

GHG Law

1) **Kyoto Protocol – Protocol to the International Framework Convention on Climate Change**

- a) *Kyoto's goal is to reduce GHG emissions to 5% below their 1990 levels by the year 2012*
 - i) This amounts to about a 30% reduction by 2012 based on GHG trajectories
 - ii) Requires member countries to reduce their GHG emissions by a preset amount by the year 2012
 - iii) Promotes Cap and Trade market mechanisms
- b) Individual country goals range from an increased output of 15% (Spain) to 0% reduction (Russia) to 21% reduction (Germany). The proposed reduction goal for the U.S. was 7%.
- c) Kyoto went into effect on 2/16/05; will expire at the end of 2012
- d) The U.S. never ratified the Kyoto Protocol
 - i) President Bush pulled out of the Kyoto Protocol entirely, dubbing it “fatally flawed” and claiming that it would harm the economy
- e) Bali Summit in 12/07 began the process for the second phase — beyond Kyoto

2) **AB 1493 (2002) Pavley Law**

- a) *Goal is to reduce passenger vehicle GHG emissions by 30% by 2016*
- b) Required the ARB to adopt regulations, by January 1, 2005, to reduce GHGs from cars and trucks produced after 2009
- c) This action requires a waiver from the EPA
 - i) The administrator can reject the waiver request if (s)he determines that California does not need such State standards to meet “compelling and extraordinary conditions.”
 - ii) On 12/07 the waiver request was denied because climate change was not “unique or exclusive” to California, so Stephen Johnson held that a waiver was not warranted
 - iii) CA has filed a lawsuit (pending) against the EPA and will likely prevail

3) **CA Executive Order S-3-05 (2005)**

- a) *Requires reductions in GHG emissions to 1990 levels by 2020 and to 80% below 1990 levels by 2050*

4) **SB 1368 (2006)**

- a) *Forbids long term electrical procurement arrangements from sources that exceed the emissions of a relatively clean natural gas powerplant*
 - i) This is known as the emission performance standard (EPS)
 - ii) Coal-fired powerplants cannot currently meet this standard
- b) Dozens of new conventional coal-fired power plants (at least 31 by most counts) are in the planning and development stage throughout the West, many aiming to sell their power to California. The state's utilities are devising long-term plans to purchase new energy that include billions of dollars in investments over the next decade. Depending on how those investments are made, they could generate electricity and global warming emissions for the next forty years or longer. This bill doesn't say "no" to electricity from coal, but it puts the coal industry on notice that it needs to use much cleaner and more efficient technologies if it wants California financing.

5) AB 32 – California Global Warming Solution Act of 2006

- a) *Requires ARB to reduce GHG emissions to 1990 levels by 2020. (Cal Health & Safety Code § 38550)*
 - i) This represents approximately 25% reduction based on current trajectories
- b) *Mandates the monitoring and annual reporting of GHG emissions by all sources “of significance” (id. at §§ 38530(a) and 38505(i))*
- c) *Mandates the development and implementation of GHG emission reduction measures (id. at § 38560);*
- d) *Delegates broad authority to the CARB to implement these mandates in accordance with an aggressive series of deadlines. (Id. at § 38510.)*
- e) Speaking of Deadlines:
 - i) **January 1, 2007:** AB 32 went into effect;
 - ii) **June 30, 2007:** CARB published “a list of discrete early action GHG emission reduction measures” (*Id* at § 38560.5(a)); the measures must be implemented by regulations by 2010. Here is the list:
 - (1) Low carbon fuel standard
 - (2) Restrictions on refrigerants (i.e., HFCs)
 - (3) Improved landfill methane capture
 - (4) Restrictions on high GWP consumer products (tire inflators, aerosols)
 - (5) Restrictions on Hexafluoride
 - (6) Green ports
 - (7) Restrictions on Perfluorocarbons in semiconductor industry
 - (8) Smartway trucking efficiency
 - (9) Tire inflator program
 - iii) **January 1, 2008:** CARB established the 1990 baseline of statewide GHG emissions that will be the cap to be implemented by 2020 (*id.* at § 38550);
 - iv) **January 1, 2008:** CARB adopted regulations requiring the monitoring and annual reporting of GHG emissions from all significant sources (*id.* at § 38530);
 - v) **January 1, 2009:** CARB must prepare and approve a “scoping plan” for “achieving the maximum technologically feasible and cost-effective reductions in GHG emissions from sources or categories of sources of GHG gases by 2020” (*id.* at § 38561); this scoping plan will be the template for the regulations that will be adopted by 2011;
 - vi) **January 1, 2010:** CARB must “adopt regulations to implement” the list of reduction measures that it publishes by June 30, 2007 (*id.* at § 38560.5(b));
 - vii) **January 1, 2011:** CARB must adopt regulations establishing “GHG emission limits and emission reduction measures” (*id.* at § 38562(a)); and
 - viii) **January 1, 2012:** the 2011 regulations must become operative. (*Id.*)
- f) Market-based compliance mechanisms
 - i) Cap and trade system may be used to meet the 2020 cap
 - ii) However, CARB must consider the impact to communities already impacted by air pollution
 - iii) Reductions must be “real, permanent, quantifiable, verifiable, and enforceable”

More Information on California Climate Change Policy available at www.climatechange.ca.gov