

FEES FOR SOURCES OF GREENHOUSE GAS EMISSIONS

Adopt new article 3, sections 95200 to 95207, title 17, California Code of Regulations, to read as follows:

(Note: All of the following is new language to be added to the California Code of Regulations.)

Article 3: Fees for Sources of Greenhouse Gas Emissions

95200. Purpose.

The purpose of this article is to collect fees to be used to carry 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 entities. The terms used below are defined in section 95202.
- (1) *Natural Gas Utilities, Users, and Pipeline Owners and Operators.*
 - (A) All public utility gas corporations operating in California. Fees shall be paid for each therm of natural gas delivered to any end user.
 - (B) All owners or operators of interstate and intrastate pipelines, not included in subpart (A), that distribute natural gas directly to end users. Fees shall be paid for each therm of natural gas directly distributed to end users by interstate or intrastate pipelines.
 - (C) All California owners or operators of natural gas extraction operations that consume natural gas produced on-site and that are subject to Mandatory Reporting Regulation. Fees shall be paid for each therm of natural gas consumed of the natural gas produced on-site.

(D) All California owners or operators of oil production operations that consume associated gas that is produced on-site and that are subject to the Mandatory Reporting Regulation. Fees shall be paid on the reported quantities of emissions resulting from the combustion of these fuels.

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

(A) All producers or importers of California gasoline or California diesel for use in California. Fees shall be paid for each gallon of gasoline or diesel fuel distributed.

(B) All producers and importers of CARBOB. Fees shall be paid for each gallon of CARBOB plus the designated amount of oxygenate.

(3) *Refineries.*

Fees shall be paid on reported quantities of emissions by any owner or operator of a refinery that emits process emissions resulting from the steam methane reforming process, or the production or consumption of:

(A) Catalyst coke

(B) Petroleum coke, or

(C) Refinery gas

(4) *Cement Manufacturers.*

All entities or operators of cement manufacturing facilities that emit greenhouse gases through the clinker manufacturing process. Fees shall be paid on reported quantities of emissions associated with clinker production.

(5) *Retail Providers and Marketers of Imported Electricity.*

Any retail provider or marketer of imported electricity. Fees shall be paid for each megawatt-hour of imported electricity.

(6) *Facilities that Combust Coal*

Any owner or operator of a facility that combusts coal in California and is subject to the Mandatory Reporting Regulation. Fees shall

be paid on the reported emissions associated with coal combustion.

- (b) This article does not apply to any of the following fuels, or to emissions resulting from combustion of any 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) any fuel exported for use outside of California.

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) "Asset controlling supplier" means any entity that operates electricity generating facilities or serves as an exclusive marketer for certain generating facilities even though it does not own them,

and assigned a supplier-specific identification number for its fleet of generating facilities under the provisions of article 2, title 17 of the California Code of Regulations.

- (6) "Asset owning supplier" means any entity that owns electricity generating facilities that deliver electricity to a transmission or distribution line, and is assigned a supplier-specific identification number for its fleet of generating facilities under the provisions of article 2, title 17 of the California Code of Regulations.
- (7) "Associated gas" means hydrocarbon-based gaseous fuel produced in association with crude oil from any oil well and subsequently burned in the field as a fuel.
- (8) "Biodiesel" means a diesel fuel substitute produced from nonpetroleum renewable resources that meet 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 title 40, Code of Federal Regulations, 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.
- (9) "Calendar year" means the time period from January 1 through December 31.
- (10) "California gasoline" has the same meaning as defined in title 13 of the California Code of Regulations, section 2260(a).

For California gasoline,

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

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

For CARBOB,

- (A) "Produce" for CARBOB has the same meaning as defined in title 13 of the California Code of Regulations, section 2260(a).
- (B) "Producer" for CARBOB has the same meaning as defined in title 13 of the California Code of Regulations, section 2260 (a).
- (C) "Supply" for CARBOB has the same meaning as defined in title 13 of the 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.
- (12) "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 "Vehicular Diesel Fuel" as defined in title 13 of the California Code of Regulations, section 2282(b).
 - (B) "Producer" for California diesel fuel has the same meaning as "Vehicular Diesel Fuel" as defined in title 13 of the California Code of Regulations, section 2282(b).
 - (C) "Supply" for California diesel fuel has the same meaning as defined in title 13 of the 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.
- (13) "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.
- (14) "Carbon dioxide equivalent" or "CO₂E" or "CO₂ 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 (MTCO₂E).

- (15) "Catalyst" means a substance added to a chemical reaction, which facilitates or causes the reaction, and is not consumed by the reaction.
- (16) "Catalyst coke" means carbon that is deposited on a catalyst, thus deactivating the catalyst.
- (17) "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.
- (18) "Cement manufacturer" means an owner or operator of a cement plant.
- (19) "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.
- (20) "Clinker" means the mass of fused material produced in a cement kiln from which finished cement is manufactured by milling and grinding.
- (21) "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."
- (22) "Combust" means the process of burning or setting fire to a fuel.
- (23) "Combustion emissions" means greenhouse gas emissions occurring during the exothermic reaction of a fuel with oxygen.
- (24) "Cracking" means the process of breaking down larger molecules into smaller molecules, utilizing catalysts and/or elevated temperatures and pressures.
- (25) "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.

- (26) "Electricity generating facility" means a facility that generates electricity and includes one or more electricity generating units at the same location.
- (27) "Electricity Fee Rate" means the rate charged per MWh of imported electricity generated at a specified source or an unspecified source based on source-specific emissions factors, or a default emissions factor for unspecified sources.
- (28) "Electricity importer" means a purchasing or selling entity that is the purchaser or seller at the first point of delivery in California for electric power imported into California, or the last point of receipt in California for power exported from California.
- (29) "Electricity transaction" means the purchase, sale, import, export or exchange of electric power.
- (30) "Emissions" means the release of greenhouse gases into the atmosphere from sources and processes in a facility.
- (31) "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.
- (32) "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).
- (33) "End user" means either:
- (A) the point to which natural gas is delivered for consumption, or
 - (B) a publicly-owned natural gas utility that further distributes natural gas for consumption.
- (34) "Entity" means a person, firm, association, organization, partnership, business trust, corporation, limited liability company, company, government agency, or public district.
- (35) "Exclusive marketer" means a marketer that has exclusive rights to market electricity for a generating facility or group of generating facilities.
- (36) "Executive Officer" means the Executive Officer of the ARB or his or her delegate.

- (37) "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.
- (38) "Fee determination notice" means the notice provided by ARB to entities and regulated by this article stating the dollar amount due for the fiscal year, based on the applicable calendar year's emissions.
- (39) "Feedstock" means the raw material supplied to a process.
- (40) "Fuel" means solid, liquid or gaseous combustible material.
- (41) "Fuel Fee Rate" means the rate charged per MTCO₂E produced by greenhouse gas sources specific to the fuel combusted and calculated by ARB.
- (42) "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.
- (43) "Generating facility" means an existing or planned location or site at which electricity is or will be produced.
- (44) "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.
- (45) "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.
- (46) "Greenhouse gas source" means any physical unit, process, or other use or activity that releases a greenhouse gas into the atmosphere.

- (47) "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).
- (48) "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.
- (49) "Interstate pipeline" means any person engaged in natural gas transportation subject to the jurisdiction of the Federal Energy Regulatory Commission (FERC) under the Natural Gas Act.
- (50) "Intrastate pipeline" means a pipeline that operates totally within California.
- (51) "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.
- (52) "Mandatory Reporting Regulation" means ARB's Mandatory Greenhouse Gas Emissions reporting regulation, as set forth in title 17, California Code of Regulations, Chapter 1, Subchapter 10, article 2 (commencing with section 95100).
- (53) "Marketer" means a purchasing or selling entity that is not a retail provider, and that is the purchaser or seller at the first point of delivery in California for electric power imported into California, or the last point of receipt in California for power exported from California.
- (54) "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.
- (55) "Meter" means a device designed to measure, record or regulate the amount or volume, as of the flow of a gas.
- (56) "Metric ton" or "MT" or "tonne" means a common international measurement for the quantity of greenhouse gas emissions, equivalent to about 2204.6 pounds, or 1.1 short tons.
- (57) "Motor vehicle" has the same meaning as defined in section 415 of the Vehicle Code.

- (58) “Multi-jurisdictional retail provider” means a retail provider that provides electricity to end users in California and in other states.
- (59) “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.
- (60) “Operational control” for a facility subject to this Article means the entity that has authority to introduce and implement operating, environmental, health and safety policies.
- (61) “Operator” means the entity having operational control of a facility.
- (62) “Owner” means the entity having title of the property or assets which are subject to the fee.
- (63) “Payment period” means 60 days from the receipt of the billing, as stated in section 95205 for each fiscal year.
- (64) “Petroleum coke” means a solid residue high in carbon content and low in hydrogen that is the final product of thermal decomposition in the condensation process in cracking.
- (65) “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.
- (66) “Point source” means any separately identifiable stationary point from which greenhouse gases are emitted.
- (67) “Power” means electricity, except where the context makes clear that another meaning is intended.
- (68) “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.
- (69) “Process emissions” means:

- (A) Cement manufacturing: The greenhouse gas process emissions produced through the chemical reactions of feedstock during pyroprocessing to produce cement clinker (which does not include greenhouse gas emissions which are the result of fuel combustion emissions).
- (B) Refineries.
 - 1. The greenhouse gas emissions resulting from the on-site consumption of catalyst coke, and
 - 2. All greenhouse gas emissions both on- and off-site, resulting from the combustion of petroleum coke and refinery gas in California, and
 - 3. The greenhouse gas emissions resulting from the steam methane reforming process excluding those that occur as a result of the use of natural gas as a feedstock.
- (70) "Process gas" means any gas generated by an industrial process such as petroleum refining.
- (71) "Producer" means any person who owns, leases, operates, controls or supervises a California production facility.
- (72) "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.
- (73) "Propane" means a normally straight chain hydrocarbon that boils at -3.67 degrees Fahrenheit and is represented by the chemical formula C_3H_8 .
- (74) "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.
- (75) "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.

- (76) "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.
- (77) "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.
- (78) "Report Year" means the calendar year for which emissions are being reported in the emissions data report.
- (79) "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 9604, community choice aggregator as defined in Public Utilities Code section 331.1, or the Western Area Power Administration.
- (80) "Source" means greenhouse gas source.
- (81) "Source Fee" means the charge to individual greenhouse gas emission sources based on total process emissions per MTCO₂E and the Common Carbon Cost as calculated by ARB.
- (82) "Specified source of power" or "specified source" means a particular generating unit or facility for which electrical generation can be confidently tracked due to full or partial ownership or due to its identification in a power contract including any California eligible renewable resource, or an asset-owning or asset-controlling supplier.
- (83) "Stationary" means neither portable nor self propelled, and operated at a single facility.

- (84) "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.
- (85) "Steam methane reforming process" means a method in which high temperature steam is used to produce hydrogen from a methane source.
- (86) "Therm" means a unit of heat equal to 100,000 British thermal units (1.054×10^8 joules).
- (87) "Ton" means a short ton equal to 2000 pounds.
- (88) "Unspecified source of power" or "unspecified source" means electricity generation that cannot be matched to a particular generating facility.

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 salaries and staff benefits, operating expenses (supplies, communication, postage), and other costs (contracts, equipment), and the number of personnel positions and contracts approved in the California budget for that fiscal year.
- (2) For Fiscal Years 2009/2010, 2010/2011, 2011/2012 and 2012/2013, 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) If there is any excess or shortfall in the actual revenue collected for any fiscal year, 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) *Common Carbon Cost (CCC).*

The Executive Officer shall calculate a Common Carbon Cost (CCC), which represents the cost per MTCO₂E emitted by the applicable greenhouse gas emission sources to recover administrative costs to implement AB 32. The CCC shall be calculated in accordance with the following formula:

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

Where

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

$(Q_c \times EF_c)$ = Statewide total quantity of emissions from coal calculated as the sum of:

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

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

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

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

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

EF_{ng} = Emission Factor of MTCO₂E for each supplied therm of natural gas

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 maximum amount of oxygenate designated for each volume of CARBOB.

EF_g = Emission Factor of MTCO₂E 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

$(Q_{ie} \times EF_{ie}) =$ Total CO_2 emissions from total imported electricity as the sum of:

$(Q_{sp} \times EF_{sp}) =$ Quantity of MWh of electricity imported from each specified source x emission factor for that specified source

$(Q_{usp} \times EF_{usp}) =$ Statewide quantity of MWh of electricity imported from unspecified sources x emission factor for unspecified source.

$TE_I =$ Total state process emissions inventory for cement manufacturers and refineries, and emissions from the combustion of associated gas.

(c) *Fuel Fee Rate.*

For entities reporting pursuant to section 95204(c)(1), (2) and (3), (d) and (e) 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:

$FR_i =$ The 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(c)(1),(2) and (3), (d) and (e) the Executive Officer shall calculate Fuel Fee Rates using emissions factors specified in the *ARB Compendium of Emission Factors and Methods to Support Mandatory Reporting of Greenhouse Gas Emissions* published as Appendix A of the Regulation for the Mandatory Reporting of Greenhouse Gas Emissions (ARB Compendium). For natural gas, the emission factor shall be that given under the heading "Natural Gas" for "Unspecified (Weighted U.S. Average)" in Table 4 of the ARB

Compendium. For each grade of coal, the emission factors shall be those given for “Anthracite”, “Bituminous”, “Sub-bituminous”, and “Lignite” in Table 4 of the ARB Compendium. For California gasoline (including finished CARBOB) and California diesel fuel, the emission factors shall be those given for “CA Low Sulfur Diesel” and “CA Reformulated gasoline, 5.7% ethanol”, respectively, in Table 7 of the ARB Compendium.

(e) *Electricity Fee Rate.*

The Executive Officer shall calculate an Electricity Fee Rate for imported electricity using the following formulas:

For electricity imported from specified sources and from asset-owning and asset-controlling suppliers,

$$\begin{aligned} \text{EFR}_{\text{sp}} &= \text{CCC} \times \text{EF}_{\text{sp}} \\ \text{EFR}_{\text{asp}} &= \text{CCC} \times \text{EF}_{\text{asp}} \end{aligned}$$

Where:

EFR_{sp} = The Electricity Fee Rate for the specified source “sp”
 EFR_{asp} = The Electricity Fee Rate for the asset-owning and asset-controlling suppliers “asp”
CCC = Common Carbon Cost
 EF_{sp} = Emission Factor for specified source “sp”, in MTCO_2E per MWh
 EF_{asp} = Emission Factor for asset-owning and asset-controlling suppliers “asp”, in MTCO_2E per MWh

The Executive Officer shall calculate emissions factors for specified sources that are generating units or facilities using the following methodology:

$$\text{EF}_{\text{sp}} = \frac{\text{TDE}_{\text{sp}}}{\text{TDG}_{\text{sp}}}$$

Where:

EF_{sp} = Emission Factor for specified source “sp”, in MTCO_2 per MWh
 TDE_{sp} = Total Direct CO_2 Emissions from electricity generation for the specified source unit for the year (MTCO_2)
 TDG_{sp} = Total Direct Generation from the specified source unit for the year (MWh)

The Executive Officer shall calculate emissions factors for asset-owning and asset-controlling suppliers using the following methodology:

$$EF_{asp} = \frac{TDE_{asp} + PE_{sp} + PE_{usp} - SE_{sp}}{TDG_{asp} + PG_{sp} + PG_{usp} - SG_{sp}}$$

Where:

EF_{asp} = Emission Factor for asset-owning and asset-controlling suppliers "asp", in MTCO₂ per MWh

TDE_{asp} = Total Direct CO₂ Emissions from electricity generation for all assets owned or controlled by the asset-owning or asset-controlling supplier for the year (MTCO₂)

PE_{sp} = Emissions from electricity purchased from a specified source by the asset-owning or asset-controlling supplier for the year (MTCO₂)

PE_{usp} = Emissions from electricity purchased from an unspecified source by the asset-owning or asset-controlling supplier for the year (MTCO₂)

SE_{sp} = Emissions from wholesale electricity sold from a specified source by the asset-owning or asset-controlling supplier for the year (MTCO₂)

TDG_{asp} = Total Direct Generation from all assets owned or controlled by the asset-owning or asset-controlling supplier for the year (MWh)

PG_{sp} = Electricity purchased from specified sources by the asset-owning or asset-controlling supplier for the year (MWh)

PG_{usp} = Electricity purchased from unspecified sources by the asset-owning or asset-controlling supplier for the year (MWh)

SG_{sp} = Wholesale electricity sold from a specified sources by the asset-owning or asset-controlling supplier for the year (MWh)

The values for TDE_{sp} , TDG_{sp} , TDE_{asp} , TDG_{asp} , PE_{sp} , SE_{sp} , PG_{sp} , PG_{usp} , and SG_{sp} shall be taken from the values reported under the Mandatory Reporting Regulations, if such data has been reported. If data has not been reported under the mandatory reporting regulation, the values shall be taken from data reported to the Energy Information Administration. PE_{usp} shall be calculated using the default emission factor of 0.499 MTCO₂ per MWh.

For unspecified sources, an electricity fee rate shall be calculated for each region using the following formulas:

$$EFR_{usp} = CCC \times EF_{usp}$$

Where:

EFR_{usp} = The Electricity Fee Rate for unspecified sources
CCC = Common Carbon Cost
 EF_{usp} = 0.499 MTCO₂E per MWh, the Emission Factor for unspecified sources

(f) *Fee Liability for Fuels.*

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

$$FS_i = (FR_i \times QF_i)$$

Where:

FS_i = The Fee Liability for each entity
 QF_i = Quantity of fuel
(Note: The Fee Liability calculation formula for associated gas is addressed under section (h))

(g) *Fee Liability for Imported Electricity.*

The Executive Officer shall calculate the fee liability for each entity reporting pursuant to section 95204(f) based on the quantity of electricity imported, as follows:

$$FS_i = (EFR_i \times QM_i)$$

Where:

QM_i = Quantity of MWh of imported electricity from each entity.

(h) *Fee Liability for Process Emissions and Associated Gas..*

For entities reporting pursuant to section 95204(c)(4), (g) and (h), each entity, as defined, shall be charged a Fee based on the total number of MTCO₂E emitted and reported annually. The fee shall be calculated as follows:

$$FS_i = CCC \times QE_i$$

Where:

FS_i = The Fee for Entity

CCC = Common Carbon Cost

QE_i = the total amount of process emissions associated with the source or emissions from combustion of associated gas.

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 article must be submitted to the Executive Officer of ARB by using the California Air Resources Board's Online Greenhouse Gas Reporting Tool, pursuant to title 17, California Code of Regulations section 95104(e), and is available on the ARB's internet website at www.arb.ca.gov. All entities subject to the Regulation for Fees for Greenhouse Gases must report the following:

(1) Report Information

(A) Report Year

(B) Facility Information

(i) Facility name

(ii) Physical address

(iii) Mailing address

(iv) Description of facility geographic location

(2) Operator Information

(A) Operator name

(B) Email address

(C) Telephone number

(3) Operator Statement of Truth, Accuracy and Completeness

Operator signature and date stating: *This report has been prepared in accordance with subchapter 105, article 1, sections 95100 to 95133, title 17, California Code of Regulations. The statements and information contained in this emissions data report are true, accurate and complete.*

(b) *Timeline for Reporting.*

(1) Reports for the 2008 calendar year must be submitted to ARB by December 1, 2009, or within 14 days of the operative date of this regulation, whichever is later.

(2) Reports for the 2009 and subsequent calendar years must be submitted to ARB by June 1 of each year.

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

- (1) All public utility gas corporations operating in California must annually report the aggregate quantity of therms of natural gas delivered at the meter to end users.
- (2) All owners or operators of interstate and intrastate pipelines that distribute natural gas directly to end users in California must annually report the aggregate quantity of therms of natural gas directly distributed, at the metered to the end users.
- (3) All California owners or operators that consume natural gas produced on-site and are subject to the Mandatory Reporting Regulation must report the quantity of therms of natural gas consumed annually of natural gas produced on-site in addition to all information required under the Mandatory Reporting Regulation.
- (4) All California owners or operators that consume associated gas produced on-site and that are subject to the 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.

(d) *Producers and Importers of California Gasoline, CARBOB and California Diesel Fuels.*

All producers and importers of California gasoline or California diesel fuel must report the total amount of each fuel sold or supplied for use in California to the Executive Officer. Producers and importers of CARBOB must report each volume of CARBOB and the associated designated volume/volumes of oxygenate to the Executive Officer.

(e) *Coal Combustion.*

All entities that are subject to the Mandatory Reporting Regulation and combust coal must report to the number of tons and the grade of coal combusted for each calendar year to the Executive Officer.

(f) *Retail Providers and Marketers of Imported Electricity.*

(1) *Retail Providers of Electricity.* This information shall be the same information that is required to be submitted under the Mandatory Reporting Regulation, and include the total quantity of MWh of electricity imported from specified sources and unspecified sources with final point of delivery in California, and shall be reported on the schedule specified in the Mandatory Reporting Regulation.

(2) *Marketers.* All marketers of imported electricity must report all information required under the Mandatory Reporting Regulation, be consistent with section 95111 of the Mandatory Reporting Regulation, and include the total quantity of MWh of electricity imported from specified sources and unspecified sources with final point of delivery in California.

(g) *Refinery Process Emissions.*

Each refinery that produces process emissions must report the report all information required under the Mandatory Reporting Regulation, including individual quantities of those emissions. Each refinery must report the individual quantities of catalyst coke, petroleum coke, and refinery gas produced annually less the quantities exported out of the state. 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 sections 25350 *et seq.*, and the Mandatory Reporting Regulation.

(h) *Cement Manufacturers.*

All cement manufacturers must report all information required under the Mandatory Reporting Regulation, including the total amount of process emissions resulting from their operations, as defined in this article. This information shall be the same information as that required to be submitted under the Mandatory Reporting Regulation.

(i) *Records Retention.*

Entities subject to this article 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 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) No later than 30 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. The amount of the fee shall be based on the reports submitted pursuant to section 95204 and the fee calculations formulas set forth in section 95203.
- (b) Each entity that is notified by the Executive Officer that it must remit a specified dollar amount to the state board for the current fiscal year shall transmit that dollar amount to ARB for deposit into the Air Pollution Control Fund within 60 days of receipt of 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 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) The fees collected from the entities are to be expended by the ARB 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.

95206. Enforcement.

- (a) *Penalties.* Penalties may be assessed for any violation of this article 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 article may be enjoined pursuant to Health and Safety Code section 41513.
- (c) Each day or portion thereof that any report required by this article remains unsubmitted, is submitted late, or contains incomplete or inaccurate information, shall constitute a single, separate violation of

this article. For the purposes of this section, “report” means any information required to be submitted by section 95204.

- (d) 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 or portion thereof that the fee has not been paid after the date the fee is due.
- (e) 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 article to fund auditing and collection procedures.
- (f) 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.

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 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.

Proposed Regulation Order

PROPOSED AMENDMENT TO THE REGULATION FOR THE MANDATORY REPORTING OF GREENHOUSE GAS EMISSIONS

Amend section 95104, title 17, California Code of Regulations to read as follows:

(Note: The proposed amendments to the existing regulation are shown in ~~strike out~~ to indicate proposed deletions and underline to indicate proposed additions)

95104. Greenhouse Gas Emissions Data Report

(No modifications are proposed to subsections (a) through (d) of section 95104.)

(e) All data reporting specified in sections 95103 through 95133 must be submitted to the ARB by operators and verifiers subject to this article by using the California Air Resources Board's Online Greenhouse Gas Reporting Tool, which is available on ARB's internet site at www.arb.ca.gov.

NOTE: Authority cited: Sections 39600, 39601, 41511, 38510, and 38530, Health and Safety Code. Reference: Sections 39600, 41511 and 38530, Health and Safety Code.