

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) World leaders met in Copenhagen in December 2009, in Cancun in 2010 and will meet in Durbin South Africa from 11/29/11 to 12/10/11.

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 filed a lawsuit against the EPA.
 - iv) In the meantime, the Obama administration granted the waiver in June 2009 and the federal government adopted the California standard.

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) **CA Executive Order S-21-09 (2009)**

- a) Increases California's Renewable Portfolio Standard (RPS) to 33% by 2020, the highest in the nation

5) **SBX1-2 (2011) 33% RPS Standard**

- a) On April 12, 2011, Gov. Brown signed into law a bill confirming the state's 33% RPS by 2020.

6) 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 prepared and approved 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 adopted regulations to implement the list of early action reduction measures (*id.* at § 38560.5(b));
 - vii) **January 1, 2011:** CARB adopted regulations establishing “GHG emission limits and emission reduction measures” described in the scoping plan (*id.* at § 38562(a)); and
 - viii) **January 1, 2012:** the 2011 regulations become operative. (*Id.*)
- f) Market-based compliance mechanisms
 - i) Cap and trade system will be used to meet the 2020 cap
 - ii) However, CARB is required to 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