

California's Greenhouse Gas Legislation: California Global Warming Solutions Act of 2006

Overview

On August 31, 2006, the California Legislature enacted AB 32, the state's Greenhouse Gas (GHG) emissions reduction program. The Governor's spokesperson has said that the Governor will sign the bill.

This legislation directs the State Air Resources Board (ARB) to develop and implement a program to reduce GHG emissions in the state to 1990 levels by 2020. The ARB is to coordinate with other state agencies to develop the program.

The legislation follows the Governor's June 2005 Executive Order that set state GHG emission targets of: 2000 levels by 2010; 1990 levels by 2020; and 80 percent below 1990 levels by 2050. This legislation adopts the Governor's 2020 emissions target and directs the Climate Action Team, also created by the Executive Order, to continue in its role in coordinating overall climate policy in the State. The California Environmental Protection Agency (Cal/EPA) leads the Climate Action Team.

Primary Provisions

Mandatory Reporting: By January 1, 2008, the ARB shall require annual reporting and verification of GHG emissions, beginning with the sources or categories of sources that contribute most to statewide emissions. GHG emissions from electricity consumed in the state must be reported by Load Serving Entities (LSEs), including emissions from electricity produced outside the state. The ARB is directed to build on the protocols developed by the California Climate Action Registry (CCAR). Additionally, the ARB is directed to promote consistency with other state, federal, and international programs.

1990 State GHG Emissions: By January 1, 2008, the ARB shall determine what the statewide GHG emissions were in 1990. Through a public hearing the ARB is to adopt this level as the emission limit for 2020.

2020 Emission Limit: The 2020 emission limit is to remain in effect after 2020 unless amended or repealed. The ARB is requested to make recommendations to the legislature on how to continue emission reductions beyond 2020.

Early Action Emission Reduction Measures: The ARB is directed to adopt regulations to reduce emissions.

- By June 30, 2007, the ARB must publish a list of measures¹ that can be implemented quickly.
- By January 1, 2010, the ARB must adopt regulations to implement the measures in the list.

The regulations are directed to *"achieve the maximum technologically feasible and cost-effective reductions in GHG emissions from those sources or categories of sources, in furtherance of achieving the statewide GHG emissions limit."*

¹ "Measures" are defined as "...programs, measures, standards, and alternative compliance mechanisms..."

Scoping Plan: By January 1, 2009, the ARB must prepare a scoping plan for achieving emission reductions. The plan must identify and recommend “*direct emission reduction measures, alternative compliance mechanisms, market-based compliance mechanisms, and potential monetary and non-monetary incentives*” for achieving the 2020 emissions limit. The plan must be updated every five years. The ARB must evaluate total costs and benefits as part of developing the plan.

Emission Limits Effective in 2012: The ARB is directed to implement regulations to impose GHG limits and emission reduction measures that become operative beginning on January 1, 2012. These regulations must be adopted by January 1, 2011, and must be designed to “*achieve the maximum technologically feasible and cost-effective reductions in GHG emissions in furtherance of achieving the statewide GHG emissions limit.*” Cost effectiveness and overall societal benefits must be considered, along with other factors. A system of market-based declining annual aggregate emission limits may be adopted.

Market-Based Compliance Mechanisms: Market-based programs can be considered, including cap-and-trade programs. The ARB is directed to ensure that such programs prevent increases in the emissions of toxic air contaminants or criteria air pollutants.

Enforcement: Enforcement provisions are included, such as penalties for non-compliance.

Safety Valves: The legislation is silent on the inclusion of safety valves (e.g., maximum allowance prices) in the design of market-based programs. The Governor is given authority to adjust applicable deadlines in the event of “*extraordinary circumstances, catastrophic events, or threat of significant economic harm.*”

Advisory Committees: Two advisory committees were established: Environmental Justice, Economic Technology Advancement.

Throughout the implementation of the programs and regulations the ARB is directed to coordinate with other state agencies and the Public Utilities Commission, which has jurisdiction over the investor-owned utilities.

Related Legislation

In 2002, the legislature enacted AB 1493, which required the ARB to develop and adopt regulations that achieve the maximum feasible reduction of greenhouse gases emitted by passenger vehicles and light-duty trucks by January 1, 2005. The regulations have been promulgated and apply to motor vehicles manufactured in the 2009 model year and thereafter. Auto dealerships and manufacturers have challenged these regulations in court, and the case is pending. The GHG emission reductions due to the AB 1493 regulations are expected to be an important contributor to the emission reductions needed to achieve the 2020 emissions limit established in AB 32.

Comment

The legislation represents the culmination of intense discussion and negotiation among stakeholders. Leading environmental groups were pushing for specific emission limits and accepted market-based programs (e.g., cap-and-trade) as an acceptable regulatory approach. The business community requested maximum flexibility and market-based approaches with safety valves. Some business representatives argued that any action would be costly and would produce little benefit. Other representatives felt that the state would benefit from being on the cutting edge of climate friendly technology.

The environmental justice community was vocal throughout the debate. The community expressed concern that emission trading will enable emissions to be further concentrated in heavily impacted communities. It requested safeguards to prevent the trading programs from increasing emissions (toxics and criteria pollutants) in these communities.

The Climate Action Team, led by Cal/EPA, is likely to remain in an oversight role. The responsibility for the state inventory had been with the California Energy Commission (CEC) and is shifted to the ARB by this legislation. The legislation does not appear to change responsibility for the climate change research program currently implemented by the CEC under the Public Interest Energy Research (PIER) Program.

Market-based programs, such as cap-and-trade, are not required but can be considered. There are no specifics regarding the design of a cap-and-trade program (such as how to allocate or auction allowances or whether to allow offsets). The expectation is that something like a cap-and-trade program, with some approach for offsets, will be one of the options considered. The March 2006 Climate Action Team Report to the Governor and the Legislature presented cap-and-trade program options but did not make a recommendation regarding the preferred program design. The March Report and the supporting cap-and-trade report are available online at:

http://www.climatechange.ca.gov/climate_action_team/reports/index.html).

About ICF International

ICF International partners with government and commercial clients to deliver consulting services and technology solutions in defense, energy, environment, homeland security, social programs, and transportation. Combining passion for our work with industry expertise and innovative analytics, we deliver compelling results throughout the entire program life-cycle, from analysis and design through implementation and improvement. Since 1969, ICF International has been serving government at all levels, major corporations, and multilateral institutions. More than 1,600 employees serve these clients worldwide.

ICF International has supported California's efforts to develop a strategy for greenhouse gas mitigation by assisting the state with its greenhouse gas inventory, reviewing the cost effectiveness of various measures to reduce emissions or enhance sequestration, assisting with clean energy programs, and analyzing the role of market-based compliance mechanisms. ICF is a Charter Member of the California Climate Action Registry and is a qualified certifier of emission reports submitted to the Registry.

For Information

Craig Ebert
ICF International
14724 Ventura Boulevard, Suite 1001
Sherman Oaks, CA 91403 USA
+1.818.325.3140 (p)
cebert@icfi.com