

MODIFIED REGULATORY TEXT FOR SECOND 15-DAY PUBLIC COMMENT FOR THE AB 32 COST OF IMPLEMENTATION FEE REGULATION

Note: Shown below are the staff's proposed modifications to the proposed regulatory language set forth in Attachment 1 to the Notice of Public Availability of Modified Text that was released on April 2, 2012, for a 15-day public comment period. Only those portions containing the proposed modifications are included. For those portions for which no modifications are proposed, the text has been omitted and the omission indicated by "****." The originally proposed regulatory language is shown in underline to indicate additions and ~~strikeout~~ to show deletions. The proposed modifications released on April 2, 2012, are shown in double underline to indicate additions and ~~double strikeout~~ to show deletions. The proposed modifications being made available for this Second 15-day public comment period are shown in **bold double underline** to indicate additions and ~~**bold double underline**~~ to indicate deletions.

AB 32 Cost of Implementation Fee Regulation

Modify Section 95201(a)(4)(B), Title 17, California Code of Regulations to read as follows:

§ 95201. Applicability.

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

- (4) First Deliverers of Electricity.

(B) For electricity delivered in California on or after January 1, 2011, and reported pursuant to section 95103 of the Mandatory Reporting Regulation, any owner or operator of a grid-dedicated, stand-alone electricity generating facility in California that delivers electricity to the California transmission and distribution system, and any electricity importer that ~~is the purchasing-selling entity that~~ delivers electricity ~~at its~~ to a first point of delivery located in California. Fees shall be paid for each megawatt-hour of net power generated by combustion of natural gas, coal or other fossil fuels (except California diesel) at a grid-dedicated, stand-alone electricity generating facility in California, and reported pursuant to section 95112 of the Mandatory Reporting Regulation. Fees shall also be paid for each megawatt-hour of imported electricity reported pursuant to section 95111 of the Mandatory Reporting Regulation if the electricity is from either unspecified sources or specified sources that combust natural gas, coal, or other fossil fuels (except California

diesel). For multi-jurisdictional retail providers, fees shall be paid only for each megawatt-hour of wholesale sales delivered to a first point of delivery in California.

1. No fee shall be paid for any megawatt-hour of electricity that is not required to be reported pursuant to the Mandatory Reporting Regulation generated at any electricity generating facility that emits less than 10,000 metric tons of CO₂ from electricity generating activities during the report year.

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 MPR 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.

Modify Section 95203(f), Section 95203(h), and Section 95203(j), Title 17, California Code of Regulations to read as follows:

§ 95203. Calculation of Fees.

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

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

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

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

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

~~EF_{acsp} = The Electricity fee rate for the asset controlling suppliers~~

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

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

~~EF_{acsp} = Emission factor for asset controlling suppliers in MTCO₂e per MWh~~

EF_{unsp} = .427 MTCO₂ per MWh, the default Emission Factor for unspecified sources, ~~electricity imports for first points of receipt located in nonlinked jurisdictions, pursuant to ARB's Mandatory Reporting Regulation subsection 95111(b)(1).~~

TL = Transmission loss correction factor

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

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

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

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

~~(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.~~

Modify Section 95204(c)(3) and Section 95204(d), Title 17, California Code of Regulations to read as follows:

§ 95204. Reporting and Recordkeeping Requirements.

(c) *Timeline for Reporting.*

(2) Reports for each affected entity for the 2010 calendar report year and the 2011 report year data and subsequent calendar years must be submitted to ARB by June 30 of the following year. 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 10 of the following year and each year thereafter.~~

~~(3) Reports for each affected entity, excluding electricity importers, for the 2012 report year and subsequent report years must be submitted to ARB no later than April 10 of the following year and each year thereafter.~~

~~(4) Each electricity importer required to report under this subarticle must submit a report for the 2012 report year and subsequent report years to ARB pursuant to section 95103(e) of the Mandatory Reporting Regulation.~~

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

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