

AB 32 Regulatory Issues

Decrease Carbon Footprints through Market Based Approaches

BACKGROUND

AB 32, dubbed the “Global Warming Solutions Act,” is California’s landmark legislation to reduce greenhouse gas emissions to 1990 levels.

The law gives the authority to regulate GHG emissions to the California Air Resources Board (ARB), and requires adoption of regulations to require broadly defined GHG emission “sources” and “categories of sources” to report and verify their GHG emissions, which ARB will also monitor and enforce to ensure compliance.

AB 32 authorized, but did not require, that ARB adopt a market-based compliance program. The Governor and his staff advocated for inclusion of a “cap and trade” program, to permit more flexible compliance approaches.

The adopted version, however, has a very specific and hard “cap,” but only a permissive, ARB “may,” adopt market-based or trading programs. The Governor has attempted to advance market-based implementation of AB 32 through follow-up executive orders and by budgeting an equal number of market-approach and regulatory positions for the next fiscal year.

The law requires a several different sets of regulations. Ones for “early action” GHG reduction measures were identified before July 1, 2007, and regulations to implement the early action items are to be adopted by January 1, 2010.

Separate regulations to achieve the 2020 GHG reductions are to be adopted by January 1, 2011 and will become effective on January 1, 2012 (a time table is attached). Finally, the bill authorizes ARB to adopt a schedule of fees to be paid by regulated GHG sources, which as previously noted, are very broadly defined to be anyone ARB believes is emitting GHG.

CBPA POSITION

Although CBPA did not support AB 32, we are very active in the regulatory processes and recommend that industry take proactive steps to meet its mandates. As an active member of the AB 32 Implementation Group we advocate that ARB remain consistent with the following principles:

The state should move swiftly to ensure that companies understand the impact of AB 32 on new investments and receive recognition for energy efficiency projects that save energy and reduce greenhouse gas emissions.

As AB 32 is implemented, agencies must carefully evaluate its impact on California companies to ensure that implementation does not force companies to leave California or expand elsewhere. This outcome would transfer the location of greenhouse emissions rather than actually reduce them.

The AB 32 process should be established through a rigorous, scientifically valid manner subject to an open process that allows adequate time for expert review. This is particularly important in establishing emissions inventories, baselines and allocations.

AB 32 requires that regulations to reduce emissions must be cost-effective and technologically feasible. We strongly support this directive because it helps ensure that AB 32 will not increase costs for consumers, threaten jobs or make California companies uncompetitive.

Implementation of AB 32 should emphasize policy choices that promote technological innovation and the efficiency of market-based strategies and that include adequate regulatory certainty, reasonable timelines and permit streamlining.

AB 32 implementation should minimize compliance costs and administrative fees to protect California jobs and consumers. Furthermore, the administrative costs of implementing AB 32 should be borne equitably across all sectors.