

State of California  
AIR RESOURCES BOARD

**Notice of Public Availability of Modified Text**

PUBLIC HEARING TO CONSIDER PROPOSED  
AMENDMENTS TO THE AB 32 COST OF IMPLEMENTATION FEE REGULATION

Public Hearing Date: October 20, 2011  
Public Availability Date: April 2, 2012  
Deadline for Public Comment: April 17, 2012

At its October 20, 2011, public hearing, the Air Resources Board (ARB or Board) approved the proposed amendments to the California Code of Regulations, title 17, sections 95200 to 95205, which comprise the AB 32 Cost of Implementation Fee Regulation (Fee Regulation). The Fee Regulation imposes fees on sources of greenhouse gas emissions to carry out Assembly Bill 32 (AB 32; Stats. 2006, Chapter 488), the California Global Warming Solutions Act of 2006.

At the hearing, staff presented, and the Board approved, modifications to the regulation originally proposed in the Initial Statement of Reasons released on August 31, 2011. These modifications include conforming definitions and aligning the procedures to calculate fees for electricity delivered into California with recent modification to the Mandatory Reporting Regulation (which had also been subject to a 15-day comment period). Also included were clarifications to reporting requirements for natural gas deliveries.

Board Resolution 11-33 approved sections 95200 to 95205, as modified. The resolution and all other regulatory documents for this rulemaking are available online at the following ARB website:

<http://www.arb.ca.gov/regact/2011/feereg11/feereg11.htm>

In accordance with Government Code section 11346.8, the Board directed the Executive Officer to adopt in the California Code of Regulations, title 17, sections 95200 to 95205, after making them available to the public for comment for a period of at least fifteen days. The Board further provided that the Executive Officer shall consider such written comments as may be submitted during this period, shall make such modifications as may be appropriate in light of the comments received, and shall present the regulations to the Board for further consideration if warranted.

Summary of Proposed Modifications

1. In section 95201, modifications were made to correct drafting errors and to conform the applicability for electricity delivered in California on or after

January 1, 2011, with the final amendments to section 95111(b) of the Mandatory Reporting Regulation.

2. In section 95202(a), five definitions have been added, ten definitions have been modified, and two definitions, Replacement electricity and Variable renewable resource, have been deleted to align with amendments to section 95102 of the Mandatory Reporting Regulation.
3. In section 95203, the use of the term Asset-controlling supplier was removed because it is duplicative, as Asset-controlling suppliers are Specified sources of electricity. In response to public comment, staff is proposing to continue assessing fees for CO<sub>2</sub> rather than CO<sub>2</sub> equivalents as originally proposed for the electricity sector, as specified in section 95203(f). Further, the prospective emission factors, (with the exception of the default emission factor for unspecified sources which appears in section 95203(f)), are published on the ARB Mandatory Reporting website, and will support the continuation of fees assessed for CO<sub>2</sub> rather than CO<sub>2</sub> equivalents. Modifications were also made to the default emission factor for unspecified sources of electricity in section 95203(f) to improve clarity and to conform with amendments to the Mandatory Reporting Regulation (MRR). The calculated value of 0.427 metric tons of CO<sub>2</sub> per megawatt-hour in section 95203(f) was calculated utilizing MRR's default CO<sub>2</sub> equivalent emission factor less non-CO<sub>2</sub> emission factors. Finally, modifications were made to correct drafting errors and to conform the fee liability for electricity delivered in California per section 95203(m), with final amendments to section 95111(b) of the Mandatory Reporting Regulation.
4. In section 95204, modifications were made to correct drafting errors and to conform the reporting deadline with final amendments to section 95103(b) of the Mandatory Reporting Regulation. In response to public comment, staff is clarifying that fee liabilities for Natural Gas Utilities, Users and Pipeline Owners and Operators will not include deliveries to Electricity Generating Facilities that have a fee liability and are customers of the supplier. Additionally, staff will provide the supplier a list of customers subtracted from the supplier's fee liability, no later than September 1 of the corresponding fee determination notice fiscal year.

Written comments will only be accepted on the modifications identified in this notice and may be submitted by postal mail or electronic mail submittal as follows:

Postal mail: Clerk of the Board, Air Resources Board  
1001 I Street, Sacramento, California 95814

Electronic submittal: <http://www.arb.ca.gov/lispub/comm/bclist.php>

Please note that under the California Public Records Act (Gov. Code § 6250 et seq.), your written and oral comments, attachments, and associated contact information (e.g., your address, phone, email, etc.) become part of the public record and can be released to the public upon request.

In order to be considered by the Executive Officer, comments must be directed to ARB in one of the two forms described above and received by ARB by 5:00 p.m., on the deadline date for public comment listed at the beginning of this notice. Only comments relating to the above-described modifications to the text of the regulations shall be considered by the Executive Officer.

If you need this document in an alternate format or another language, please contact the Clerk of the Board at (916) 322-5594 or by facsimile at (916) 322-3928 no later than five (5) business days from the release date of this notice. TTY/TDD/Speech to Speech users may dial 711 for the California Relay Service.

Si necesita este documento en un formato alternativo o otro idioma, por favor llame a la oficina del Secretario del Consejo de Recursos Atmosféricos al (916) 322-5594 o envíe un fax al (916) 322-3928 no menos de cinco (5) días laborales a partir de la fecha del lanzamiento de este aviso. Para el Servicio Telefónico de California para Personas con Problemas Auditivos, ó de teléfonos TDD pueden marcar al 711.

Attachment