural gas directly from interstate pipelines. This change is made to exclude the reporting burden to very small operators that are expected to be excluded from fee payment because their bills would be less than \$50 (rounded) per year.

95201(a)(1)(C) – This subsection is revised to clarify that owners and operators of interstate pipelines are not required to report end users to which they deliver less than 100,000 therms of natural gas. This change is made to eliminate the reporting burden for very small operators that are expected to be excluded later from fee payment because their bills would be less than \$50 (rounded) per year.

95201(a)(4)(A) – This subsection is revised to clearly specify that the subsection applies to electricity that is delivered to California prior to January 1, 2011, and to reflect the newly defined term purchasing-selling entity. This change is required to clarify requirements prior to the 2011 report year.

95201(a)(4)(B) – This subsection is added to clarify which electricity entities are subject to the fee for electricity that is delivered to California on or after January 1, 2011. This addition clarifies that fees apply to electricity generated at grid-dedicated, stand-alone EGFs. By using this newly defined phrase, which limits application of the fee applied for electricity to specific facility types, it is no longer necessary to exclude electricity cogeneration and self-generation facilities as found in the existing Fee Regulation. These changes conform to changes in the MRR.

95201(a)(4)(B) 1. – This subsection is added to clarify that no fee shall be paid for any MWh of electricity that is not required to be reported under MRR. Revisions to the MRR will no longer require reporting by electricity facilities that emit less than 10,000 MTCO₂e, whereas the existing Fee Regulation requires that fees be paid by facilities that emit 2,500 or more MTCO₂ per year. The data collected by the revised MRR will no longer support application of the fee to these lower emitting facilities. This addition is required to clarify that no fees are required for energy generated by facilities not required to report under the MRR for the 2011 report year, and subsequent years.

95201(a)(4)(B) 2. – This subsection is added to clarify that electricity generated by renewable energy sources and replacement electricity for variable renewable resources are not subject to the fee, except that replacement electricity with an emission factor greater than the default emission factor is subject to the fee based on the difference between the replacement electricity's emission factor and the default emission factor. These additions are required to clarify that there is no fee liability for renewable energy and to conform with how replacement electricity is treated in the MRR.

95201(a)(5) – This subsection is revised to specify that only facilities that combust or consume coal; petroleum coke (Fee Regulation only); catalyst coke (Fee Regulation only); or refinery fuel gas and are subject to the verification requirements in section 95103 of the MRR, are also subject to the Fee Regulation. This change is required to maintain the current applicability threshold of 25,000 MTCO₂ in emissions and clarify that facilities subject to MRR and eligible for abbreviated reporting under MRR, are not subject to the Fee Regulation.

95201(b) – This subsection is revised to clarify the term jet fuel to mean kerosene-type jet fuel and that biodiesel and renewable diesel fuels are not subject to the Fee Regulation, including when used at an EGF. It was not ARB's intention to include renewable fuels, as applicable, to the Fee Regulation, even when used at an EGF.

95201(c) – This subsection is revised to clarify that the specified renewable fuels and municipal solid waste are not subject to the fee.

Definitions – Section 95202

Numerous definitions are proposed to be revised, added, or deleted in the Fee Regulation and are listed in Appendix B of this Staff Report. Definitions and sections revised only due to renumbering are not listed.

Most of the changes to definitions included in the proposed amendments are needed to ensure the Fee Regulation is identical to the MRR. In many cases, this is due to a specific definition's use in determining applicability or reporting requirements. For several reporting sectors, data used for fee determination for the Fee Regulation are reported pursuant to the MRR. The data are only reported once through a single reporting tool. Primary examples of such reporting sectors are the electricity sector and facilities that combust or consume fuels, such as coal or petroleum coke. To allow reporting pursuant to MRR to be used for fee determination under the Fee Regulation, the definitions should be identical. In these cases, the list in Appendix B will simply provide, "revised (added or deleted) for reporting consistency with MRR." In all other cases, a more detailed rationale for the proposed amendment is provided.

While most definitions in the proposed amended Fee Regulation that correspond with definitions in the MRR are identical, some are different, by necessity, due to specific distinctions between the two regulations. These proposed amendments to definitions include the phrase “(Fee Regulation only).”

Calculation of Fees – Section 95203

Minor amendments to the fee calculation methodology are needed to ensure consistency with the revised definitions and to clarify how fees will be determined for report years 2008 through 2010, as well as report years 2011 and later. The proposed amendments are described below.

95203(b) – The Common Carbon Cost is revised to reflect the newly defined terms “Electricity delivered in California;” “qualified export;” “petroleum coke (Fee Regulation only);” “catalyst coke (Fee Regulation only);” and “refinery fuel gas” and to include a formula to subtract emissions from qualified exports of electricity.

95203(d) – Subsection on the Fuel Emission Factors is revised to: 1) correct a typographical error where “95204... (d)(4 5)” should be shown as separate subsections; 2) include default emission factors for Coal Unspecified (Electrical Power) and Coal Unspecified (Other Industrial); 3) clarify the petroleum coke emission factor applies to petroleum coke (Fee Regulation only); and 4) clarify that gasoline and diesel fuels subject to the fee are the defined “California gasoline” and “California diesel fuel.” These changes are required for clarity, and to include fuels that are reported as combusted or consumed in the 2008 and subsequent report years.

95203(e) – Subsection on the Electricity Fee Rate is revised to clarify that the section is specific to electricity delivered in California, and to clarify that the cost calculation for electricity delivered prior to January 1, 2011, will not change.

95203(f) – Subsection on the Electricity Fee Rate is added to clarify how electricity fee rates for both electricity delivered in California and qualified exports are determined and to clarify that the cost calculation for electricity delivered on or after January 1, 2011, will use emission factors published by ARB pursuant to MRR. This amendment is necessary to align with the MRR.

95203(f), reordered to (g) – Subsection on Emission Factors for Specified Sources is revised to specify calculation methods for report years 2008 through 2010, and to correct a typographical error that applies to electricity generating units/facilities.

95203(h) – Subsection on Emission Factors for Specified Sources is added to specify that emission factors will be obtained from those published on ARB’s Mandatory Reporting website for report years 2011 and subsequent years.

95203(g), reordered to (i) – Subsection on Emission Factors for Asset-Controlling Suppliers is revised to specify reporting requirements for report years 2008 through 2010 and to reflect amended definitions.

95203(j) – Subsection on Emission Factors for Asset-Controlling Suppliers is added to specify that emission factors will be obtained from those published on ARB's Mandatory Reporting website for report years 2011 and subsequent years.

95203(h), reordered to (k) – Subsection on Fee Liability for Fuels is revised to clarify that the variable F_{r_i} is the fuel fee rate for the fuel.

95203(i), reordered to (l) – Subsection on Fee Liabilities for Facilities that Combust Coal, Petroleum Coke (Fee Regulation only), Catalyst Coke (Fee Regulation only), or Refinery Fuel Gas is revised to clarify that the variable F_{r_i} is the fuel fee rate for the fuel, and revised to reflect amended definitions.

95203(j), reordered to (m) – Subsection on Fee Liability for Electricity Delivered in California is revised to reflect amended definitions and to include a formula to subtract emissions from qualified exports of electricity.

Reporting and Recordkeeping Requirements – Section 95204

Minor amendments to reporting and recordkeeping requirements are proposed to clarify administrative information and to conform with MRR on reporting due dates. The proposed amendments are described below.

95204(b) is revised to reflect new definitions for reporting entity and fuel supplier.

95204(b)(2), reordered to (b)(1)(C) – This subsection is revised to add additional requirements for the reporting of a mailing address, billing address, and identification of an official responsible for payment.

This additional information is necessary to ensure an invoice for a fee liability is received by the appropriate official at the appropriate address and to ensure ARB can mail general information on the Fee Regulation to the appropriate mailing address.

95204(c)(3) – This subsection is added to conform reporting due dates for the Fee Regulation and the MRR to reduce administrative burden to regulated entities.

95204(d) is revised to ensure consistency in revised applicability and revised reporting requirements specific to natural gas.

95204(e) – This subsection has been amended to clarify that 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. This is necessary to clarify the point in the fuel supply chain at which reporting is required.

95204(f) – This subsection has been amended to: 1) clarify that these entities are subject to the Fee Regulation only if they are subject to the verification requirements in Section 95103 of the MRR; 2) reflect amended definitions; and 3) clarify that emissions of gases that meet the definition of refinery fuel gas, but are the result of incomplete combustion of natural gas as a fuel or incomplete processing of natural gas as a feedstock, should not be reported. This is to clarify requirements and avoid double counting emissions as the fee has already been applied to the natural gas used as fuel or feedstock.

Payment and Collection – Section 95205

An amendment to this section is proposed to clarify when an entity must remit a payment.

95205 (b) – This subsection has been amended to clarify that an entity must remit payment to ARB within 60 days of the fee determination notice date, rather than within 60 days of the receipt of the fee determination notice. This is necessary as ARB has no method to determine when an entity receives a fee determination notice.

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IV. Environmental Impact Analysis

In this chapter, we describe the evaluation of environmental impacts and environmental justice impacts of the proposed amendments to the Fee Regulation.

A. Legal Requirements

The California Environmental Quality Act (CEQA) and ARB policy require an analysis to determine the potential adverse environmental impacts of proposed regulations. The Secretary of the Natural Resources Agency determined that ARB meets the criteria for a Certified State Regulatory Program (title 14, California Code of Regulations (CCR) section 15251 (d)), and certified ARB's program for the adoption of regulations.

Public Resources Code, Section 21080.5, allows public agencies with certified regulatory programs to prepare a plan or other written document in lieu of environmental impact reports or negative declarations, and include the documentation in the Initial Statement of Reasons. The 45-day public review period coincides with and is intrinsic to the Office of Administrative Law's requirement for public review. ARB will respond in writing to all significant comments that pertain to potential environmental impacts raised by the public during the public review period or at the Board hearing. These responses will be contained in the Final Statement of Reasons for the amended Fee Regulation.

B. Background and Proposed Project Description

The Fee Regulation assesses fees on sources of GHG emissions from the most widely used fossil fuels, including gasoline; diesel; coal; petroleum coke; catalyst coke; refinery fuel gas; and natural gas. The fee will also be assessed on non-combustion GHG process emissions from refineries and cement manufacturers. Finally, the fee is imposed on the GHG emissions associated with electricity generation (including imported electricity). Together, emissions from fuel combustion, refining and manufacturing process emissions, and electricity account for over 85 percent of California's GHG emissions.

Generally, the Fee Regulation pursues an "upstream" approach. A regulated entity would be assessed a fee for the GHG emissions from fuel that a covered entity introduces into commerce in California, or the direct GHG emissions as a result of an industrial process. The upstream approach minimizes the administrative burdens associated with the Fee Regulation since it decreases the number of entities that must pay fees, and simplifies the reporting needed to determine the fees.

One major goal of the Fee Regulation is to equitably impose fees on the widest possible spectrum of GHG sources in an administratively feasible manner. This cannot be done unless some type of administrative mechanism is used to impose a fee on upstream entities, which can then pass on the cost of the fee by increasing the cost of the fuel supplied to downstream entities.

Because the Fee Regulation applies to GHG emission sources based upon their reported emissions under the MRR, the two regulations are closely linked. The MRR has been amended to conform with the U.S. EPA's mandatory GHG reporting requirements contained in 40 Code of Federal Regulations, part 98. Additionally, the MRR has been amended to reflect reporting requirements of the State's proposed Cap-and-Trade Regulation. Because the MRR requires changes, the Fee Regulation must also be amended to ensure consistency in reporting and administration of the fee. The proposed changes are minimal and ARB expects that there will be limited impacts on the universe of fee payers.

Staff expects the proposed amendments to the Fee Regulation to take effect prior to the 2011 report year due date to ensure the MRR and the Fee Regulation are consistent for emission data reports beginning with the 2011 report year. Under the existing Fee Regulation, affected entities are required to report to ARB the quantity of fuels and GHG emissions subject to the fee each year, beginning with the 2008 report year.

The following regulatory sections are being amended:

- 95201 Applicability
- 95202 Definitions
- 95203 Calculation of Fees
- 95204 Reporting and Recordkeeping Requirements
- 95205 Payment and Collection

The proposed regulatory amendments would make requirements of the Fee Regulation consistent to those of the amended MRR requirements. The amendments would not change previous decisions made by the Board, but would improve clarity of the Fee Regulation. In addition, because the reporting requirements for EGFs change from 2,500 MTCO₂/year to 10,000 MTCO_{2e}/year in the MRR, some currently affected entities would no longer be subject to the Fee Regulation.

C. Environmental Impacts

Activities that are subject to CEQA are defined in Section 21065 of the CEQA Guidelines as a "project" as follows:

§ 21065. PROJECT

"Project" means an activity which may cause either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment, and which is any of the following:

- (a) An activity directly undertaken by any public agency.

(b) An activity undertaken by a person which is supported, in whole or in part, through contracts, grants, subsidies, loans, or other forms of assistance from one or more public agencies.

(c) An activity that involves the issuance to a person of a lease, permit, license, certificate, or other entitlement for use by one or more public agencies.

Staff consulted the CEQA Guidelines' Initial Study Checklist to determine if adoption and implementation of the proposed amendments to the Fee Regulation could result in any potentially significant adverse environmental impact.

The proposed amendments to the Fee Regulation consist of administrative changes that add, revise, or delete definitions, and change or exclude emissions reporting requirements for some entities. These changes would not require nor be reasonably expected to elicit a compliance response from a covered entity that could result in a physical change to the environment, directly or indirectly. As the proposed amendments would not cause either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment, they are not a project as defined by CEQA.

D. Environmental Justice

State law defines environmental justice as the fair treatment of people of all races, cultures, and incomes with respect to the development, adoption, implementation, and enforcement of environmental laws, regulations, and policies (Senate Bill 115, Solis; Statutes of 1999, CH. 690; Government Code section 65040.12 (c)). On December 13, 2001, the Board approved Environmental Justice Policies and Actions that establish a framework for incorporating environmental justice into ARB's programs, and that would be consistent with the directives of State law. The policies, subsequently developed, apply to all communities in California.

Staff has determined that the proposed amendments to the Fee Regulation would not result in an adverse impact to air quality and would not result in an increase in exposure to pollutants. Adoption and implementation of amendments to the Fee Regulation will have no adverse impacts on environmental justice communities.

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V. Economic Impact Analysis

In this chapter, ARB staff provides an overview of the economic impacts of the proposed amendments to the Fee Regulation on affected entities. For information on the economic impacts of the Fee Regulation in general, to public and private entities, refer to the May 8, 2009, ARB staff report: Initial Statement of Reasons for Rulemaking, Proposed AB 32 Cost of Implementation Fee Regulation.

A. Economic Impacts Associated with Proposed Amendments to the Fee Regulation

Proposed amendments to the Fee Regulation, which are based on proposed amendments to the MRR, raise the reporting requirement threshold from 2,500 MTCO₂/year to 10,000 MTCO₂e/year for EGFs. The proposed amendments to the Fee Regulation will not result in a net change to the revenue collected. The number of EGFs with emissions greater than 2,500 MTCO₂/year but less than 10,000 MTCO₂e/year will vary over time. It is expected that approximately 20 to 25 EGFs, currently subject to the Fee Regulation, would no longer be required to report emissions through the MRR, and therefore would no longer be required to pay under the Fee Regulation. An estimated \$26,000 (based on 2008 reported emissions), which would otherwise be paid by these facilities, will be redistributed among the approximately 131 remaining public and private fee payers, based on fuel and emissions reported data. As described below, the estimated average increase cost to a typical business is 0.04 percent. We expect most businesses will be able to absorb the increased cost and that the proposed regulation would not have a significant adverse economic impact directly affecting any representative private persons.

B. Annual Cost of the Proposed Amendments to the Fee Regulation

1. Estimated Cost to Businesses

Based on FY 2010-2011 invoicing, the impact of \$26,000 redistributed among all other fee payers would range from approximately \$0.03 to \$2,200 per invoice. Examples of changes to fee payer's invoices are as follows:

- A facility originally invoiced \$5 million would see an increase of \$2,100.
- A facility originally invoiced \$1 million would see an increase of \$420.
- A facility originally invoiced \$10,000 would see an increase of \$4.

This represents an estimated average increased cost to a typical business of 0.04 percent. Such an increase is not expected to have a noticeable impact on jobs.

2. Estimated Cost to Public Agencies

The proposed amendments to the Fee Regulation will not result in significant additional cost to local, State, or federal agencies as the annual costs in net revenue collected from affected entities is not significantly affected by the proposed amendments.

Four local agencies, presently subject to the Fee Regulation, would save a collective \$3,800 as a result of the adoption of the proposed amendments. The remaining government agencies, that serve as retail providers and marketers of imported electricity and are currently subject to the existing Fee Regulation (approximately 26 in total), would collectively pay an estimated \$1,465 of additional fees, as a result of the proposed amendments. One State agency, the California Department of Water Resources, would be required to pay an additional estimated \$85. In addition, the Western Area Power Administration, a federal agency, will pay an additional estimated \$30. The proposed amendments will not result in any additional costs to the ARB to implement the Fee Regulation.

VI. References

Air Resources Board. AB 32 Cost of Implementation Fee. July 17, 2010.
(ARB, 2010)

Air Resources Board. AB 32 Total Required Revenue: Funding Approved in the California Budget Act for Fiscal Year 2010-2011. June 24, 2011. (ARB, 2011)

Air Resources Board. Climate Change Scoping Plan: A Framework for Change; Pursuant to AB 32, The California Global Warming Solutions Act of 2006. December 2008. (ARB, 2008)

Air Resources Board. Regulation for the Mandatory Reporting of Greenhouse Gas Emissions. January 1, 2009 (ARB, 2009)

Air Resources Board. Staff Report: Initial Statement of Reasons for Rulemaking, Proposed AB 32 Cost of Implementation Fee Regulation and Proposed Amendment to the Regulation for the Mandatory Reporting of Greenhouse Gas Emissions. May 8, 2009. (ARB, 2009a)

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Appendix A

Proposed Amendments to the AB 32 Cost of Implementation Fee Regulation

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PROPOSED AMENDMENTS TO THE AB 32 COST OF IMPLEMENTATION FEE REGULATION

This appendix shows only amendments to the currently enacted AB 32 Cost of Implementation Fee Regulation (Article 3, sections 95200 to 95207, title 17, California Code of Regulations). The proposed 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.

Amend article 3, sections 95201 to 95205, title 17, California Code of Regulations to read as follows:

Article 3: Fees

Subarticle 1: AB 32 Cost of Implementation Fee Regulation

§ 95200. Purpose.

The purpose of this subarticle is to collect fees to be used to carry out the California Global Warming Solutions Act of 2006 (Stats. 2006; Ch. 488; Health and Safety Code sections 38500 *et seq.*), as provided in Health and Safety Code section 38597.

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

§ 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 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 ~~distributed~~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 interstate 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, 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 is the purchasing-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 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 of electricity that is not required to be reported pursuant to the Mandatory Reporting Regulation.
2. No fee shall be paid for any megawatt-hour of renewable energy, nor for replacement electricity for variable renewable resources that meets the requirements for a zero emission factor pursuant to MRR section 95111 except that, for replacement electricity that has an emission factor greater than the default emission factor, the fee shall be paid based on the difference between the greater emission factor and the default emission factor.

(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).

- (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) residual fuel oil;
 - (8) propane; or
 - (9) 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) 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, 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) "Associated gas (Fee Regulation only)" means hydrocarbon-based gaseous 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 (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.
- (11-14) "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.

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

(43 17) "Calendar year" means the time period from January 1 through December 31.

(44 18) "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 ~~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 California gasoline means movement of California gasoline into the ~~s~~State 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 19) "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.

~~(16 20)~~"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 ~~s~~State border. For imports by marine vessel it is the point where the fuel leaves the vessel.

(17 ~~21~~) "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 ~~22~~) "Carbon dioxide equivalent" or "CO₂ equivalent" or "CO_{2e}" "CO_{2E}" 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. ~~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 (MTCO_{2E})~~.

(19 ~~23~~) "Catalyst" means a substance added to a chemical reaction, which facilitates or causes the reaction, and is not consumed by the reaction.

(20 ~~24~~) "Catalyst coke (Fee Regulation only)" means carbon that is deposited on a catalyst, thus deactivating the catalyst.

(21 ~~25~~) "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 ~~26~~) "Cement manufacturer" means an owner or operator of a cement plant.

(23 ~~27~~) "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 ~~28~~) "Clinker" means the mass of fused material produced in a cement kiln from which finished cement is manufactured by milling and grinding.

(25 29) "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.

(30) "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 onsite 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 and 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.

(26 31) "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 32) "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.

(33) "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 34) "Combust" means the process of burning or setting fire to a fuel.

(29 35) "Combustion emissions" means greenhouse gas emissions occurring during the exothermic reaction of a fuel with oxygen.

(36) "Consumption" means to use, decay or destruct.

- (37) "Consumed on-site" means to consume at a facility.
- (38) "Cracking" means the process of breaking down larger molecules into smaller molecules, utilizing catalysts and/or elevated temperatures and pressures.
- (39) "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.
- (40) "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.~~
- (41) "EIA" means the Energy Information Administration. The EIA is a statistical agency of the United States Department of Energy.
- (42) "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.
- (43) "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.
- (44) "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.
- (45) "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 46)“Electricity importers” are marketers and retail providers that hold title to imported electricity. For electricity delivered between balancing authority areas, the entity that holds title to delivered electricity is identified on the NERC E-tag as the purchasing-selling entity (PSE) on 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. 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). When PSEs are not subject to the regulatory authority of ARB, including tribal nations, the electricity importer is the immediate downstream purchaser or recipient that is subject to the regulatory authority of ARB. 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.

(36 47)“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 48)“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 49)“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 50)“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 51)“Entity” means a person, firm, association, organization, partnership, business trust, corporation, limited liability company, company, government agency, or public district.

- (41 52) "Exclusive marketer" means a marketer that has exclusive rights to market electricity for a generating facility or group of generating facilities.
- (42 53) "Executive Officer" means the Executive Officer of ARB the California Air Resources Board, or his or her delegate.
- (43 54) "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 55) "Fee determination notice" means the notice or invoice provided by ARB to entities regulated by this subarticle stating the dollar amount due.
- (45 56) "Feedstock" means the raw material supplied to a process.
- (46 57) "First deliverer of electricity" means either the owner or operator of an electricity generating facility in California, or an electricity importer.
- (47 58) "Fiscal year" means the time period from July 1 to June 30.
- (48 59) "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 60) "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 61) "Fuel fee rate" means the rate charged per MTCO₂ produced by greenhouse gas sources specific to the fuel combusted and calculated by ARB.
- (62) "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.

(54 63) "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.

(64) "Generated electricity" means electricity generated by an electricity generating unit at the reporting facility. Generated electricity does not include any electricity wheeled through the facility, i.e., electricity that is generated outside the facility and delivered into the facility with final destination outside of the facility.

(52 65) "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 66) "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 67) "Government agency" means any agency as defined in Government Code section 11000.

(55 68) "Greenhouse gas source" means any physical unit, process, or other use or activity that releases a greenhouse gas into the atmosphere.

(69) "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.

(70) "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.

(71) "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 72) "Imported electricity" means electricity that is generated outside the State of California and delivered to a first point of delivery into serve load inside the State of California. Imported electricity includes electricity delivered from a 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 California over a 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, which is electricity that is delivered into California with final point of delivery outside 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 73) "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 74) "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 75) "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.

(76) "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.

- (77) “Linked jurisdiction” means a jurisdiction which has entered into a linkage agreement pursuant to subarticle 12 of the Cap-and-Trade Regulation¹.
- (60 78) “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 LGP, 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.
- (79) “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.
- (61 80) “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 81) “Marketer” means a purchasing-/selling entity that takes title to wholesale 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 82) “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 83) “Meter” means a device designed to measure, record or regulate the amount or volume of the flow of a gas.
- (65 84) “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.
- (85) “MMBtu” means million British thermal units.

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

(66 86) "Motor vehicle" has the same meaning as defined in section 415 of the Vehicle Code.

(87) "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.

(88) "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 89) "Nameplate generating capacity" means the maximum rated output of a generator under specific conditions designeddesignated 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 90) "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 91) "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.

(92) "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 93) "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.

(71 94) "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 95) "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 96) "Owner" means the entity having title ~~of~~to the property or assets which are subject to the fee.

(97) "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 98) "Payment period" means 60 days from the ~~receipt of the billing invoice~~ date, as stated in section 95205, each calendar year.

(75 99) "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.

(76 100) "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.

(77 101) "Point of delivery" means the point on an electric electricity transmission or distribution system where a power supplier delivers~~deliverer makes~~ 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.

(78 102) "Power" means electricity, except where the context makes clear that another meaning is intended.

(79 103) "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.

(80 104) "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.

(105) "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.

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

(84 107) "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.

(85 108) "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.

(86 109) "Purchasing or selling entity" or "PSE" means for purposes of this regulation an the functional entity that is eligible to purchases or sells, and takes title to energy, or capacity, and reserve transmission reliability related services. A PSE is identified on a NERC E-tag for each physical path segment.

(110) "Qualified exports" means emissions associated with electricity that is exported in the same hour as imported electricity and documented by NERC E-tags. Only electricity exported within the same hour and by the same PSE as the imported electricity is a qualified export. It is not necessary for the imported and exported electricity to enter or leave California at the same intertie. Emissions associated with qualified exports may be subtracted from the associated imports. Qualified exports shall not result in a negative compliance obligation for any hour.

(111) “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.

(87 112) “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.

(88 113) “Renewable diesel” means a motor vehicle fuel or fuel additive which that 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.

(114) “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.

(115) “Replacement electricity” means electricity delivered to a first point of delivery in California to replace electricity from variable renewable resources in order to meet hourly load requirements. The electricity generated by the variable renewable energy facility and purchased by the first deliverer is not required to meet direct delivery requirements. The physical location of the variable renewable energy facility busbar and the first point of receipt on the NERC E-tag for the replacement electricity must be located in the same balancing authority area.

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

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

(90 118) "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.

(91 119) "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.

(92 120) "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.

(121) "Short ton" or "Ton" means a common international measurement for mass, equivalent to 2,000 pounds.

(93 122) "Source" means greenhouse gas source. any physical unit, process, or other use or activity that releases a greenhouse gas into the atmosphere.

(94 123) "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 imported electricity delivered by an electricity importer. The electricity importer must have either full or partial ownership in the facility/unit or a written 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.

(124) "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) 125) "Stationary" means neither portable nor self propelled, and operated at a single facility.

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

(127) "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) 128) "Therm" means a unit of heat equal to 100,000 British thermal units (1.054×10^8 joules).

(129) "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) 130) "Unspecified source of electricity" or "unspecified source" means a source of electricity generation that cannot be matched to a particular specific facility or unit that generates electricity or matched generating unit or facility, or to an asset owning or asset-controlling supplier, recognized by the ARB. Unspecified sources contribute to the bulk system power pool and typically are dispatchable, marginal resources that do not serve baseload.

(131) "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.

(132) "Variable renewable resource" means run-of-river hydroelectric, solar, or wind energy that requires firming and shaping to meet load requirements.

(133) "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:

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

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 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 <u>(Fee Regulation only)</u>
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
$(Q_{ie} \times EF_{ie})$ =	Quantity of emissions from <u>delivered</u> electricity <u>delivered in California</u> as the sum of:
	$(Q_{sp} \times EF_{sp})$ = Quantity of MWh of electricity delivered from each specified source multiplied by the emission factor for that specified source;
	$(Q_{usp} \times EF_{usp})$ = Statewide quantity of MWh of electricity delivered from unspecified sources multiplied by the default emission factor for unspecified sources.
	<u>Minus</u>
	<u>$(Q_{qe} \times EF_{qe})$ = Quantity of MWh of qualified exports from each specified source multiplied by the emission factor for that specified source.</u>
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
Unspecified (Electric Power)	<u>1,884.86</u>	<u>kg CO₂ / short ton</u>
Unspecified (Other Industrial)	2,082.89	kg CO ₂ / short ton
Petroleum coke (<u>Fee Regulation only</u>)	2,530.65	kg CO ₂ / short ton
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:

$$\begin{aligned}EFR_{sp} &= CCC \times EF_{sp} \\EFR_{asp} &= CCC \times EF_{asp} \\EFR_{usp} &= CCC \times EF_{usp}\end{aligned}$$

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.*

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

$$\begin{aligned}\underline{EFR_{sp}} &= CCC \times \underline{EF_{sp}} \\ \underline{EFR_{asp}} &= CCC \times \underline{EF_{asp}} \\ \underline{EFR_{usp}} &= CCC \times \underline{EF_{usp}}\end{aligned}$$

Where:

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

“asp” denotes an asset-controlling supplier

"unsp" denotes an unspecified source

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

EFR_{asp} = The Electricity fee rate for the asset-controlling suppliers

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

EF_{sp} = Emission factor for specified source in MTCO₂e per MWh

EF_{asp} = Emission factor for asset-controlling suppliers in MTCO₂e per MWh

EF_{unsp} = Default emission factor for unspecified electricity imports for first points of receipt located in nonlinked jurisdictions, pursuant to ARB's Mandatory Reporting Regulation subsection 95111(b)(1).

EF_{unsp} = 0 MT of CO₂e/MWh for points of receipt located in linked jurisdictions.

- (f 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)

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.

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.

- (j) Emission Factors for Asset-Controlling Suppliers and Multi-jurisdictional Retail Providers for Report Years 2011 and Subsequent Years.

Emission factors for Asset-Controlling Suppliers and Multi-jurisdictional Retail Providers shall be the supplier-specific emission factors for Asset-Controlling Suppliers and Multi-jurisdictional Retail Providers published on the ARB Mandatory Reporting website calculated by ARB according to the methods in section 95111(b) of the Mandatory Reporting Regulation.

- (h k) 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 !) *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 m) *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, as follows:

$$FS_i = \sum(EFR_d \times QM_d) - \sum(EFR_{qe} \times QM_{qe})$$

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

EFR_{qe} = Electricity fee rate for electricity from qualified exports from each source

QM_{qe} = Quantity of MWh from qualified exports from each source

(k n) *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 MT_{CO}₂ emitted and reported annually. The fee shall be calculated as follows:

$$FS_i = CCC \times QE_i$$

Where:

FS_i = Fee for the Entity

CCC = Common Carbon Cost

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) *Reporting Format.*

All reports required by this subarticle must be submitted to ARB by using the California Air Resources Board's Greenhouse Gas Reporting Tool, as specified in title 17, California Code of Regulations, section 95104(e), or any other reporting tool approved by the Executive Officer that will guarantee transmittal and receipt of data required by ARB's Mandatory Reporting Regulation and this subarticle. The Reporting Tool is available on ARB's internet website at [www.arb.ca.gov].

(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 the 2010 calendar year data and subsequent calendar years must be submitted to ARB by June 30 of the following year, each year.
- (3) Each electricity importer required to report under this subarticle must submit a report for the 2011 and subsequent reporting years to ARB no later than June 1 of the following year, each year. Each facility owner or operator and fuel supplier required to report under this subarticle must submit a report for the 2011 and subsequent reporting years to ARB no later than April 1 of the following year and each year thereafter.
- (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, and the aggregate quantity of therms of excluding natural gas delivered to electricity generating facilities.
- (2) All owners or operators of intrastate pipelines that distributeddelivered natural gas directly to end users must annually report the aggregate quantity of therms of natural gas directly distributeddelivered, at the meter to all end users, and 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 distributeddelivered, at the meter from the interstate pipeline(s).
- (4) All owners or operators of interstate pipelines that distributeddelivered natural gas directly to end users must annually report the following information for each end user directly receiving natural gas100,000 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.

(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, Health and Safety Code.

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Appendix B

Rationale for Proposed Amendments to Definitions – Section 95202

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Rationale for Proposed Amendments to Definitions – Section 95202

Numerous definitions are proposed to be revised, added, or deleted in the Fee Regulation and are listed below. Definitions and sections revised only due to renumbering are not listed.

Most of the definitions are being changed to ensure the Fee Regulation is consistent with the MRR. In many cases, this is due to a specific definition's use in determining applicability or reporting requirements. For several reporting sectors, data used for fee determination for the Fee Regulation is reported pursuant to the MRR. The data are only reported once through a single reporting tool. Primary examples of such reporting sectors are the electricity sector and facilities that combust or consume fuels such as coal or petroleum coke. To allow reporting pursuant to MRR to be used for fee determination under the Fee Regulation, the definitions should be identical. In these cases, the list will simply provide, "revised (added or deleted) for reporting consistency with MRR." In all other cases, a more detailed rationale for the proposed amendment is provided.

While most definitions in the proposed amendments to the Fee Regulation are identical to the corresponding definition in the MRR, some are different, by necessity, due to specific distinctions between the two regulations. In many cases, these proposed amendments to definitions include the phrase "(Fee Regulation only)."

95202(a)(4) "Annual" is revised for reporting consistency with MRR.

95202(a)(6) "Asset-controlling supplier" is revised for reporting consistency with MRR.

95202(a)(7) "Asset-owning supplier" is deleted for consistency with MRR.

95202(a)(8), renumbered to (7), "Associated gas" is amended to "Associated gas (Fee Regulation only)" to differentiate between associated gas in the MRR and associated gas subject to the Fee Regulation. The definition is amended to clarify that Associated Gas is a subset of natural gas. These revisions are necessary to clarify that the term is distinct from the term associated gas in the MRR and reduce reporter confusion as the current definition does not refer to natural gas in the definition.

95202(a)(8) "Aviation gasoline" is added to define those fuels excluded under 95201(b) and maintain consistency with MRR.

95202(a)(9) "Balancing authority" is added for reporting consistency with MRR.

95202(a)(10) “Balancing authority area” is added for reporting consistency with MRR.

95202(a)(12) “Bigeneration Unit” is added for reporting consistency with MRR.

95202(a)(13) “Biodiesel” is revised for reporting consistency with MRR.

95202(a)(15) “Biomass” is added for reporting consistency with MRR.

95202(a)(12), renumbered to (16), “Busbar” is revised for reporting consistency with MRR.

95250(a)(22) “Carbon dioxide equivalent” is revised for reporting consistency with MRR.

95202(a)(20), renumbered to (24), “Catalyst coke” is amended to “Catalyst coke (Fee Regulation only)” to differentiate between catalyst coke in the MRR and catalyst coke subject to the Fee Regulation.

95250(a)(25), renumbered to (29), “Coal” is revised for reporting consistency with MRR.

95250(a)(30) “Cogeneration” is added for reporting consistency with MRR.

95250(a)(26), renumbered to (31), “Cogeneration facility” is revised for reporting consistency with MRR.

95250(a)(27), renumbered to (32), “Cogeneration system” is revised for reporting consistency with MRR.

95202(a)(33) “Cogeneration unit” is added for reporting consistency with MRR.

95202(a)(36) “Consumption” is added to clarify what is to be reported pursuant to section 95204(f).

95202(a)(37) “Consumed on-site” is added to clarify the use of the term specific to reporting requirements.

95250(a)(32), renumbered to (40), “Delivered electricity” is revised for reporting consistency with MRR.

95250(a)(41) “Energy Information Administration,” or “EIA” is added for reporting consistency with MRR.

95202(a)(42) “Electricity delivered in California” is added to differentiate between delivered electricity in MRR and delivered electricity subject to the Fee Regulation.

95202(a)(33), renumbered to (43), “Electricity fee rate” is revised to clarify that an emission factor specific to a specified source is used for all electricity from a specified source, while a default emission factor is used for all electricity from an unspecified source.

95202(a)(34), renumbered to (44), “Electricity generating facility” is revised for reporting consistency with MRR.

95202(a)(45) “Electricity generating unit” or “EGU” is added for reporting consistency with MRR.

95202(a)(35), renumbered to (46), “Electricity importers” is revised for reporting consistency with MRR.

95202(a)(36), renumbered to (47), “Emissions” is revised for reporting consistency with MRR, and to clarify that for the purpose of the Fee Regulation an emission source is not directly related to a facility. This is to reflect that upstream fuels emissions are not related to a facility.

95202(a)(37), renumbered to (48), “Emissions data report” or “greenhouse gas emissions data report” or “report” is revised for reporting consistency with MRR, and to clarify for the purpose of the Fee Regulation that the report includes all data required to be reported pursuant to the MRR and the Fee Regulation.

95202(a)(39), renumbered to (50), “End user” is revised for reporting consistency with MRR.

95202(a)(42), renumbered to (53), “Executive Officer” is revised for consistency with MRR.

95202(a)(43), renumbered to (54), “Facility” is revised for reporting consistency with MRR.

95202(a)(46), renumbered to (57), “First deliverer of electricity” is revised to clarify the use of the term specific to section 95201(a)(4).

95202(a)(48), renumbered to (59), “Fossil fuel” is revised for reporting consistency with MRR.

95202(a)(49), renumbered to (60), “Fuel” is revised for reporting consistency with MRR.

95202(a)(62) "Fuel supplier" is added for reporting consistency with MRR.

95202(a)(64) "Generated Electricity" is added for reporting consistency with MRR.

95202(a)(53), renumbered to (66), "Global warming potential" or "GWP" is revised for reporting consistency with MRR.

95202(a)(69) "Grid" or "Electric power grid" is added for reporting consistency with MRR.

95202(a)(70) "Grid-dedicated facility" is added for reporting consistency with MRR.

95202(a)(71) "Gross generation" or "gross power generated" is added for reporting consistency with MRR.

95202(a)(56), renumbered to (72), "Imported electricity" is revised for reporting consistency with MRR.

95202(a)(57), renumbered to (73), "Interstate pipeline" is revised for reporting consistency with MRR.

95202(a)(58), renumbered to (74), "Intrastate pipeline" is revised for reporting consistency with MRR.

95202(a)(59), renumbered to (75), "Kerosene" is revised for reporting consistency with MRR.

95202(a)(76), "Kerosene type jet fuel" is added to define those fuels excluded under 95201(b) and to maintain consistency with MRR.

95202(a)(77) "Linked jurisdiction" is added for reporting consistency with MRR.

95202(a)(60), renumbered to (78), "Liquefied petroleum gas" or "LPG" is revised for reporting consistency with MRR.

95202(a)(79) "Local distribution company" or "LDC," is added to differentiate between an intrastate pipeline and a distribution pipeline for natural gas.

95202(a)(62), renumbered to (81), "Marketer" is revised for reporting consistency with MRR.

95202(a)(65), renumbered to (84), “Metric ton” or “MT” is revised for reporting consistency with MRR.

95202(a)(85) “MMBtu” is added for reporting consistency with MRR.

95202(a)(87) “Multi-jurisdictional retail provider” is added for reporting consistency with MRR.

95202(a)(88) “Municipal solid waste” is added for reporting consistency with MRR.

95202(a)(67), renumbered to (89), “Nameplate generating capacity” is revised for reporting consistency with MRR.

95202(a)(68), renumbered to (90), “Natural gas” is revised for reporting consistency with MRR.

95202(a)(92) “NERC E-tag” is added for reporting consistency with MRR.

95202(a)(70), renumbered to (93), “Net generation” or “Net power generated” is revised for reporting consistency with MRR.

95202(a)(71), renumbered to (94), “Operational control” is revised for reporting consistency with MRR.

95202(a)(72), renumbered to (95), “Operator” is revised for reporting consistency with MRR.

95202(a)(97) “Oxygenate” is added to clarify the term as used in section 95204(e).

95202(a)(74), renumbered to (98), “Payment period” is revised to reflect the amendment to section 95205(b).

95202(a)(75), renumbered to (99), “Petroleum coke” is amended to “Petroleum coke (Fee Regulation only)” to differentiate between petroleum coke in the MRR and petroleum coke subject to the Fee Regulation.

95202(a)(76), renumbered to (100), “Petroleum refinery” is revised for reporting consistency with MRR.

95202(a)(77), renumbered to (101), “Point of delivery” is revised for reporting consistency with MRR.

95202(a)(80), renumbered to (104), “Process emissions” is revised for reporting consistency with MRR.

95202(a)(105) “Produced on-site” is added to clarify the term as used in section 95204(d).

95202(a)(81) “Producer” is deleted as the term is not used in the Fee Regulation in any context other than as defined in subsections 95202(a)(14), 95202(a)(15), or 95202(a)(16) in the current Fee Regulation.

95202(a)(82) “Production facility” is deleted as the term is not used in the Fee Regulation other than in the proposed deleted subsection 95202(a)(81).

95202(a)(83), renumbered to (106), “Propane” is revised for reporting consistency with MRR.

95202(a)(86), renumbered to (109), “Purchasing-selling entity” is revised for reporting consistency with MRR.

95202(a)(110) “Qualified Export” is added for reporting consistency with MRR.

95202(a)(111) “Radiative forcing” is added to clarify the use of the term in the existing definition for “Global warming potential” in the existing Fee Regulation.

95202(a)(87), renumbered to (112), “Refinery gas” is amended to “Refinery fuel gas” for reporting consistency with MRR.

95202(a)(88), renumbered to (113), “Renewable diesel” is revised for reporting consistency with MRR.

95202(a)(114) “Renewable energy” is added for reporting consistency with MRR.

95202(a)(115) “Replacement electricity” is added for reporting consistency with MRR.

95202(a)(116) “Reporting entity” is added for reporting consistency with MRR.

95202(a)(89), renumbered to (117), “Report Year” or “Reporting Year” is revised for reporting consistency with MRR.

95202(a)(91), renumbered to (119), “Retail provider” is revised for reporting consistency with MRR.

95202(a)(121) “Short ton” or “Ton” is added for reporting consistency with MRR.

95202(a)(93), renumbered to (122), “Source” is revised for reporting consistency with MRR.

95202(a)(94), renumbered to (123), “Specified source of power” is amended to “Specified source of electricity” for reporting consistency with MRR.

95202(a)(124) “Stand-alone generating facility” is added for reporting consistency with MRR.

95202(a)(127) “Substitute power” or “substitute electricity” is added for reporting consistency with MRR.

95202(a)(129) “Thermal energy” is added for reporting consistency with MRR.

95202(a)(98) “Ton” is deleted as the terms ton and short ton are combined for clarity in added subsection 95202(a)(119).

95202(a)(98), renumbered to (130), “Unspecified source of power” is amended to “Unspecified source of electricity” for reporting consistency with MRR.

95202(a)(131) “Useful thermal output” is added for reporting consistency with MRR.

95202(a)(132) “Variable renewable resource” is added for reporting consistency with MRR.

95202(a)(133) “Wholesale sales” is added to clarify the applicability of fees specific to MWhs delivered by a multi-jurisdictional retail provider.

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Appendix C

Public Workshop Notice

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Air Resources Board



Linda S. Adams
Acting Secretary for
Environmental Protection

Mary D. Nichols, Chairman
1001 I Street • P.O. Box 2815
Sacramento, California 95812 • www.arb.ca.gov

Edmund G. Brown Jr.
Governor

Amendments to the AB 32 Cost of Implementation Fee Regulation

The Air Resources Board (ARB) invites you to participate in a public workshop to discuss proposed amendments to the AB 32 Cost of Implementation Fee Regulation (COI Regulation).

The COI Regulation provides a schedule of fees to be paid by sources of greenhouse gas emissions to support the administration costs of implementing AB 32, the California Global Warming Solutions Act of 2006, and was adopted by ARB pursuant to Health and Safety Code Section 38597. Under AB 32, ARB has developed numerous measures supported by the regulation to reduce greenhouse gas emissions and help clean the air, protect the environment and drive innovative new solutions to clean energy.

When and Where is the Meeting?

The workshop will be held at the following location:

DATE: Friday, January 21, 2011
TIME: 1:30 p.m.
PLACE: Cal/EPA Headquarters Building
Sierra Hearing Room, 2nd Floor
1001 I Street
Sacramento, CA 95814

Meeting Topic Details

The purpose of this workshop is to discuss with stakeholders ARB's proposed amendments to the COI Regulation that are necessary to be consistent with recent amendments to ARB's Regulation for Mandatory Reporting of Greenhouse Gas Emissions. Staff will make the proposed amendments to the COI Regulation available prior to the workshop and plans to take the amendments to the Board for consideration at its April 28, 2011 public meeting. The workshop will also provide an opportunity for comments from stakeholders and the public.

Meeting Materials

The materials for this workshop will be posted prior to the workshop at ARB's website <http://www.arb.ca.gov/cc/adminfee/meetings/meetings.htm>.

At this website, you may also join our electronic mailing list to receive further notices of ARB activities and public meetings related to the implementation of AB 32.

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 our website: <http://www.arb.ca.gov>.

California Environmental Protection Agency

Printed on Recycled Paper

Can't Make it to the Meeting?

This meeting will be webcast, and viewers can E-mail written comments or questions during the session to ccworkshops@arb.ca.gov. Webcast links are posted at <http://www.calepa.ca.gov/broadcast/?BDO=1>. ARB recommends that you do not run other programs while viewing the webcast, as it may interrupt or lower the quality of the signal.

Directions to Cal/EPA

There are many ways to arrive at the Cal/EPA Headquarters Building but we encourage you to take public transportation or drive low emission/high efficiency vehicles whenever possible. Use the following link for directions and information on public transit: <http://www.calepa.ca.gov/EPAldg/location.htm>.

Special Accommodations or Language Assistance

If you require special accommodations or language needs, please contact Mary Farr at (916) 445-8290 or mfarr@arb.ca.gov as soon as possible, but no later than 7 business days before the scheduled event/meeting. TTY/TDD/Speech to Speech users may dial 7-1-1 for the California Relay Service.

We Value Your Input

We welcome and encourage your participation in this important effort. If you have questions regarding the workshop or the COI Regulation, please contact Bill Blackburn at (916) 322-7154 or bblackbu@arb.ca.gov.

Sincerely,

Kevin M. Kennedy
Assistant Executive Officer
Office of Climate Change