

Attachment A

MODIFIED REGULATORY TEXT FOR 15-DAY PUBLIC COMMENT FOR THE COST OF IMPLEMENTATION FEE REGULATION

This attachment shows the modifications to the originally proposed regulatory language. The originally proposed regulatory language is shown in underline to indicate additions and ~~strikeout~~ to indicate deletions. The suggested modifications to the proposed regulation are shown in double underline to indicate additions and ~~double-strikeout~~ to indicate deletions. “[No Change]” indicates that the regulatory language not being amended is not shown.

Amend article 3, sections 95201, 95202, 95203 and 95204, title 17, California Code of Regulations to read as follows:

Article 3: Fees

Subarticle 1: AB 32 Cost of Implementation Fee Regulation

§ 95201. Applicability.

(a) – (b) [No Change]

(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 (~~B100~~B100≥99%);
- (2) renewable diesel (~~R100~~R100≥99%);
- (3) biomass;
- (4) biogas; or
- (5) biogenic emissions from municipal solid waste.

(d) The fees associated with this subarticle shall be based upon the reported data from the most recent calendar year for which the mandatory reporting data verification process is completed, ~~except for fiscal year 2010/2011. 2008 calendar year data shall be used for fiscal year 2010/2011.~~ Regulated entities must comply with this regulation as amended in 2014, beginning with fees calculated in 2015.

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

Reference: Sections 38501, 38505 and 39600, Health and Safety Code.

§ 95202. Definitions.

(a) For the purposes of this subarticle, the following definitions shall apply:

(1) – (110) [No Change]

(~~408~~ 111) “Petroleum coke (~~Fee Regulation only~~)” means a black solid residue, ~~high in carbon content and low in hydrogen that is the final product of thermal decomposition in the condensation process in~~

cracking obtained mainly by cracking and carbonizing of petroleum derived feedstocks, vacuum bottoms, tar and pitches in processes such as delayed coking or fluid coking. It consists mainly of carbon (90 to 95 percent), has low ash content, and may be used as a feedstock in coke ovens. This product is also known as marketable coke or catalyst coke.

(112) – (144) [No Change]

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) – (c) [No Change]

(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), and (f)(3),~~ the Executive Officer shall calculate the Common Carbon Cost and the Fuel fee rates using the following emissions factors: pursuant to the Mandatory Reporting Regulation. For entities reporting pursuant to 95204(e) the Executive Officer shall calculate the emission factors using an arithmetic average of fuel grades taken from column C of 40 CFR 98 Table MM-1. For entities reporting pursuant to 95204(h), the Executive Officer shall calculate the Common Carbon Cost and fuel fee rates using the default clinker emission factor provided in the latest ARB GHG inventory (<http://www.arb.ca.gov/cc/inventory/inventory.htm>), unless the entity reports a facility-specific clinker emission factor.

[No change]

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

(1) The Executive Officer shall calculate an Electricity Fee Rate for each MWh generated from a grid-dedicated, stand-alone electricity generating facility located in California that delivers electricity to the California transmission and distribution system using the following formula:

$$\text{EFR} = \text{CCC} \times \text{EF}$$

Where:

EFR = The electricity fee rate for in-state generation.

EF = Emission factor in MTCO₂e per MWh.

(2) The Executive Officer shall calculate an Electricity Fee Rate for each source of electricity delivered imported, into California, using the following formulas:

$$EFR_{sp} = CCC \times TL \times EF_{sp}$$

$$EFR_{unsp} = CCC \times TL \times EF_{unsp}$$

Where:

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

“unsp” denotes an unspecified source.

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

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

EF_{sp} = Emission factor for specified source in $MTCO_2e$ per MWh.

$EF_{unsp} = .427 MTCO_2$ ~~0.428 $MTCO_2e$~~ per MWh, the default Emission Factor for unspecified sources.

TL = Transmission loss correction factor. This is the applicable TL as identified in Section 95111(b) of the Mandatory Reporting Regulation.

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

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

(f) – (m) [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.

§ 95204. Reporting and Recordkeeping Requirements.

(a) [No Change]

(b) *All reporting entities subject to this subarticle must report the following*

(1) ~~Report Information:-~~

~~(A) Report year~~

~~(B) Facility information~~

~~1. Official responsible for payment~~

~~2. Facility name~~

~~3. Physical address~~

~~4. Mailing address~~

5. ~~Billing address~~
6. ~~Description of facility geographic location~~

(C) ~~Electricity Importer and fuel supplier Information:~~

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

(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. All entities subject to this subarticle are required to certify reports pursuant to the requirements of Section 95104 of the Mandatory Reporting Regulation.~~

(c) – (h) [No Change]

(i) *Records Retention.*

Entities subject to this subarticle must maintain copies of the information reported pursuant to ~~this subarticle~~ the applicable sections of the Mandatory Reporting Regulation ~~and provide them to an authorized representative of ARB within five business days upon request.~~ Records must be kept at a location within the State of California for five years.

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