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 will meet in Copenhagen in December 2009 to negotiate an agreement beyond 2012

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 has proposed federal adoption of 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 to 33% by 2020, the highest in the nation
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. § 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. § 38550);
      iv) **January 1, 2008:** CARB adopted regulations requiring the monitoring and annual reporting of GHG emissions from all significant sources (id. § 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. § 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 early action reduction measures (id. § 38560.5(b));
      vii) **January 1, 2011:** CARB must adopt regulations establishing “GHG emission limits and emission reduction measures” described in the scoping plan (id. § 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*