

Compliance Corner

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Aspen Environmental Consulting LLC is pleased to provide you with a free copy of this quarterly newsletter "Compliance Corner".

Reporting GHG, Cap & Trade...are you Ready?

There's been a fair amount of activity in the past few months as it relates to the emissions of green house gases. On October 30, 2009, EPA finalized its rule for the reporting of green house gas emissions. This rule applies to producers of fossil fuels and industrial gases, manufacturer of vehicles and engines, importers and exporters, and facilities that emit more than 25,000 metric tons of green house gases. GHGs include: carbon dioxide (CO₂), methane (CH₄), nitrous oxide (N₂O), sulfurhexafluoride (SF₆), hydrofluorocarbon (HFC), nitrogen trifluoride (NF₃) and perfluorocarbon (PFCs). Under this federal rule, the first report is due in 2011.



Regionally, an organization called the Western Climate Initiative has taken on the issue of GHG emissions. Eight states and provinces have signed on to this initiative...they are British Columbia, Manitoba, Ontario, Quebec, Montana, Washington, Oregon, Utah, California, Arizona and New Mexico. The WCI Partners are working with stakeholders throughout 2009 and 2010 on further developing implementation details for the WCI regional cap-and-trade program. Each WCI Partner will begin reporting greenhouse gas emissions in 2011 for emissions that occur in 2010. The first phase of the cap-and-trade program will begin on January 1, 2012, with a three-year compliance period. The second phase of the program will begin in 2015, when the program will be expanded to include transportation fuels and residential, commercial and industrial fuels not otherwise covered in the first phase.

On November 24, 2009 the California Air Resources Board published its Preliminary Draft Regulation for California Cap & Trade. Its basic ideas are to:

* Requiring sources of GHG emissions to

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manage their emissions under an aggregate declining emissions cap that supports achieving the 2020 emissions target mandated by AB 32.
* Starting the program in 2012 with about 600 of the State's largest



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Did you Know?

- In a bid to understand the impact of the wind produced by cows on global warming, scientists collected gas from their stomachs in plastic tanks attached to their backs. The Argentine researchers discovered methane from cows accounts for more than 30 per cent of the country's total greenhouse emissions.



- Carbon Dioxide accounts for approximately 83% of all US GHG emissions (PEW Research)
- AIR TRAVEL Each mile of commercial air travel produces a little more than half a pound of carbon dioxide per person. Each passenger on a one-way flight from Denver to San Francisco is responsible for about 608 pounds of carbon dioxide emissions. Source: Bonneville Environmental Foundation.

Cap & Trade, cont'd

GHG emitting stationary sources (primarily industrial sources and electricity generators), along with electricity imports.

*Including emissions from transportation fuel combustion (e.g., gasoline, diesel, ethanol), and from fuel combustion at stationary sources that fall below the threshold for direct inclusion in the program (e.g. residential and commercial natural gas combustion) by covering the suppliers of fuel to these sources.

* Requiring a minimum number of allowances to be auctioned at program start.

* Allowing limited use of high quality offsets outside of capped sectors to cover a portion of the overall emissions reductions.

* Establishing clear rules for emissions trading, monitoring, and enforcement.

One of the first steps for preparing for the Cap & Trade requirements is to ensure that you are already complying with the Mandatory Reporting requirements of AB 32 which were based on 12/6/07 and became effective on 1/1/09. As a result of the proposed Cap & Trade requirements, several changes are anticipated to the mandatory reporting requirements. These include:

*reporting threshold will be based on CO2 equivalents (CO2e) rather than the current CO2 only emissions.

* lower the threshold to 10,000 metric tons (MT) CO2e rather than the current 25,000 MT CO2. Third party verification would not be required for facilities that emit between 10,000 MT CO2e - 25,000 MT CO2e.

* Annual verification of emission data reports for facilities with greater than 25,000 MT CO2e.

* Additional reporting of industrial processes and fugitive emissions, and for reporting of emissions by upstream suppliers of fuels and industrial gases.

* Electricity sector reporting requirements to be revised to facilitate reporting by first deliverers.

* Deadlines are subject to change.

* ARB will work with USEPA to facilitate a single reporting system. (NOTE: Now that the federal rule has been finalized and they have put out a reporting mechanism of their own) we await to see how this is to be accomplished).

* Revise existing enforcement language.

In regards to the "single reporting system", EPA intends to have the electronic reporting system operational in January 2011, approximately three months in advance of the March 31, 2011 reporting deadline. EPA intends to make training on the emissions reporting system available in fall 2010 and continuing into 2011. The electronic reporting system will include a separate module for registering users and facilities, scheduled to be operational by summer 2010 and training should be offered at that time. In the meantime, California "covered facilities" should continue to use the ARB Reporting system.

Once you have your GHG quantification and reporting systems in place, you can then begin the challenging task of monitoring and managing your Cap & Trade requirements. The first step will be to properly register your facility. A registrant that is a covered entity as of January 1, 2012 must register with ARB by March 31, 2012. If you become a "covered entity" after January 1, 2012, you have 90 days to register.

The "caps" are to be set. Subarticle 6 identifies how the 'cap', or schedule of annual allowance budgets, will be set. The example base budget numbers are presented purely for illustrative purposes and will be revised as part of the continued stakeholder participation process on cap setting. These example numbers assume California has not yet linked with its WCI Partners. The proposed caps are as follows:

2012: 197.230 M of CA GHG allowance
2013: 193.379 M of CA GHG allowance
2014: 189.527 M of CA GHG allowance

2015: 421.025 M of CA GHG allowance
2016: 409.820 M of CA GHG allowance
2017: 398.615 M of CA GHG allowance

2018: 387.410 M of CA GHG allowance
2019: 376.205 M of CA GHG allowance
2020: 365.000 M of CA GHG allowance
* These allowances are subject to change.

Cap & Trade requires that you have a good strategy for compliance, which begins with proper quantification of your GHG emissions. It also requires one to monitor what is going on at the local, regional and national level. Check out Aspen's website to get the latest developments at www.aspenenviro.net - Go to "Links and Newsletters".

CALIFORNIA'S LCFS IS CHALLENGED

A complaint was filed in Federal District Court in Fresno, California, concerning California's Low Carbon Fuel Standard (LCFS). The Renewable Fuels Association and Growth Energy issued the following joint statement:

"If the United States is going to have a low carbon fuel standard, it must be based on sound science and it must be consistent with the U.S. Constitution. California's Low Carbon Fuel Standard (LCFS) is fundamentally flawed in both respects. Today, in federal court, we filed a lawsuit challenging the constitutionality of the LCFS. As structured, it violates both the Supremacy Clause and the Commerce Clause of the U.S. Constitution.

"The LCFS contradicts the sound judgment of Congress when it passed the 2007 Energy Independence Security Act and singled out the importance of domestic ethanol for our nation's environment, energy security, and economy. The LCFS erects new regulatory obstacles to ethanol, frustrates the federal Renewable Fuel Standard, and threatens the nationwide market for domestic ethanol. Because congressional policy cannot coexist with California's regulation, the latter must give way to the former, the supreme law of the land. "

Stay tuned and we will keep you update on this legal proceeding.

Statewide Drayage Truck Regulation

Reducing air pollution in California ports

The Air Resources Board adopted the Drayage Truck Regulation in December 2007 to reduce the health risks from diesel pollution in communities near ports and rail yards. The regulation takes effect **Jan. 1, 2010**.

What are the basic requirements?

Entry of diesel-powered trucks to ports and rail yards is limited strictly to those in the state's Drayage Truck Registry. Registration is free and can be completed easily online at www.arb.ca.gov/msprog/onroad/porttruck/porttruck.htm. Beyond registration, there are restrictions to entry at ports and rail yards.

Exactly what types of trucks come under this regulation?

The regulation applies only to diesel-fueled trucks weighing more than 33,000 pounds that haul cargo to and from California ports and intermodal rail yards. Owners of other vehicles that frequent ports and rail cargo centers can obtain an ARB sticker that clearly identifies the vehicle as exempt. The exemption sticker is not required for entry, but it may ease access. To apply for the exemption sticker, please visit: www.arb.ca.gov/msprog/onroad/porttruck/DTRExemption.pdf.

Are there any plans to delay the regulation?

No. ARB, however, is offering an extension through April 30, 2010 to port and rail yard truck owners who have been approved for grants or have secured private funding for soot traps or replacement trucks, but are awaiting delivery of new equipment. To apply for this extension, please visit: www.arb.ca.gov/msprog/onroad/porttruck/porttruck.htm

How will the regulation be enforced?

ARB enforcement teams initially will focus on ensuring port trucks are in the registry. The ARB can cite owners whose trucks are not registered or have non-compliant engines. Enforcement actions range from warnings to fines to criminal prosecution.

What if the dirtier, non-compliant trucks sit outside port and rail yard gates for transfer of loads?

As with other heavy-duty diesel vehicles, port trucks are subject to ARB limits on engine idling and exhaust smoke.

How much does it cost to buy and install a soot trap?

Costs range from \$12,000 to \$25,000, depending on the age of the truck.

Is ARB only going after port trucks?

No. ARB already regulates nearly every major source of diesel emissions in California, including big-rigs, ships, locomotive fuel and construction equipment.

Why is there a need to reduce diesel pollution?

To cut toxic emissions in communities near California's ports and intermodal rail yards.