

LEGAL DISCLAIMER & USER'S NOTICE

Note: Unofficial Electronic Version

The unofficial electronic version of the Regulation for the AB 32 Cost of Implementation Fee following this Disclaimer was produced by California Air Resources Board (ARB) staff for the reader's convenience. ARB staff has removed the underline-strikeout formatting which exists in the Final Regulation Orders approved by the Office of Administrative Law (OAL); however, the following version is not an official legal edition of title 17, California Code of Regulations (CCR), sections 95200-95207. While reasonable steps have been taken to make this unofficial version accurate, the officially published CCR takes precedence if there are any discrepancies. This version incorporates amendments that were approved in December 2014.

Article 3: Fees

Subarticle 1: AB 32 Cost of Implementation Fee Regulation

§ 95201. Applicability.

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

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

(A) All public utility gas corporations and publicly owned natural gas utilities operating in California and that are subject to the verification requirements of the Regulation for the Mandatory Reporting of Greenhouse Gas Emissions (title 17, California Code of Regulations, sections 95100-95157) (Mandatory Reporting Regulation). 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 that are subject to section 95201(a)(4).

(B) All owners and operators that are end users of natural gas received directly from interstate pipelines and that are subject to the verification requirements of the Regulation for the Mandatory Reporting of Greenhouse Gas Emissions, except for electricity generating facilities that are subject to section 95201(a)(4). Fees shall be paid for each therm of natural gas directly delivered by interstate pipelines.

(C) All owners or operators of intrastate pipelines that are not included in subsection 95201(a)(1)(A) and that are subject to the verification requirements of the Mandatory Reporting Regulation, that deliver natural gas directly to end users. Fees shall be paid for each

therm of natural gas delivered directly to end users, except for natural gas delivered to electricity generating facilities that are subject to section 95201(a)(4).

(D) All California owners or operators that consume natural gas produced from on-site gas wells and that are subject to the verification requirements of the Mandatory Reporting Regulation. Fees shall be paid on the emissions resulting from the combustion of these fuels, unless these fuels are consumed by an electricity generating facility subject to section 95201(a)(4).

(E) All California owners or operators that consume associated gas that is produced from on-site oil wells and that are subject to the verification requirements of the Mandatory Reporting Regulation. Fees shall be paid on the emissions resulting from the combustion of these fuels, unless these fuels are consumed by an electricity generating facility subject to section 95201(a)(4).

(2) *Producers and Importers of California Gasoline and California Diesel Fuels.*

(A) All producers and importers of California gasoline or California diesel for use in California subject to the verification requirements of the Mandatory Reporting Regulation. Fees shall be paid for each gallon of gasoline or diesel fuel distributed.

(B) All producers and importers of CARBOB subject to the verification requirements of the Mandatory Reporting Regulation. Fees shall be paid for each gallon of CARBOB plus the designated amount of oxygenate.

(3) *Cement Manufacturers.*

All owners or operators of cement manufacturing facilities that emit greenhouse gases through the clinker manufacturing process. Fees shall be paid on the amount of process-related emissions from clinker production.

(4) *First Deliverers of Electricity.*

For electricity delivered in California, and reported pursuant to section 95103 of the Mandatory Reporting Regulation, any owner or operator of a grid-dedicated, stand-alone electricity generating facility in California that delivers electricity to the California transmission and distribution system, and any electricity importer that delivers electricity to a first point of delivery located in California. Fees shall be paid for each megawatt-hour of net power generated by combustion of natural gas, coal or other fossil fuels (except California diesel) at a grid-dedicated, stand-alone electricity generating facility in California, and

reported pursuant to section 95112 of the Mandatory Reporting Regulation. Fees shall also be paid for each megawatt-hour of imported electricity reported pursuant to section 95111 of the Mandatory Reporting Regulation if the electricity is from either unspecified sources or specified sources that combust natural gas, coal, or other fossil fuels. 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.

(A) No fee shall be paid for any megawatt-hour generated at any electricity generating facility in California that emits less than 10,000 metric tons of CO₂e from electricity generating activities during the report year.

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

Any owner or operator of a facility in California, except for electricity generating facilities subject to section 95201(a)(4), that is subject to verification requirements of the Mandatory Reporting Regulation, and combusts as fuel or consumes as feedstock any of the following substances:

- (A) Coal;
- (B) Petroleum coke;
- (C) Coal Coke.

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

- (D) Catalyst coke; or
- (E) Refinery fuel gas.

For catalyst coke 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) residual fuel oil;
- (6) propane; or
- (7) any fuel exported for use outside of California.

- (c) This subarticle does not apply to any of the following fuels, or to emissions resulting from combustion of any of the following fuels.
- (1) biodiesel (B \geq 99%);
 - (2) renewable diesel (R \geq 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. Regulated entities must comply with this subarticle as amended in 2014, beginning with fees calculated in 2015.

NOTE: Authority cited: 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) “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, 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 inter-connected electricity generating facilities or serves as an exclusive marketer for these facilities even though it does not own them, and is assigned a supplier-specific identification number and system emission factor by ARB for the wholesale electricity procured from its system and imported into California.
 - (7) “Associated gas” means a natural gas fuel produced in association with crude oil from any oil well and subsequently burned in the field as a fuel.

- (8) “Aviation gasoline” means a complex mixture of volatile hydrocarbons, with or without additives, suitably blended to be used in aviation reciprocating engines. Specifications can be found in ASTM Specification D910–07a, Standard Specification for Aviation Gasolines, which is incorporated by reference herein.
- (9) “Balancing authority” means the responsible entity that integrates resource plans ahead of time, maintains load-interchange-generation balance within a balancing authority area, and supports interconnection frequency in real time.
- (10) “Balancing authority area” means the collection of generation, transmission, and loads within the metered boundaries of a balancing authority. A balancing authority maintains load-resource balance within this area.
- (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.
- (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 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 ASTM D 6751-08 (*Standard Specification for Biodiesel Fuel Blend Stock (B100) for Middle Distillate Fuels, 2008*) which is incorporated by reference herein;
 - (D) Intended for use in engines that are designated to run on conventional diesel fuel; and
 - (E) Derived from nonpetroleum renewable resources.

- (14) “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) “Biogenic emissions” means GHG emissions generated as the result of biomass combustion from combustion units.
- (16) “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.
- (17) “Busbar” means a power conduit of a facility with electricity generating units that serves as the starting point for the electricity transmission system.
- (18) “Calendar year” means the time period from January 1 through December 31.
- (19) “California balancing authority” means a balancing authority with control over a balancing authority area primarily located in the State of California. A California balancing authority is responsible for the operation of the transmission grid within its metered boundaries which may extend beyond the geographical boundaries of the State of California.
- (20) “California gasoline” has the same meaning as defined in title 13, California Code of Regulations, section 2260(a).

For California gasoline,

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

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

For CARBOB,

- (A) “Produce” for CARBOB has the same meaning as defined in title 13, California Code of Regulations, section 2260(a).
- (B) “Producer” for CARBOB has the same meaning as defined in title 13, California Code of Regulations, section 2260(a).
- (C) “Supply” for CARBOB has the same meaning as defined in title 13, California Code of Regulations, section 2260(a).
- (D) “Importer” for CARBOB means the majority owner of the CARBOB when it first enters the 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 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.

- (22) “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 defined in title 13, California Code of Regulations, section 2282(b).
- (B) “Producer” for California diesel fuel has the same meaning as defined in title 13, California Code of Regulations, section 2282(b).
- (C) “Supply” for California diesel fuel has the same meaning as defined in title 13, 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 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 diesel fuel means movement of product into the 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.
- (23) “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.
- (24) “Carbon dioxide equivalent” or “CO₂ equivalent” or “CO₂e” means the number of metric tons of CO₂ emissions with the same global warming potential as one metric ton of another greenhouse gas. For the purposes of this subarticle, global warming potential values listed in Table A-1 of 40 CFR Part 98 are used to determine the CO₂ equivalent of emissions.
- (25) “Catalyst” means a substance added to a chemical reaction, which facilitates or causes the reaction, and is not consumed by the reaction.
- (26) “Catalyst coke” means carbon that is deposited on a catalyst, thus deactivating the catalyst.
- (27) “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.

- (28) "Cement manufacturer" means an owner or operator of a cement plant.
- (29) "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.
- (30) "Clinker" means the mass of fused material produced in a cement kiln from which finished cement is manufactured by milling and grinding.
- (31) "Coal" means all solid fuels classified as anthracite, bituminous, sub-bituminous, or lignite by ASTM D388–05 "Standard Classification of Coals by Rank" (September 2005), which is incorporated by reference herein.
- (32) "Coal Coke" means a solid residue high in carbon content produced by the destructive distillation of coal at high temperatures in either a by-product coke oven battery or a non-recovery coke oven battery.
- (33) "Cogeneration" means an integrated system that produces electric energy and useful thermal energy for industrial, commercial, or heating and cooling purposes, through the sequential or simultaneous use of the original fuel energy. Cogeneration must involve generation of electricity and useful thermal energy and some form of waste heat recovery. Some examples of cogeneration include: (a) a gas turbine or reciprocating engine generating electricity by combusting fuel, which then uses a heat recovery unit to capture useful heat from the exhaust stream of the turbine or engine; (b) steam turbines generating electricity as a byproduct of steam generation through a fired boiler; (c) Cogeneration systems in which the fuel input is first applied to a thermal process such as a furnace and at least some of the heat rejected from the process is then used for power production. For the purposes of this subarticle, a combined-cycle power generation unit, where none of the generated thermal energy is used for industrial, commercial, or heating and cooling purposes (these purposes exclude any thermal energy utilization that is either in support of or a part of the electricity generation system), is not considered a cogeneration unit.
- (34) "Cogeneration facility" means an industrial structure, installation, plant, or building or self-generation facility, which may include one or more cogeneration units configured as either a topping cycling or bottoming cycling plant.

- (35) “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 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.
- (36) “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.
- (37) “Combust” means the process of burning or setting fire to a fuel.
- (38) “Combustion emissions” means greenhouse gas emissions occurring during the exothermic reaction of a fuel with oxygen.
- (39) “Consumption” means to use, decay or destruct.
- (40) “Consumed on-site” means to consume at a facility.
- (41) “Continuous physical transmission path” means the full transmission path shown in the physical path table of a single NERC e-Tag from the first point of receipt closest to the generation source to the final point of delivery closest to the final sink. This is one criterion to establish direct delivery.
- (42) “Cracking” means the process of breaking down larger molecules into smaller molecules, utilizing catalysts and/or elevated temperatures and pressures.
- (43) “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.
- (44) “Delivered electricity” means electricity that was distributed from a PSE and received by a PSE or electricity that was generated, transmitted, and consumed.
- (45) “Direct delivery of electricity” or “directly delivered” means electricity that meets any of the following criteria:
 - (A) The facility has a first point of interconnection with a California balancing authority;
 - (B) The facility has a first point of interconnection with distribution facilities used to serve end users within a California balancing authority area;

- (C) The electricity is scheduled for delivery from the specified source into a California balancing authority via a continuous physical transmission path from interconnection of the facility in the balancing authority in which the facility is located to a sink located in the State of California; or
 - (D) There is an agreement to dynamically transfer electricity from the facility to a California balancing authority.
- (46) “EIA” means the Energy Information Administration. The EIA is a statistical agency of the United States Department of Energy.
- (47) “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.
- (48) “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 default emission factor for unspecified sources.
- (49) “Electricity generating facility” means a facility that generates electricity and includes one or more generating units at the same location.
- (50) “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.
- (51) “Electricity importers” deliver imported electricity. For electricity that is scheduled with a NERC e-Tag to a final point of delivery inside the State of California, the electricity importer is identified on the NERC e-Tag as the purchasing-selling entity (PSE) on the last segment of the tag’s physical path with the point of receipt located outside the State of California and the point of delivery located inside the State of California. For facilities physically located outside the State of California with first point of interconnection to a California balancing authority’s transmission and distribution system, when the electricity is not scheduled on a NERC e-Tag, the importer is the facility operator or scheduling coordinator. Federal and State agencies are subject to the regulatory authority of ARB under this article and include Western Area Power Administration (WAPA), Bonneville Power Administration (BPA), and California Department of Water Resources (DWR). Electricity Importers include Energy Imbalance Market (EIM)

Participating Resource Scheduling Coordinators serving the EIM market whose transactions result in imports into California.

- (52) “Eligible renewable energy resource” has the same meaning as defined in Section 399.12 of the Public Utilities Code.
- (53) “Emissions” means the release of greenhouse gases into the atmosphere from sources and processes, including from the combustion of transportation fuels, such as natural gas, petroleum products, and natural gas liquids.
- (54) “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.
- (55) “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).
- (56) “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.
- (57) “Energy Imbalance Market” or “EIM” means the operation of the CAISO’s real-time market to manage transmission congestion and optimize procurement of energy to balance supply and demand for the combined CAISO and EIM footprint.
- (58) “Entity” means a person, firm, association, organization, partnership, business trust, corporation, limited liability company, company, government agency, or public district.
- (59) “Exclusive marketer” means a marketer that has exclusive rights to market electricity for a generating facility or group of generating facilities.
- (60) “Executive Officer” means the Executive Officer of the California Air Resources Board, or his or her delegate.
- (61) “Exported electricity” means electricity generated inside the State of California and delivered to serve load located outside the State of California. This includes electricity delivered from a first point of receipt inside California, to the first point of delivery outside California, with a final point of delivery outside the State of California. Exported electricity delivered across balancing authority areas is documented

on NERC e-Tags with the first point of receipt located inside the State of California and the final point of delivery located outside the State of California. Exported electricity does not include electricity generated inside the State of California then transmitted outside of California, but with a final point of delivery inside the State of California. Exported electricity does not include electricity generated inside the State of California that is allocated to serve the California retail customers of a multi-jurisdictional retail provider, consistent with a cost allocation methodology approved by the California Public Utilities Commission and the utility regulatory commission of at least one additional state in which the multi-jurisdictional retail provider provides retail electric service.

- (62) “Facility” means any physical property, plant, building, structure, source, or stationary equipment 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 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.
- (63) “Fee determination notice” means the notice or invoice provided by ARB to entities regulated by this subarticle stating the dollar amount due.
- (64) “Feedstock” means the raw material supplied to a process.
- (65) “Final point of delivery” means the sink specified on the NERC e-Tag, where defined points have been established through the NERC Registry. When NERC e-Tags are not used to document electricity deliveries, as may be the case within a balancing authority, the final point of delivery is the location of the load. Exported electricity is disaggregated by the final point of delivery on the NERC e-Tag.
- (66) “First deliverer of electricity” or “first deliverer” means the owner or operator of an electricity generating facility in California, or an electricity importer.
- (67) “First point of delivery in California” means the first defined point on the transmission system located inside California at which imported electricity and electricity wheeled through California may be measured, consistent with defined points that have been established through the NERC Registry.
- (68) “First point of receipt” means the generation source specified on the NERC e-Tag, where defined points have been established through the NERC Registry. When NERC e-Tags are not used to document electricity deliveries, as may be the case within a balancing authority,

the first point of receipt is the location of the individual generating facility or unit, or group of generating facilities or units. Imported electricity and wheeled electricity are disaggregated by the first point of receipt on the NERC e-Tag.

- (69) “Fiscal year” means the time period from July 1 to June 30.
- (70) “Fossil fuel” means natural gas, petroleum, coal, or any form of solid, liquid, or gaseous fuel derived from such material.
- (71) “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.
- (72) “Fuel fee rate” means the rate charged per MTCO₂ produced by greenhouse gas sources specific to the fuel combusted and calculated by ARB.
- (73) “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.
- (74) “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.
- (75) “Gas well” means a well completed for production of natural gas from one or more gas zones or reservoirs. Such wells contain no completions for the production of crude oil.
- (76) “Generated electricity” means electricity generated by an electricity generating unit at the reporting facility. Generated electricity does not include any electricity that is generated outside the facility and delivered into the facility with final destination outside of the facility.
- (77) “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.
- (78) “Global warming potential” or “GWP” 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.
- (79) “Government agency” means any agency as defined in Government Code section 11000.

- (80) “Greenhouse gas source” means any physical unit, process, or other use or activity that releases a greenhouse gas into the atmosphere.
- (81) “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.
- (82) “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.
- (83) “Gross generation” or “gross power generated” means the total electrical output of the generating facility or unit, expressed in megawatt hours (MWh) per year.
- (84) “Imported electricity” means electricity generated outside the State of California and delivered to serve load located inside the State of California. Imported electricity includes electricity delivered across balancing authority areas from a first point of receipt located outside the State of California, to the first point of delivery located inside the State of California, having a final point of delivery in California. Imported electricity includes electricity imported into California over a multi-jurisdictional retail provider’s transmission and distribution system, or electricity imported into the State of California from a facility or unit physically located outside the State of California with the first point of interconnection to a California balancing authority’s transmission and distribution system. Imported electricity includes electricity that is a result of cogeneration located outside the State of California. Imported electricity does not include electricity wheeled through California, defined pursuant to this subsection. Imported electricity does not include electricity imported into the California Independent System Operator (CAISO) balancing authority area to serve retail customers that are located within CAISO balancing authority area, but outside the State of California. Imported Electricity does not include electricity imported into California by an Independent System Operator to obtain or provide emergency assistance under applicable emergency preparedness and operations reliability standards of the North American Electric Reliability Corporation or Western Electricity Coordinating Council. Imported electricity shall include Energy Imbalance Market dispatches designated by the CAISO’s optimization model and reported by the CAISO to EIM Participating Resource Scheduling Coordinators as electricity imported to serve retail customers load that are located within the State of California.
- (85) “Interstate pipeline” means any entity that owns or operates a natural gas pipeline delivering natural gas to consumers in the State and is

subject to rate regulation by the Federal Energy Regulatory Commission.

- (86) “Intrastate pipeline” means 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.
- (87) “Kerosene” is a light petroleum distillate 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.
- (88) “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.
- (89) “Liquefied petroleum gas” or “LP-Gas” or “LPG” means a flammable mixture of hydrocarbon gases used as a fuel. LPG is a natural gas liquid (NGL) that is primarily a mixture of propane and butane, with small amounts of propene (propylene) and ethane. The most common specification categories are propane grades HD-5, HD-10, and commercial grade propane, and propane/butane mix. LPG also includes both odorized and non-odorized liquid petroleum gas, and is also referred to as propane.
- (90) “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.
- (91) “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).
- (92) “Marketer” means a purchasing-selling entity that delivers electricity and is not a retail provider.
- (93) “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.

- (94) “Meter” means a device designed to measure, record or regulate the amount or volume of the flow of a gas.
- (95) “Metric ton” or “MT” means a common international measurement for mass, equivalent to 2204.6 pounds or 1.1 short tons.
- (96) “MMBtu” means million British thermal units.
- (97) “Motor vehicle” has the same meaning as defined in section 415 of the Vehicle Code.
- (98) “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.
- (99) “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.
- (100) “Nameplate generating capacity” means the maximum rated output of a generator under specific conditions designated by the manufacturer. Generator nameplate capacity is usually indicated in units of kilovolt-amperes (kVA) and in Kilowatts (kW) on a nameplate physically attached to the generator.

- (101) “Natural gas” means a naturally occurring mixture or process derivative of hydrocarbon 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.
- (102) “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.
- (103) “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.
- (104) “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.
- (105) “Oil well” means a well completed for the production of crude oil from at least one oil zone or reservoir.
- (106) “Operational control” for a facility subject to this subarticle means the 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.
- (107) “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.
- (108) “Owner” means the entity having title to the property or assets which are subject to the fee.
- (109) “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.

- (110) "Payment period" means 60 days from the invoice date, as stated in section 95205, each calendar year.
- (111) "Petroleum coke" means a black solid residue, 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.
- (112) "Petroleum refinery" or "refinery" means any facility engaged in producing gasoline, gasoline blending stocks, naphtha, kerosene, distillate fuel oils, residual fuel oils, lubricants, or asphalt (bitumen) through distillation of petroleum or through redistillation, cracking, 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.
- (113) "Point of delivery" or "POD" means the point on an electricity transmission or distribution system where a deliverer makes electricity available to a receiver, or available to serve load. 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.
- (114) "Point of receipt" or "POR" means the point on an electricity transmission or distribution system where an electricity receiver receives electricity from a deliverer. 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.
- (115) "Power" means electricity, except where the context makes clear that another meaning is intended.
- (116) "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.
- (117) "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.

- (118) “Produced on-site” means produced at a facility.
- (119) “Propane” is a paraffinic hydrocarbon with molecular formula C₃H₈.
- (120) “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.
- (121) “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.
- (122) “Purchasing-selling entity” or “PSE” means the entity that is identified on a NERC e-Tag for each physical path segment.
- (123) “Qualified exports” means electricity that is exported in the same hour as imported electricity and documented by NERC e-Tags. When imports are not documented on NERC e-Tags, because a facility or unit located outside the State of California has a first point of interconnection with a California balancing authority area, the reporting entity may demonstrate hourly electricity delivery consistent with the record keeping requirements of the California balancing authority area, including records of revenue quality meter data, invoices, or settlements data. Only electricity exported within the same hour and by the same importer as the imported electricity is a qualified export. It is not necessary for the imported and exported electricity (as defined in this subarticle) to enter or leave California at the same intertie. Qualified exports shall not result in a negative fee liability for any hour.
- (124) “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.
- (125) “Renewable diesel” means a motor vehicle fuel or fuel additive 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.

- (126) “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.
- (127) “Renewable Energy Credit” or “REC” has the same meaning defined in the California Energy Commission’s “Renewable Portfolio Standard Eligibility,” 7th edition, Commission Guidebook, April, 2013, CEC-300-2013-005-ED7-CMF, pages 123-125, which are incorporated by reference herein.
- (128) “Reporting entity” means a facility owner or operator, fuel supplier, or electricity importer subject to the requirements of this subarticle.
- (129) “Report Year” or “Reporting Year” means the calendar year for which emissions are being reported in the emissions data report.
- (130) “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.
- (131) “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.
- (132) “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.
- (133) “Short ton” or “Ton” means a common international measurement for mass, equivalent to 2,000 pounds.
- (134) “Sink” or “sink to load” or “load sink” means the sink identified on the physical path of NERC e-Tags, where defined points have been established through the NERC Registry. Exported electricity is disaggregated by the sink on the NERC e-Tag, also referred to as the

final point of delivery on the NERC e-Tag.

- (135) “Source” means greenhouse gas source, any physical unit, process, or other use or activity that releases a greenhouse gas into the atmosphere.
- (136) “Specified source of electricity” or “specified source” means a facility or unit which is permitted to be claimed as the source of electricity delivered. The reporting entity must have either full or partial ownership in the facility/unit or a written power contract to procure electricity generated by that facility/unit. Specified facilities/units include cogeneration systems. Specified source also means electricity procured from an asset-controlling supplier recognized by the ARB.
- (137) “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.
- (138) “Stationary” means neither portable nor self-propelled, and operated at a single facility.
- (139) “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.
- (140) “Therm” means a unit of heat equal to 100,000 British thermal units (1.054×10^8 joules).
- (141) “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.
- (142) “Unspecified source of electricity” or “unspecified source” means a source of electricity that is not a specific source at the time of entry into the transaction to procure the electricity.
- (143) “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.
- (144) “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) *Total Required Revenue (TRR).*

- (1) The Required Revenue (RR) shall be the total amount of funds necessary to recover the costs of implementation of AB 32 program expenditures for each fiscal year, based on the number of personnel positions, including salaries and benefits and all other costs, as approved in the California Budget Act for that fiscal year.
- (2) The RR shall also include any amount required to be expended by ARB in defense of this subarticle in court.
- (3) If there is any excess or shortfall in the actual revenue collected for any fiscal year, such excess or shortfall shall be carried over to the next year's calculation of the Total Revenue Requirement. If ARB does not expend or encumber the full amount authorized by the California Legislature for any fiscal year, the amount not expended or encumbered in that fiscal year shall be carried over and deducted from the next year's calculation of the Total Revenue Required.
- (4) The annual Total Revenue Requirement is equal to the annual RR adjusted for the previous fiscal year's excess or shortfall amount, as provided in subsection (a)(4).

(b) *Common Carbon Cost.*

The Executive Officer shall calculate a Common Carbon Cost (CCC), which represents the annual cost per MTCO₂e emitted. The CCC shall be calculated in accordance with the following formula:

CCC =

$$\frac{\text{TRR}}{(Q_c \times EF_c) + Q_{cc} + Q_{rga} + (Q_{ng} \times Ef_{ng}) + (Q_{ag}) + (Q_{ngw}) + (Q_g \times Ef_g) + (Q_d \times Ef_d) + (Q_e \times Ef_e) + Q_{pe}}$$

Where

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

(Q_c x Ef_c) = Statewide quantity of emissions (MTCO₂e) from coal, coal coke, or petroleum coke, except that used in an electricity generating facility subject to 95201(a)(4), calculated as the sum of:

(Q_b x Ef_b) = Quantity of bituminous coal (Q_b) x the emission factor of MTCO₂e for bituminous coal (Ef_b);

(Q_l x Ef_l) = Quantity of lignite coal (Q_l) x the emission

factor of MTCO_2e (E_{f_i}) for lignite coal;

$(Q_a \times E_{f_a})$ = Quantity of anthracite coal (Q_a) x the emission of MTCO_2e factor (E_{f_a}) for anthracite coal;

$(Q_{sb} \times E_{f_{sb}})$ = Quantity of subbituminous coal (Q_{sb})x the emission factor of MTCO_2e ($E_{f_{sb}}$) for subbituminous coal;

$(Q_{coc} \times E_{f_{coc}})$ = Quantity of coal coke (Q_{coc}) x the emission factor of MTCO_2e ($E_{f_{coc}}$) for coal coke.

$(Q_{pc} \times E_{f_{pc}})$ = Quantity of petroleum coke (Q_{pc}) x the emission factor of MTCO_2e ($E_{f_{pc}}$) for petroleum coke.

- Q_{cc} = Statewide quantity of emissions (MTCO_2e) from catalyst coke.
- Q_{rga} = Statewide adjusted quantity of emissions (MTCO_2e) from refinery fuel gas, except that used in an electricity generating facility subject to 95201(a)(4).
- Q_{ng} = Statewide quantity, in therms, of natural gas supplied for all uses except electricity generating facilities subject to 95201(a)(4).
- $E_{f_{ng}}$ = Emission factor of MTCO_2e for natural gas.
- Q_{ag} = Statewide quantity of emissions (MTCO_2e) from associated gas produced from on-site oil wells.
- Q_{ngw} = Statewide quantity of emissions (MTCO_2e) from natural gas produced from on-site gas wells.
- 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 reported amount of oxygenate designated for each volume of CARBOB.
- E_{f_g} = Emission factor of MTCO_2e for each supplied gallon of California gasoline.
- Q_d = Quantity of California diesel fuel supplied during the reporting period.
- E_{f_d} = Emission factor of MTCO_2e for each supplied gallon of California diesel fuel.

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

$(Q_{ie} \times Ef_{ie})$ = Statewide quantity of MWh of in-state generated electricity (Q_{ie}) delivered multiplied by the facility emission factor (MTCO_{2e} per MWh).

$(Q_{sp} \times Ef_{sp})$ = Quantity of MWh of electricity delivered from each specified source (Q_{sp}) multiplied by the emission factor (MTCO_{2e} per MWh) for that specified source;

$(Q_{unsp} \times Ef_{unsp})$ = Statewide quantity of MWh of electricity delivered from unspecified sources (Q_{unsp}) multiplied by the default emission factor (MTCO_{2e} per MWh) for unspecified sources.

Minus

$(Q_{qe} \times Ef_{unsp})$ = Quantity of MWh of qualified exports (Q_{qe}) from each source multiplied by the emission factor (MTCO_{2e} per MWh) for unspecified sources.

Minus

$(Q_{RPS} \times Ef_{unsp})$ = Quantity of MWh generated by each California eligible renewable resource (Q_{RPS}) located outside the State of California, claimed by the reporting entity, included in the reporting entity's emission data report and meeting requirements pursuant to section 95852(b)(4) of the Cap- and-Trade Regulation multiplied by the default emission factor (MTCO_{2e} per MWh) for unspecified sources.

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

(c) *Fuel Fee Rate.*

For entities reporting pursuant to section 95204(d)(1), (d)(2), (d)(3), (e), (f)(1), (f)(2), and (f)(3) 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 $MTCO_{2e}$ for each unit of fuel supplied.

(d) *Fuel Emission Factors.*

For entities reporting pursuant to section 95204(d)(1), (d)(2), (d)(3), (f)(1), (f)(2), and (f)(3), the Executive Officer shall calculate the Common Carbon Cost and the Fuel fee rates using the 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.

(e) *Electricity Fee Rate for electricity delivered in California, 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:

$$EFR = CCC \times EF$$

Where:

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

EF = Emission factor in $MTCO_{2e}$ per MWh.

- (2) The Executive Officer shall calculate an Electricity Fee Rate for each source of electricity 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} = 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.

(f) *Emission Factors for grid-dedicated, stand-alone Electricity Generating Facilities.*

The Executive Officer shall calculate emission factors for electricity generating facilities located in California using the following methodology:

$$EF = \frac{E}{EG}$$

Where:

E = CO_2e emissions from an electricity generating facility for the report year ($MTCO_2e$)

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

For grid-dedicated, stand-alone electricity generating facilities located in California that are subject to reporting under the Mandatory Reporting Regulation, E shall be equal to the sum of CO_2e 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.

(g) *Emission Factors for Imported Electricity from Specified Sources that are Electricity Generating Facilities or Units, Calculation Methods for data reported pursuant to section 95111 of the Mandatory Reporting Regulation.*

Emission factors for Imported Electricity from 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.

(h) *Emission Factors for Asset-Controlling Suppliers.*

The Executive Officer shall calculate emissions factors for asset-controlling suppliers pursuant to the methodology in section 95111(b)(3) of the Mandatory Reporting Regulation.

(i) *Fee Liability for Fuels.*

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

$$FS = (FR \times QF)$$

Where:

FS = The Fee for each entity (\$).

FR = Fuel fee rate for the fuel.

QF = Quantity of fuel.

(j) *Fee Liability for Facilities that Combust Coal, Coal Coke, Petroleum Coke, Catalyst Coke, or Refinery Fuel Gas.*

(1) Coal, Coal Coke, and Petroleum Coke

The Executive Officer shall calculate the Fee Liability for each entity reporting pursuant to sections 95204(f)(1), 95204(f)(2), and 95204(f)(3), based on the quantity of each fuel consumed as follows:

$$FS = (FR \times QF)$$

Where:

FS = The Fee for each entity (\$).

FR = Fuel fee rate for the fuel.

QF = Quantity of fuel.

(2) Catalyst Coke and Refinery Fuel Gas

For entities reporting pursuant to sections 95204(f)(4) and 95204(f)(5), each entity shall be charged a Fee based on the total number of MTCO_2e emitted and reported annually. The fee shall be calculated as follows:

$$FS = CCC \times QE_i$$

Where:

FS = The Fee for the entity (\$).

CCC = Common Carbon Cost.

QE = the total amount of emissions associated with catalyst coke or refinery fuel gas, as applicable.

(k) *Fee Liability for Electricity Delivered in California.*

- (1) The Executive Officer shall calculate the fee liability for grid-dedicated, stand-alone electricity generating facilities located in California reporting pursuant to section 95204(g) based on the quantity of MWh delivered to the California transmission and distribution grid, as follows:

$$FS = CCC \times EFR$$

Where:

FS = Fee for each entity (\$).

EFR = Electricity fee rate for electricity generated.

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

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

Where:

FS = Fee for each entity (\$).

QM_d = Quantity of MWh of electricity delivered in California from each specified source or unspecified source, as appropriate.

EFR_d = Electricity fee rate for electricity from each specified source or unspecified source, as appropriate.

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

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

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

(l) *Fee Liability for Entities.*

For entities reporting pursuant to section 95204(d)(4), and 95204(d)(5), each entity shall be charged a fee based on the total number of $MTCO_2e$ emitted and reported annually. The fee shall be calculated as follows:

$$FS = CCC \times QE_i$$

Where:

FS = Fee for the entity (\$).

CCC = Common Carbon Cost.

QE_i = Total amount of emissions associated with the entity.

(m) *Fee Liability for Cement Manufacturers.*

For cement manufacturers reporting pursuant to section 95204(h), a fee shall be charged based on the total amount of process emissions from the production of clinker reported annually. The fee shall be calculated as follows:

$$FS = CCC \times QC \times EF$$

Where:

FS = The Fee for the entity (\$).

CCC = Common Carbon Cost.

QC = Total amount of clinker produced.

EF = Emission factor for clinker process emissions.

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) *Entity Statement of Truth, Accuracy and Completeness.*

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

(c) *Timeline for Reporting.*

- (1) Reports for each affected entity, including electricity importers, for each report year must be submitted to ARB pursuant to 95103(e) of the Mandatory Reporting Regulation.

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

- (1) All public utility gas corporations and publicly owned natural gas utilities operating in California must annually report the aggregate quantity of natural gas delivered at the meter to all end users, including the aggregate quantity of natural gas delivered to electricity generating facilities, pursuant to section 95122(b)-(d) of the Mandatory Reporting Regulation.
- (2) All owners or operators of intrastate pipelines that deliver natural gas directly to end users must annually report the aggregate quantity of natural gas directly delivered at the meter to all end users, including the aggregate quantity of natural gas delivered to electricity generating facilities, pursuant to section 95122(b)-(d) of the Mandatory Reporting Regulation.
- (3) All owners or operators that are end users of natural gas received directly from interstate pipelines, except for electricity generating facilities subject to section 95201(a)(4), must annually report the natural gas directly delivered, at the meter from the interstate pipeline(s) pursuant to the reporting requirements of the applicable section of the Mandatory Reporting Regulation.

- (4) 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 emissions resulting from the combustion or consumption of natural gas that is produced from on-site gas wells, excluding natural gas consumed by an electricity generating facility subject to 95201(a)(4), in addition to all information required under the Mandatory Reporting Regulation.
- (5) All California owners or operators that consume associated gas produced from on-site oil wells 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 subject to section 95201(a)(4).
- (6) The Executive Officer shall calculate the fee liability for Natural Gas Utilities, Users and Pipeline Owners and Operators based on reported data less ARB's calculated fee liability from deliveries to Electricity Generating Facilities which are customers of the supplier.
- (7) The Executive Officer shall provide the Natural Gas Utility, User or Pipeline Owner and Operator a listing of all customers subtracted from the supplier's natural gas delivered, no later than September 1 of the corresponding fee determination notice fiscal year.

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

All producers and importers of California gasoline, CARBOB or California diesel fuel must report the total amount of each variety of fuel sold or supplied for use in California which they produced or imported pursuant to the reporting requirements of section 95113(m) or 95121(d) of the Mandatory Reporting Regulation. Producers and importers of CARBOB must report the designated volume/volumes of oxygenate associated with each volume of CARBOB pursuant to the reporting requirements of the Mandatory Reporting Regulation.

(f) *Coal, Coal Coke, 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 pursuant to the applicable sections of the Mandatory

Reporting Regulation:

- (1) Coal;
The number of tons of coal and the grade of coal combusted or consumed in each calendar year must be reported.
- (2) Coal Coke;
The number of tons of coal coke combusted or consumed in each calendar year.
- (3) Petroleum coke;
The number of tons of petroleum coke combusted or consumed in each calendar year must be reported.
- (4) Catalyst coke;
The quantity of emissions from combustion as reported each calendar year under the applicable section of the Mandatory Reporting Regulation must be reported.
- (5) 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) *First Deliverers of Electricity.*

- (1) *Electrical Generating Facilities.* All electricity generating facilities shall provide the same information that is required to be submitted under the Mandatory Reporting Regulation. This information must be reported on the same schedule specified in the Mandatory Reporting Regulation.
- (2) *Electricity Importers.* All electricity importers must report all information required to be submitted under the Mandatory Reporting Regulation.

(h) *Cement Manufacturers.*

All cement manufacturers must report all information required under the Mandatory Reporting Regulation.

(i) *Records Retention.*

Entities subject to this subarticle must maintain copies of the information reported pursuant to the applicable sections of the Mandatory Reporting Regulation. 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.

§ 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 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 39600, Health and Safety Code.

§ 95206. Enforcement.

- (a) *Penalties.* Penalties may be assessed for any violation of this subarticle pursuant to Health and Safety Code section 38580. Each day during any portion of which a violation occurs is a separate offense.
- (b) *Injunctions.* Any violation of this subarticle may be enjoined pursuant to Health and Safety Code section 41513.
- (c) *Violations.* Each day or portion thereof that any report required by this subarticle remains unsubmitted, is submitted late, or contains incomplete or inaccurate information, shall constitute a single, separate violation of this subarticle. For the purposes of this section, "report" means any information required to be submitted by section 95204.
- (d) *Payment Violations.* The failure to pay the full amount of any fee required by this subarticle shall constitute a single, separate violation of this subarticle for each day or portion thereof that the fee has not been paid after the date the fee is due.
- (e) *Auditing.* The Executive Officer may contract with outside entities, including, but not limited to, the Board of Equalization, to obtain data or services needed to audit the returns provided by fee payers. The Executive Officer may use fee revenues collected under this subarticle to fund auditing and collection procedures.
- (f) *Authorization to Enforce.* Enforcement of this subarticle may be carried out by authorized representatives of ARB, including authorized representatives of air pollution control or air quality management districts.

NOTE: Authority: Sections 38510, 38597, 39600 and 39601, Health and Safety Code.
Reference: Sections 38501, 38505, 39300 and 41513, Health and Safety Code.

§ 95207. Severability.

- (a) Each part of this subarticle is deemed severable, and, in the event that any part of this subarticle is held to be invalid, the remainder of this subarticle shall continue in full force and effect.

- (b) If any fee payer or group of fee payers subject to this subarticle is determined to be ineligible, by a court of law or statute, to pay the fees pursuant to this subarticle, the remaining entities shall be assessed the entire fee based on the formula contained in section 95203, without including the emissions associated with the ineligible fee payer or group of fee payers in the calculation. If a refund is ordered by any court or other authority the remaining fee payers shall be responsible to pay the subsequent deficit.

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