

## Proposed Regulation Order

### FEES FOR SOURCES OF GREENHOUSE GAS EMISSIONS

Adopt new Article 3, sections 95200 to 95209, Title 17, California Code of Regulations, to read as follows:

#### Article 3: Fees for Sources of Greenhouse Gas Emissions

##### 95200. Purpose.

This Article assesses fees on sources of greenhouse gas emissions. The revenue from these fees shall be used for the purposes of carrying out the California Global Warming Solutions Act of 2006, (Stats. 2006; Ch. 488; Health and Safety Code sections 38500 *et seq.*) as provided in Health and Safety Code section 38597.

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

##### 95201. Applicability.

- (a) This article applies to the following sources of statewide greenhouse gas emissions, as defined in Health and Safety Code section 38505 and this Article:
- (1) Any operator of a public utility gas corporation operating in California;
  - (2) Any owner/operator or entity purchasing or consuming natural gas in California that has been transported directly by any interstate pipeline, and not delivered by a public utility gas corporation;
  - (3) Any owner/operator that produces natural gas that is transported by an in-state proprietary pipeline;
  - (4) Any owner/operator that produces natural gas and consumes that natural gas at the site of production and is subject to mandatory reporting regulations, Title 17, California Code of Regulations sections 95100 *et seq.*;
  - (5) Any owner/operator that produces lease gas and is subject to mandatory reporting regulations, Title 17, California Code of Regulations sections 95100 *et seq.*;

- (6) Any entity that produces or imports California gasoline, CARBOB, or California diesel as defined in Section 95202, for use in California;
  - (7) Any owner/operator of a facility that combusts coal in California and is subject to mandatory reporting regulations, Title 17, California Code of Regulations sections 95100 *et seq.*;
  - (8) Any entity, owner or operator of any refinery, as defined in Section 95202 that produces or consumes:
    - (A) Catalyst coke, as defined in Section 95202,
    - (B) Petroleum coke, as defined in Section 95202,
    - (C) Refinery gas, as defined in Section 95202;
    - (D) Naphtha, as defined in Section 95202; and
    - (E) Liquefied petroleum gas as defined in Section 95202;
  - (9) Cement manufacturers, as defined in section 95202;
  - (10) Any entity, owner or operator of any oil field, as defined in Section 95202 that consumes lease fuel in California, and is subject to mandatory reporting regulations, Title 17, California Code of Regulations sections 95100 *et seq.*
- (b) This article does not apply to sources of statewide greenhouse gas emissions caused by combustion of the following fuels:
- (1) aviation gasoline;
  - (2) jet fuel;
  - (3) kerosene;
  - (4) liquefied petroleum gas;
  - (5) biodiesel;
  - (6) renewable diesel;
  - (7) residual fuel oil;
  - (8) propane; or
  - (9) fuel exported for use outside of this state.

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

**95202. Definitions.**

- (a) For the purposes of this article, 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 at Health and Safety Code section 38500 *et seq.*
  - (2) "Agency" means any agency as defined in Government Code section 11000 other than the California Air Resources Board.
  - (3) "Annual" means with a frequency of once a year; unless otherwise noted, annual events such as the fee payment and liability will be based on the calendar year.
  - (4) "ARB" or "Board" means the California Air Resources Board.
  - (5) "Biodiesel" means a diesel fuel substitute produced from nonpetroleum renewable resources that meets the registration requirements for fuels and fuel additives established by the Environmental Protection Agency under section 211 of the Clean Air Act. It includes biodiesel meeting all of the following:
    - (A) Registered as a motor vehicle fuel or fuel additive under 40 CFR part 70;
    - (B) A mono-alkyl ester;
    - (C) Meets American Society for Testing and Material designation ASTM D 6751-08 (*Standard Specification for Biodiesel Fuel Blendstock (B100) for Middle Distillate Fuels*);
    - (D) Intended for use in engines that are designated to run on conventional diesel fuel; and
    - (E) Derived from nonpetroleum renewable resources.
  - (6) "Calendar year" means the time period from January 1 through December 31.

- (7) "California gasoline" means:
- (A) Gasoline sold, intended for sale, or made available for sale as a motor vehicle fuel in California that is commonly or commercially known, sold or represented as gasoline, including any volatile mixture of predominantly liquid hydrocarbons that is sold or represented as suitable for use in an automotive spark-ignition engine; and
  - (B) Gasoline that is produced in California, and that the producer knows or reasonably should know will be offered for sale or supply at an out-of-state terminal or bulk plant at which it will be identified as gasoline produced in California and suitable for sale as a motor vehicle fuel in California.
- (8) "California reformulated gasoline blendstock for oxygenate blending, or 'CARBOB,'" means a petroleum-derived liquid which is intended to be, or is represented as, a product that will constitute California gasoline upon the addition of a specified type and percentage (or range of percentages) of oxygenate to the product after the product has been supplied from the production or import facility at which it was produced or imported.
- (9) "California diesel fuel" means any fuel that meets Title 13 California Code of Regulations sections 2281 and 2282.
- (10) "Carbon dioxide" or "CO<sub>2</sub>" means the most common of the six primary greenhouse gases, consisting on a molecular level of a single carbon atom and two oxygen atoms.
- (11) "Carbon dioxide equivalent" or "CO<sub>2</sub>E" or "CO<sub>2</sub> equivalent" means a measure for comparing carbon dioxide with other greenhouse gases, based on the quantity of those gases multiplied by the appropriate global warming potential (GWP) factor and commonly expressed as metric tons of carbon dioxide equivalents (MTCO<sub>2</sub>E).
- (12) "Catalyst" means a substance added to a chemical reaction, which facilitates or causes the reaction, and is not consumed by the reaction.
- (13) "Catalyst coke" means carbon that is deposited on a catalyst, thus deactivating the catalyst.
- (14) "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.

- (15) "Cement manufacturer" means an owner or operator of a cement plant.
- (16) "Cement plant" means an industrial structure, installation, plant or building primarily engaged in manufacturing Portland, natural, masonry, pozzolanic, and other hydraulic cements, and typically identified by North American Industry Classification System code 327310.
- (17) "Clinker" means the mass of fused material produced in a cement kiln from which finished cement is manufactured by milling and grinding.
- (18) "Coal" means all solid fuels classified as anthracite, bituminous, sub-bituminous, or lignite by the American Society for Testing and Material Designation ASTM D388-05 "Standard Classification of Coals by Rank."
- (19) "Coke (petroleum)" means a solid residue consisting mainly of carbon which results from the cracking of petroleum hydrocarbons in processes such as coking and fluid coking.
- (20) "Combust" means the process of burning or setting fire to a fuel.
- (21) "Combustion emissions" means greenhouse gas emissions occurring during the exothermic reaction of a fuel with oxygen.
- (22) "Cracking" means the process of breaking down larger molecules into smaller molecules, utilizing catalysts and/or elevated temperatures and pressures.
- (23) "Debt" means those loans obtained by the Board and required by the Legislature to be repaid to implement AB 32 for fiscal years 2007/08, 2008/09, and any loans necessary for the 2009/10 fiscal year.
- (24) "Emissions" means the release of greenhouse gases into the atmosphere from sources and processes in a facility.
- (25) "Emissions data report" or "greenhouse gas emissions data report" or "report" means the report prepared by an operator each year and submitted by electronic means to ARB to comply with this Article.
- (26) "Emissions 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).

- (27) "Entity" means a person, firm, association, organization, partnership, business trust, corporation, limited liability company, company, or government agency.
- (28) "Executive Officer" means the Executive Officer of the ARB or his or her delegate.
- (29) "Facility" means any property, plant, building, structure, stationary source, stationary equipment or grouping of stationary equipment or stationary sources located on one or more contiguous or adjacent properties, in actual physical contact or separated solely by a public roadway or other public right-of-way, and under common operational 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.
- (30) "Fee determination notice" means the notice provided by ARB to entities and regulated by this Article stating the dollar amount due for the current calendar year.
- (31) "Feedstock" means the raw material supplied to a process.
- (32) "Fuel" means solid, liquid or gaseous combustible material.
- (33) "Fuel Fee Rate" means the rate charged per MTCO<sub>2</sub>E produced by greenhouse gas sources specific to the fuel combusted and calculated by ARB.
- (34) "Further process" means to perform any activity on diesel fuel, including distillation, treating with hydrogen, or blending, for the purpose of bringing the diesel fuel into compliance with the standards in subsection (a) (1).
- (35) "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.
- (36) "Global warming potential" or "GWP factor" means the radiative forcing impact of one mass-based unit of a given greenhouse gas relative to an equivalent unit of carbon dioxide over a given period of time.
- (37) "Greenhouse gas," "greenhouse gases" or "GHG" means all of the following: carbon dioxide (CO<sub>2</sub>), methane (CH<sub>4</sub>), nitrous oxide (N<sub>2</sub>O), sulfur hexafluoride (SF<sub>6</sub>), hydrofluorocarbons (HFCs), and perfluorocarbons (PFCs).

- (38) “Greenhouse gas source” means any physical unit, process, or other use or activity that releases a greenhouse gas into the atmosphere.
- (39) “Imported California gasoline” means California gasoline which is transported into California and does not meet the definition in Title 13 California Code of Regulations section 2260(a)(6)(B).
- (40) “Importer” means the majority owner of the California gasoline, CARBOB, or 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.
- (41) “Kerosene” means a light distillate fuel that includes No. 1-K and No. 2-K as well as other grades of range or stove oil that have properties similar to those of No. 1 fuel oil.
- (42) “Lease fuel” means hydrocarbon-based gaseous fuel produced in association with crude oil from any oil well and subsequently burned in the field as fuel. This fuel is also commonly called associated gas.
- (43) “Liquefied petroleum gas” or “LPG” means a group of hydrocarbon-based gases derived from crude oil refining or natural gas fractionation. They include propane, propylene, normal butane, butane, butylene, isobutene and isobutylene. For convenience of transportation, these gases are liquefied through pressurization.
- (44) “Metric ton” or “MT” or “tonne” means a common international measurement for the quantity of GHG emissions, equivalent to about 2204.6 pounds, or 1.1 short tons.
- (45) “Motor vehicle” has the same meaning as defined in section 415 of the Vehicle Code.
- (46) “Naphtha” means any of several highly volatile, flammable liquid mixtures of hydrocarbons distilled from petroleum, coal tar, and natural gas and used as fuel, as solvents, and in making various chemicals.
- (47) “Natural gas” means a naturally occurring mixture of hydrocarbons (e.g., methane, ethane, or propane) produced in geological formations beneath the Earth’s surface that maintains a gaseous state at standard atmospheric temperature and pressure under ordinary conditions.

- (48) “Natural gas importer” means any entity that receives natural gas from a party that is not a public gas corporation, as defined in this article that consumes and/or distributes natural gas to consumers of natural gas.
- (49) “Operational control” for a facility subject to this article means the authority to introduce and implement operating, environmental, health and safety policies.
- (50) “Operator” means the entity having operational control of a facility, or other entity.
- (51) “Owner” means the entity having title of the property or assets which are subject to the fee.
- (52) “Payment period” means sixty days from the receipt of the fee notice, as stated in section 95204 each calendar year.
- (53) “Petroleum coke” means a residue high in carbon content and low in hydrogen that is the final product of thermal decomposition in the condensation process in cracking.
- (54) “Petroleum refinery” or “refinery” means any facility engaged in producing gasoline, aromatics, kerosene, distillate fuel oils, residual fuel oils, lubricants, asphalt, or other products through distillation of petroleum or through redistillation, cracking, rearrangement or reforming of unfinished petroleum derivatives.
- (55) “Point source” means any separately identifiable stationary point from which greenhouse gases are emitted.
- (56) “Power” means electricity, except where the context makes clear that another meaning is intended.
- (57) “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.
- (58) “Process emissions” are the following:
- (A) Cement manufacturing: The greenhouse gas emissions from the clinker production process.
  - (B) Refineries.

1. The greenhouse gas emissions resulting from the on-site consumption of catalyst coke, naphtha, LPG, and

2. All greenhouse gas emissions, both on- and off-site, resulting from the consumption of petroleum coke and refinery gas in California.

(59) "Process gas" means any gas generated by an industrial process such as petroleum refining.

(60) "Produce" for California gasoline means,

(A) Except as otherwise provided in section 2260 (a)(26)(B) or (a)(26)(C), to convert liquid compounds which are not gasoline into gasoline or CARBOB. When a person blends volumes of blendstocks which are not gasoline with volumes of gasoline acquired from another person, and the resulting blend is gasoline, the person conducting such blending has produced only the portion of the blend which was not previously gasoline. When a person blends gasoline with other volumes of gasoline, without the addition of blendstocks which are not gasoline, the person does not produce gasoline.

(B) Where a person supplies gasoline to a refiner who agrees in treated as the producer of the gasoline, the refiner shall be deemed for all purposes under this article to be the producer of the gasoline.

(C) Where an oxygenate blender blends oxygenates into CARBOB which has already been supplied from a gasoline production facility or import facility, and does not alter the quality or quantity of the CARBOB or the resulting gasoline in any other manner except for the addition of deposit control additives or other similar additives, the oxygenate blender is not producing any portion of the resulting gasoline, and the producer or importer of the CARBOB is treated as the producer or importer of the full volume of the resulting gasoline.

(61) "Producer" means any person who owns, leases, operates, controls or supervises a California production facility.

(62) "Production facility" means a facility in California at which gasoline or CARBOB is produced. Upon request of a producer, the Executive Officer may designate, as part of the producer's production facility, a physically separate bulk storage facility which (A) is owned or leased by the producer, and (B) is operated by or at the direction of the producer,

and (C) is not used to store or distribute gasoline or CARBOB that is not supplied from the production facility.

- (63) "Propane" means a normally straight chain hydrocarbon that boils at -3.67 degrees Fahrenheit and is represented by the chemical formula  $C_3H_8$ .
- (64) "Public utility gas corporation" is a gas corporation defined in California Public Utilities Code section 222 that is also a public utility as defined in California Public Utilities Code section 216.
- (65) "Refinery fuel gas" or "still 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.
- (66) "Renewable diesel" means a motor vehicle or fuel additive which 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 designated to run on conventional diesel fuel; and
  - (D) Derived from nonpetroleum renewable resources.
- (67) "Report Year" means the calendar year for which emissions are being reported in the emissions data report.
- (68) "Source" means greenhouse gas source, as defined in this section.
- (69) "Source Fee" means the charge to individual greenhouse gas emission sources based on total process emissions per  $MTCO_2E$  and the Common Carbon Cost as calculated by ARB.
- (70) "Stationary" means neither portable nor self propelled, and operated at a single facility.
- (71) "Stationary combustion source" means a stationary source of combustion emissions, and for purposes of this article does not include portable equipment, backup generators, or emergency generators.

(72) "Therm" means a unit of heat equal to 100,000 British thermal units (1.054 × 10<sup>8</sup> joules).

(73) "Ton" means a short ton equal to 2000 pounds.

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 each Fiscal Year, based on the number of personnel positions and contracts approved in the California budget for that fiscal year.
- (2) For Fiscal Years 2009/2010, 2010/2011 and 2011/2012, the RR shall also include the payments required to be made by ARB on the Debt.
- (3) The RR shall also include any amounts required to be expended by ARB in defense of this Article in court.
- (4) The amount of the Debt payment (if any) or any carryover (as provided in section 95203 (a) (4)) in addition to the Required Revenue shall be the Total Required Revenue (TRR).
- (5) If there is any excess or shortfall in the actual revenue collected after the first three years of collection, or if any collections are less than the RR, such shortfall or excess shall be carried over to the next year's calculation of the TRR.

(b) The Board will calculate a Common Carbon Cost (CCC), which represents the cost per MTCO<sub>2</sub>E emitted by the applicable greenhouse gas emission sources, to recover administrative costs associated with implementing AB 32 programs. The CCC shall be calculated in accordance with the following formula:

$$CCC = \frac{TRR}{(Q_c \times EF_c) + (Q_{ng} \times EF_{ng}) + (Q_g \times EF_g) + (Q_d \times EF_d) + TE_i}$$

Where

TRR = Total Required Revenues in accordance with section (a)

$Q_c$  = Statewide total quantity of reportable coal consumed during the reporting period

$(Q_c \times EF_c)$  = Emission Factor of  $MTCO_2E$  for one metric ton of coal as calculated as the sum of:

$(Q_b \times EF_b)$  = Quantity of bituminous coal x emission factor for bituminous coal;

$(Q_l \times EF_l)$  = Quantity of lignite coal x the emission factor for lignite coal;

$(Q_a \times EF_a)$  = Quantity of anthracite coal x the emission factor for anthracite coal;

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

$Q_{ng}$  = Statewide quantity in therms of natural gas supplied during the reporting period

$EF_{ng}$  = Emission Factor of  $MTCO_2E$  for each supplied therm of natural gas

$Q_g$  = Statewide quantity of California 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 of CARBOB multiplied by one plus the maximum amount of oxygenate designated for each volume of CARBOB.

$EF_g$  = Emission Factor of  $MTCO_2E$  for each supplied gallon of California gasoline calculated as the sum of:

$Q_d$  = Quantity of California diesel fuel supplied during the reporting period

$EF_d$  = Emission Factor of  $MTCO_2E$  for each supplied gallon of diesel fuel

$TE_1$  = Total state process emissions inventory for cement manufacturers and refineries

- (c) The State Board shall calculate a Fuel Fee Rate for each fuel included in (b) using the following formula:

$$FR_i = CCC \times EF_i$$

Where:

$FR_i$  = The Fuel Fee Rate for the fuel

CCC = Common Carbon Cost

$EF_i$  = Emission Factor of  $MTCO_2E$  for each metric ton supplied.

- (d) The Board shall calculate the fee liability for each entity based on the quantity of each fuel supplied, consumed or produced, as reported pursuant to section 95204.

$$\text{Fee} = FR_i \times QF_i$$

Where:

$QF_i$  = Quantity of fuel

- (e) Each greenhouse gas emission source shall be charged an individual Source Fee, if applicable, based on the total number of  $MTCO_2E$  emissions produced each reporting period, as follows:

$$FS_i = CCC \times QE_i$$

Where:

$FS_i$  = The Source Fee

CCC = Common Carbon Cost

$QE_i$  = the total amount of process emissions associated with the source.

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 requirements.**

- (a) Natural Gas.

- (1) All public utility gas corporations operating in California shall report the quantity of therms of natural gas transported annually.
  - (2) All owner/operators or entities purchasing or consuming natural gas in California that has been transported directly by any interstate pipeline and not delivered by a public utility gas corporation shall report the quantity of therms of natural gas purchased or consumed annually.
  - (3) All owner/operators that producer natural gas transported by any in-state proprietary pipeline shall report the quantity of therms of natural gas transported annually to a consumer on any in-state proprietary pipeline that has not been transported on a public utility gas corporation pipeline.
  - (4) All California owner/operators that consume natural gas at the site of production and are subject to mandatory reporting regulations, Title 17, California Code of Regulations sections 95, 100 *et seq*, shall report the quantity of therms both produced and consumed annually at the site of production.
- (b) Motor Vehicle Fuels. All producers and importers of California gasoline, CARBOB or California diesel fuel for use in California shall report the total amount of each variety of fuel sold for use in California to the Board.
- (c) Coal Combustion. All entities that are subject to the mandatory reporting regulations of Title 17, California Code of Regulations sections 95100 *et seq*. which combust coal shall report to the Board the total number of tons and the grade of coal combusted for each calendar year. This information shall be the same as any information already reported to ARB or the United States Department of Energy, Energy Information Administration reporting requirements.
- (d) Refinery Process Emissions. Each refinery that produces process emissions, as defined in this Article, shall report the quantities of those emissions. This information shall be derived from the information reported pursuant to the California Energy Commission's Petroleum Industry Information Reporting Act (PIIRA) codified in Public Resources Code section 25350 *et seq*.
- (e) Lease Fuels. Each operator of oil fields that subsequently produces lease fuels shall report quantities of emissions resulting from the combustion of lease fuels to the Board. This information shall be derived from the information reported pursuant to the California Energy

Commission's Petroleum Industry Information Reporting Act (PIIRA), codified in Public Resources Code section 25350 *et seq.*

- (f) Cement Manufacturers. All cement manufacturers shall report the total amount of process emissions as a result of their operations, as defined in this Article. This information shall be the same information as that required to be submitted through ARB's mandatory reporting regulations, Title 17, California Code of Regulations sections 95100 *et seq.*
- (g) All reports required by this article shall be submitted to ARB, unless the information submitted is subject to the mandatory reporting regulations, Title 17, California Code of Regulations section 95100 *et seq.* The address for submission of reports is:

California Air Resources Board  
1001 "I" Street  
Sacramento, California 95814  
Attn: AB 32 Administrative Fee Reporting

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. Fees Imposed.**

- (a) Natural Gas Utilities and Users.
  - (1) The fees of this Article shall be imposed upon all public utility gas corporations. The fee shall be paid based on the number of therms of natural gas delivered to any person. Public utility gas corporations shall include therms delivered for residential and commercial end use, industrial use, electricity generation, cogeneration and enhanced oil recovery in the fee to be paid.
  - (2) Fees shall be imposed upon all entities purchasing or consuming natural gas that has been directly transported by any interstate pipeline and not by public utility gas corporation pipeline. A fee shall be paid for each therm of natural gas delivered by interstate pipeline and purchased or consumed by the entity.
  - (3) Fees shall be imposed on all natural gas producers that transport natural gas by any in-state proprietary pipeline to a consumer. A fee shall be paid for each therm of natural gas that is transported

to a consumer and is not transported by a public utility gas corporation.

- (4) Fees shall be imposed on all California owner/operators that produce and consume natural gas at the site of production and are subject to mandatory reporting regulations, Title 17, California Code of Regulations sections 95100 *et seq.*
- (b) Producers and Importers of Transportation Fuels.
- (1) The fees of this Article shall be imposed upon producers of California gasoline and California diesel fuel for use in California. A fee shall be paid for each gallon of gasoline or diesel fuel distributed.
  - (2) The fees of this Article shall be imposed upon producers and importers of CARBOB for use in California. A fee shall be paid for each gallon of CARBOB plus the designated amount of oxygenate.
  - (3) The fees of this Article shall be imposed on all refineries that produce or import gasoline or diesel fuel for use in California.
  - (4) Fees are imposed upon refineries distributing fuels from storage.
  - (5) Fees are imposed on the entry of motor vehicle fuel into this state for sale, consumption, use or warehousing if:
    - (A) the entry is by bulk transfer and not performed by a licensed supplier; or
    - (B) the entry is not by bulk transfer.
  - (6) The fees shall be imposed on each refiner at the removal of fuel from a refinery.
- (c) Coal Combustion.
- The fees of this Article shall be imposed on all entities or operators of facilities that combust coal, and are subject to the mandatory reporting regulations of Title 17, California Code of Regulations sections 95100 *et seq.*
- (d) Refineries.

The fees of this Article shall be imposed on all entities or operators of refineries that emit process emissions, as defined in this Article.

(e) Cement Manufacturers.

The fees of this article shall be imposed on all entities or operators of cement manufacturing facilities that, through the clinker manufacturing process, emit greenhouse gases into the atmosphere.

(f) Lease Fuel Combustion.

The fees of this Article shall be imposed on all entities or operators of oil fields that produce lease fuel, and are subject to the mandatory reporting requirements of Title 17, California Code of Regulations sections 95100 *et seq.*

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

**95206. Payment and Collection.**

- (a) No later than thirty days after the end of each calendar year, the Executive Officer shall provide a written fee determination notice to each affected entity of the amount due for the current calendar year, which shall be based on the reports submitted pursuant to section 95204.
- (b) Each entity that is notified by the Executive Officer that it must remit a specified dollar amount to the state board for the then-current fiscal year shall transmit that dollar amount to the state board for deposit into the Air Pollution Control Fund within sixty days of receipt the fee determination notice.
- (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 the state board's additional expenses incurred by the entity's untimely payment.
- (d) The fees collected from the entities are to be expended by the state board only for the purposes of recovering costs of implementing the provisions of AB 32 and repaying the Debt.

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

**95207. Enforcement.**

- (a) Each violation of this article is subject to the penalty provisions set forth in Health and Safety Code section 38580.
- (b) The failure to submit any report required under this article, including all information required in a report, or to correct a report containing inaccurate statements shall constitute a single separate violation of this article for each day the report has not been submitted, made complete or corrected.
- (c) The failure to pay the full amount of any fee required by this article shall constitute a single, separate violation of this article for each day that the fee has not been paid after the date the fee is due.
- (d) The board 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 board may use fee revenues collected to fund auditing and collection procedures.
- (e) All entities, persons and operators subject to this fee are required to submit information in a complete and timely manner as specified in section 95204. Failure to submit complete information in a timely manner and the provision of false information, as well as the failure to correctly identify the existence of a fee liability, are subject to fine and other penalties under section 38580.
- (f) Right of entry. An agent or employee of ARB has the right of entry to facilities subject to this article for the purpose of inspecting their records to determine compliance with these regulations.
- (g) Right of Contract. Enforcement of this article may be carried out by authorized representatives of the ARB or its designee, including authorized representatives of air pollution control or air quality management districts.
- (h) Records Retention. Entities subject to these regulations must maintain copies of the information reported pursuant to this article and provide them to an agent or employee 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: Sections 38510, 38597, 39600 and 39601, Health and Safety Code.  
Reference: Sections 38501, 38505 and 39300, Health and Safety Code.

**95208. Severability.**

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

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

DRAFT