

APPENDIX C

Greenhouse Gas Regulatory Considerations

Federal Global Climate Change Regulations

In *Massachusetts v. EPA*, the Supreme Court held that U.S. EPA has the statutory authority under Section 202 of the CAA to regulate greenhouse gases (GHGs) from new motor vehicles. The Court did not hold that the U.S. EPA was required to regulate GHG emissions; however, it indicated that the agency must decide whether GHGs from motor vehicles cause or contribute to air pollution that is reasonably anticipated to endanger public health or welfare. Upon the final decision, the President signed Executive Order 13432 on May 14, 2007, directing the U.S. EPA, along with the Departments of Transportation, Energy, and Agriculture, to initiate a regulatory process that responds to the Supreme Court's decision.

On July 11, 2008, the U.S. EPA issued an Advance Notice of Proposed Rulemaking on regulating GHGs under the CAA. The Advance Notice of Proposed Rulemaking reviews the various CAA provisions that may be applicable to the regulation of GHGs and presents potential regulatory approaches and technologies for reducing GHG emissions. In the Advance Notice of Proposed Rulemaking, the U.S. EPA seeks further public comment on the regulation of GHG emissions under the CAA.¹

The U.S. EPA adopted a mandatory GHG reporting rule in September 2009. The rule would require suppliers of fossil fuels or industrial greenhouse gases, manufacturers of vehicles and engines, and facilities that emit 25,000 metric tons or more per year of GHG emissions submit annual reports to the U.S. EPA beginning in 2011 (covering the 2010 calendar year emission). Vehicle and engine manufacturers would begin reporting GHG emissions for model year 2011.

On September 15, 2009, the U.S. EPA and the Department of Transportation's (DOT) National Highway Traffic Safety Administration (NHTSA) issued a joint proposal to establish a national program consisting of new standards for model year 2012 through 2016 light-duty vehicles that will reduce GHG emissions and improve fuel economy. The proposed standards would be phased in and would require passenger cars and light-duty trucks to comply with a declining emissions standard. In 2012, passenger cars and light-duty trucks would have to meet an average emissions standard of 295 grams of carbon dioxide (CO₂) per mile and 30.1 miles per gallon.² By 2016, the vehicles would have to meet an average standard of 250 grams of CO₂ per mile and 35.5 miles per gallon.³ The final standards were adopted by the U.S. EPA and DOT on April 1, 2010.

¹ U.S. Environmental Protection Agency, "Advance Notice of Proposed Rulemaking: Regulating Greenhouse Gas Emissions under the Clean Air Act," <http://www.epa.gov/climatechange/anpr.html>. 2008.

² U.S. Environmental Protection Agency, "EPA and NHTSA Propose Historic National Program to Reduce Greenhouse Gases and Improve Fuel Economy for Cars and Trucks," <http://epa.gov/otaq/climate/regulations/420f09047a.htm>. 2009.

³ U.S. EPA, "EPA and NHTSA Propose Historic Nation Program," 2009.

On December 7, 2009, the U.S. EPA Administrator signed two distinct findings regarding GHGs under section 202(a) of the CAA:

- **Endangerment Finding:** The Administrator finds that the current and projected concentrations of the six key well-mixed GHGs (carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride) in the atmosphere threaten the public health and welfare of current and future generations.
- **Cause or Contribute Finding:** The Administrator finds that the combined emissions of these well-mixed greenhouse gases from new motor vehicles and new motor vehicle engines contribute to the greenhouse gas pollution which threatens public health and welfare.

While these findings do not impose additional requirements on industry or other entities, this action is a prerequisite to finalizing the U.S. EPA's proposed GHG emissions standards for light-duty vehicles, which were jointly proposed by the U.S. EPA and the NHTSA. On April 1, 2010, the U.S. EPA and NHTSA issued final rules requiring that by the 2016 model-year, manufacturers must achieve a combined average vehicle emission level of 250 grams CO₂ per mile, which is equivalent to 35.5 miles per gallon as measured by U.S. EPA standards.

State Air Quality Regulations

Title 24 Building Standards Code

The CEC first adopted Energy Efficiency Standards for Residential and Nonresidential Buildings (California Code of Regulations, Title 24, Part 6) in 1978 in response to a legislative mandate to reduce energy consumption in the state. Although not originally intended to reduce GHG emissions, increased energy efficiency and reduced consumption of electricity, natural gas, and other fuels would result in fewer GHG emissions from residential and nonresidential buildings subject to the standard. The standards are updated periodically to allow for the consideration and inclusion of new energy efficiency technologies and methods. The latest revisions were adopted in 2008 and became effective on January 1, 2010.

Part 11 of the Title 24 Building Standards Code is referred to as the California Green Building Standards Code (CALGreen Code). The purpose of the CALGreen Code is to "improve public health, safety and general welfare by enhancing the design and construction of buildings through the use of building concepts having a positive environmental impact and encouraging sustainable construction practices in the following categories: (1) Planning and design; (2) Energy efficiency; (3) Water efficiency and

conservation; (4) Material conservation and resource efficiency; and (5) Environmental air quality.”⁴ The CALGreen Code is not intended to substitute or be identified as meeting the certification requirements of any green building program that is not established and adopted by the California Building Standards Commission (CBSC). The CBSC has released a *2010 Draft California Green Building Standards Code* on its website.⁵ It is anticipated the this update to Part 11 of the Title 24 Building Standards Code will be effective on January 1, 2011. Unless otherwise noted in the regulation, all newly constructed buildings in California are subject of the requirements of the CALGreen Code.

Assembly Bill 1493

In response to the transportation sector’s contribution of more than half of California’s CO₂ emissions, Assembly Bill 1493 (AB 1493, Pavley) was enacted on July 22, 2002. AB 1493 requires CARB to set GHG emission standards for passenger vehicles, light-duty trucks, and other vehicles whose primary use is noncommercial personal transportation. CARB adopted the standards in September 2004. The new standards phase in during the 2009 through 2016 model years. If fully phased in, the near-term (2009–2012) standards would result in a reduction of about 22 percent in greenhouse gas emissions compared to the emissions from the 2002 fleet, while the mid-term (2013–2016) standards will result in a reduction of about 30 percent.

However, before these regulations may go into effect, the U.S. EPA must grant California a waiver under the federal CAA, which ordinarily preempts state regulation of motor vehicle emission standards. On June 30, 2009, the U.S. EPA formally approved California’s waiver request. However, in light of the September 15, 2009 announcement by the U.S. EPA and NHTSA regarding the national program to reduce vehicle GHG emissions, California – and other states adopting the California standards – have agreed to defer to the proposed national standards through model year 2016 if granted a waiver by the U.S. EPA. The 2016 endpoint of the two standards is similar, although the national standard ramps up slightly more slowly than required under the California standard. The Pavley standards require additional reductions in CO₂ emissions beyond 2016 (referred to as Phase II standards). While the Phase II standards have yet to be fully developed, the State currently intends to pursue additional reductions from motor vehicles in the 2017 through 2020 timeframe.

Executive Order S-3-05 and the Climate Action Team

In June 2005, Governor Schwarzenegger established California’s GHG emissions reduction targets in Executive Order S-3-05. The Executive Order established the following goals: GHG emissions should be

⁴ California Building Standards Commission, 2008 California Green Building Standards Code, (2009) 3.

⁵ California Building Standards Commission, “CALGreen,” <http://www.bsc.ca.gov/CALGreen/default.htm>. 2010.

reduced to 2000 levels by 2010, 1990 levels by 2020, and 80 percent below 1990 levels by 2050. The Secretary of the California Environmental Protection Agency (CalEPA) is required to coordinate efforts of various agencies in order to collectively and efficiently reduce GHGs. Some of the agency representatives involved in the GHG reduction plan include the Secretary of the Business, Transportation and Housing Agency, the Secretary of the Department of Food and Agriculture, the Secretary of the Resources Agency, the Chairperson of CARB, the Chairperson of the California Energy Commission, and the President of the Public Utilities Commission. Representatives from these agencies comprise the Climate Action Team.

Climate Action Team

The Climate Action Team is responsible for implementing global warming emissions reduction programs. The Cal/EPA secretary is required to submit a biennial progress report from the Climate Action Team to the governor and state legislature disclosing the progress made toward GHG emission reduction targets and the impacts of global warming on California's water supply, public health, agriculture, the coastline, and forestry, and reporting possible mitigation and adaptation plans to combat these impacts. The first Climate Action Team Assessment Report was produced in March 2006 (2006 CAT Report).⁶

Climate Action Team Report

The 2006 CAT Report identified key measures that will help ensure that California will meet the GHG reduction goals established under the Governor's Executive Order S-3-05 (1990 levels by 2020 and 80 percent below 1990 levels by 2050). These key measures include establishing a market-based carbon trading system, mandatory GHG reporting for large emitters, production of alternative transportation fuels, energy efficiency and renewable portfolio standards for utilities, emission reporting protocols for local governments, establishing a public goods charge for transportation that funds key strategies to reduce climate change emissions, and leveraging California's universities to train the next generation of workers needed to service new technologies.

Some strategies currently being implemented by state agencies include CARB introducing vehicle climate change standards and diesel anti-idling measures, the Energy Commission implementing building and appliance efficiency standards, and the Cal/EPA implementing its green building initiative. The Climate Action Team also recommends future emission reduction strategies, such as using only low-GWP refrigerants in new vehicles, developing ethanol as an alternative fuel, reforestation, solar power initiatives for homes and businesses, and investor-owned utility energy efficiency programs. According

⁶ California Environmental Protection Agency, Climate Action Team, *Climate Action Team Report to Governor Schwarzenegger and the Legislature*. 2006.

to the report, implementation of current and future emission reduction strategies have the potential to achieve the goals set forth in Executive Order S-3-05. The report also describes potential impacts, as previously discussed. Minor changes to some of these strategies were issued by the Climate Action Team in the *Updated Macroeconomic Analysis of Climate Strategies Presented in the March 2006 Climate Action Team Report (2007 CAT Update)*.⁷ The 2006 CAT Report was followed by the release of the 2009 CAT Assessment Report.⁸ The 2009 assessment expands on the policy oriented 2006 assessment and provides new information and scientific findings. New information and details in the 2009 CAT Assessment Report include (1) development of new climate and sea-level projections using new information and tools that have become available in the last two years; and (2) evaluation of climate change within the context of broader social changes, such as land-use changes and demographic shifts.

Senate Bill 1078 and 107

In 2002, Senate Bill 1078 (SB 1078, Sher) established California's Renewable Portfolio Standard which requires investor-owned utilities, such as Pacific Gas and Electric, Southern California Edison, and San Diego Gas and Electric, to increase energy production from renewable source 1 percent per year up to a minimum of 20 percent of total energy generation by 2017. SB 107 (Simitian), signed by the Governor on September 26, 2008, accelerated the Renewable Portfolio Standard by requiring investor-owned utilities to meet the 20 percent target by 2010.

Assembly Bill 32

In furtherance of the goals established in Executive Order S-3-05, the legislature enacted Assembly Bill 32 (AB 32, Nuñez and Pavley), the California Global Warming Solutions Act of 2006, which Governor Schwarzenegger signed on September 27, 2006. AB 32 represents the first enforceable statewide program to limit GHG emissions from all major industries with penalties for noncompliance. AB 32 requires the State to undertake several actions – the major requirements are discussed below:

CARB Early Action Measures

CARB is responsible for carrying out and developing the programs and requirements necessary to achieve the goals of AB 32 – the reduction of California's GHG emissions to 1990 levels by 2020. The first action under AB 32 resulted in CARB's adoption of a report listing three specific early action greenhouse gas emission reduction measures on June 21, 2007. On October 25, 2007, CARB approved an additional

⁷ California Climate Action Team, *Updated Macroeconomic Analysis of Climate Strategies Presented in the March 2006 Climate Action Team Report*, (2007).

⁸ California Environmental Protection Agency, Climate Action Team, *Climate Action Team Biennial Report to the Governor and Legislature*, (2009).

six early action GHG reduction measures under AB 32. CARB has adopted regulations for all early action measures, which are divided into three categories as follows:

- Group 1 - GHG rules for immediate adoption and implementation
- Group 2 - Several additional GHG measures under development
- Group 3 - Air pollution controls with potential climate co-benefits

The original three adopted early action regulations meeting the narrow legal definition of “discrete early action GHG reduction measures” include:

- A low-carbon fuel standard to reduce the “carbon intensity” of California fuels;
- Reduction of refrigerant losses from motor vehicle air conditioning system maintenance to restrict the sale of “do-it-yourself” automotive refrigerants; and
- Increased methane capture from landfills to require broader use of state-of-the-art methane capture technologies.

The additional six early action regulations adopted on October 25, 2007, also meeting the narrow legal definition of “discrete early action GHG reduction measures,” include:

- Reduction of aerodynamic drag, and thereby fuel consumption, from existing trucks and trailers through retrofit technology;
- Reduction of auxiliary engine emissions of docked ships by requiring port electrification;
- Reduction of perfluorocarbons from the semiconductor industry;
- Reduction of propellants in consumer products (e.g., aerosols, tire inflators, and dust removal products);
- Require that all tune-up, smog check and oil change mechanics ensure proper tire inflation as part of overall service in order to maintain fuel efficiency; and
- Restriction on the use of sulfur hexafluoride (SF₆) from non-electricity sectors if viable alternatives are available.

State of California 1990 Greenhouse Gas Inventory

As required under AB 32, on December 6, 2007, CARB approved the 1990 greenhouse gas emissions inventory, thereby establishing the emissions limit for 2020. The 2020 emissions limit was set at 427 MMTCO_{2e}. CARB also projected the State’s 2020 GHG emissions under “business as usual” (BAU) conditions – that is, emissions that would occur without any plans, policies, or regulations to reduce

GHG emissions. CARB used an average of the State's GHG emissions from 2020 through 2004 and projected the 2020 levels based on population and economic forecasts. The projected net emissions totaled approximately 596 MMTCO_{2e}. Therefore, the State must reduce its 2020 BAU emissions by approximately 29 percent in order to meet the 1990 target.

The inventory revealed that in 1990 transportation, with 35 percent of the State's total emissions, was the largest single sector generating carbon dioxide, followed by industrial emissions, 24 percent; imported electricity, 14 percent; in-state electricity generation, 11 percent; residential use, 7 percent; agriculture, 5 percent; commercial uses, 3 percent; and forestry emissions (excluding sinks) less than 1 percent. AB 32 does not require individual sectors to meet their individual 1990 GHG emissions inventory; the total statewide emissions are required to meet the 1990 threshold by 2020.

CARB Mandatory Reporting Requirements

In addition to the 1990 emissions inventory, CARB also adopted regulations requiring mandatory reporting of GHG emissions for large facilities on December 6, 2007. The mandatory reporting regulations require annual reporting from the largest facilities in the state, which account for approximately 94 percent of GHG emissions from industrial and commercial stationary sources in California. About 800 separate sources that fall under the new reporting rules and include electricity generating facilities, electricity retail providers and power marketers, oil refineries, hydrogen plants, cement plants, cogeneration facilities, and industrial sources that emit over 25,000 tons of carbon dioxide each year from on-site stationary combustion sources. Transportation sources, which account for 38 percent of California's total GHG emissions as of the 2002-2004 GHG inventory conducted by CARB,⁹ are not covered by these regulations but will continue to be tracked through existing means. Affected facilities will begin tracking their emissions in 2008, to be reported beginning in 2009 with a phase-in process to allow facilities to develop reporting systems and train personnel in data collection. Emissions for 2008 may be based on best available emission data. Beginning in 2010, however, emissions reports will be more rigorous and will be subject to third-party verification. Verification will take place annually or every three years, depending on the type of facility.

AB 32 Climate Change Scoping Plan

As indicated above, AB 32 requires CARB to adopt a scoping plan indicating how reductions in significant GHG sources will be achieved through regulations, market mechanisms, and other actions. After receiving public input on their discussion draft of the Proposed Scoping Plan released in June 2008, CARB released the *Climate Change Scoping Plan* in October 2008, which contained an outline of the

⁹ California Air Resources Board, "Greenhouse Gas Inventory Data – 2020 Forecast," <http://www.arb.ca.gov/cc/inventory/data/forecast.htm>. 2009.

proposed State strategies to achieve the 2020 GHG emission limits. The CARB Governing Board approved the *Climate Change Scoping Plan* on December 11, 2008. Key elements of the Scoping Plan include the following recommendations:

- Expanding and strengthening existing energy efficiency programs as well as building and appliance standards;
- Achieving a statewide renewables energy mix of 33 percent;
- Developing a California cap-and-trade program that links with other Western Climate Initiative partner programs to create a regional market system;
- Establishing targets for transportation-related greenhouse gas emissions for regions throughout California and pursuing policies and incentives to achieve those targets;
- Adopting and implementing measures pursuant to existing State laws and policies, including California’s clean car standards, goods movement measures, and the Low Carbon Fuel Standard; and
- Creating targeted fees, including a public goods charge on water use, fees on high global warming potential gases, and a fee to fund the administrative costs of the State’s long-term commitment to AB 32 implementation.

Under the *Climate Change Scoping Plan*, approximately 85 percent of the state’s emissions are subject to a cap-and-trade program where covered sectors are placed under a declining emissions cap. The emissions cap incorporates a margin of safety whereby the 2020 emissions limit will still be achieved even in the event that uncapped sectors do not fully meet their anticipated emission reductions. Emissions reductions will be achieved through regulatory requirements and the option to reduce emissions further or purchase allowances to cover compliance obligations. It is expected that emission reduction from the cap-and-trade program will account for a significant portion of the reductions required by AB 32. **Table 1, AB 32 Scoping Plan Measures**, lists CARB’s preliminary recommendations for achieving greenhouse gas reductions under AB 32 along with a brief description of the reduction strategies.

Table 1
AB 32 Scoping Plan Measures

Scoping Plan Measure	Description
SPM-1: California Cap-and-Trade Program linked to Western Climate Initiative	Implement a broad-based cap-and-trade program that links with other Western Climate Initiative Partner programs to create a regional market system. Ensure California’s program meets all applicable AB 32 requirements for market-based mechanisms. Capped sectors include transportation, electricity, natural gas, and industry. Projected 2020 business-as-usual emissions are estimated at 512 MTCO _{2e} ; preliminary 2020 emissions limit under cap-and-trade program are estimated at 365 MTCO _{2e} (29 percent reduction).

Scoping Plan Measure	Description
SPM-2: California Light-Duty Vehicle GHG Standards	Implement adopted Pavley standards and planned second phase of the program. AB 32 states that if the Pavley standards (AB 1493) do not remain in effect, CARB shall implement equivalent or greater alternative regulations to control mobile sources.
SPM-3: Energy Efficiency	Maximize energy efficiency building and appliance standards, and pursue additional efficiency efforts. The Proposed Scoping Plan considers green building standards as a framework to achieve reductions in other sectors, such as electricity.
SPM-4: Renewables Portfolio Standard	Achieve 33 percent Renewable Portfolio Standard by both investor-owned and publicly owned utilities.
SPM-5: Low Carbon Fuel Standard	CARB identified the Low Carbon Fuel Standard as a Discrete Early Action item and the final regulation was adopted on April 23, 2009. In January 2007, Governor Schwarzenegger issued Executive Order S-1-07, which called the reduction of the carbon intensity of California's transportation fuels by at least ten percent by 2020.
SPM-6: Regional Transportation-Related Greenhouse Gas Targets	Develop regional greenhouse gas emissions reduction targets for passenger vehicles. SB 375 requires CARB to develop, in consultation with metropolitan planning organizations, passenger vehicle greenhouse gas emissions reduction targets for 2020 and 2035 by September 30, 2010. SB 375 requires metropolitan planning organizations to prepare a sustainable communities strategy to reach the regional target provided by CARB.
SPM-7: Vehicle Efficiency Measures	Implement light-duty vehicle efficiency measures. CARB is pursuing fuel-efficient tire standards and measures to ensure properly inflated tires during vehicle servicing.
SPM-8: Goods Movement	Implement adopted regulations for port drayage trucks and the use of shore power for ships at berth. Improve efficiency in goods movement operations.
SPM-9: Million Solar Roofs Program	Install 3,000 megawatts of solar-electric capacity under California's existing solar programs.
SPM-10: Heavy/Medium-Duty Vehicles	Adopt heavy- and medium-duty vehicle and engine measures. Measures targeting aerodynamic efficiency, vehicle hybridization, and engine efficiency are recommended.
SPM-11: Industrial Emissions	Require assessment of large industrial sources to determine whether individual sources within a facility can cost-effectively reduce greenhouse gas emissions and provide other pollution reduction co-benefits. Reduce greenhouse gas emissions from fugitive emissions from oil and gas extraction and gas transmission. Adopt and implement regulations to control fugitive methane emissions and reduce flaring at refineries.
SPM-12: High Speed Rail	Support implementation of a high-speed rail system. This measure supports implementation of plans to construct and operate a high-speed rail system between Northern and Southern California serving major metropolitan centers.
SPM-13: Green Building Strategy	Expand the use of green building practices to reduce the carbon footprint of California's new and existing inventory of buildings.
SPM-14: High Global Warming Potential Gases	Adopt measures to reduce high global warming potential gases. The Proposed Scoping Plan contains 6 measures to reduce high global warming potential gases from mobile sources, consumer products, stationary sources, and semiconductor manufacturing.
SPM-15: Recycling and Waste	Reduce methane emissions at landfills. Increase waste diversion, composting, and commercial recycling. Move toward zero-waste.
SPM-16: Sustainable Forests	Preserve forest sequestration and encourage the use of forest biomass for sustainable energy generation. The federal government and California's Board of Forestry and Fire Protection has the regulatory authority to implement the Forest Practice Act to provide for sustainable management practices. This measure is expected to play a greater role in the 2050 goals.

Scoping Plan Measure	Description
SPM-17: Water	Continue efficiency programs and use cleaner energy sources to move water. California will also establish a public goods charge for funding investments in water efficiency that will lead to as yet undetermined reductions in greenhouse gases.
SPM-18: Agriculture	In the near-term, encourage investment in manure digesters and at the five-year Scoping Plan update determine if the program should be made mandatory by 2020. Increase efficiency and encourage use of agricultural biomass for sustainable energy production. CARB has begun research on nitrogen fertilizers and will explore opportunities for emission reductions.
<hr/> <i>Source: California Air Resources Board, Climate Change Scoping Plan, (2008).</i>	

Senate Bill 1368

Two days after signing AB 32, Governor Schwarzenegger signed Senate Bill 1368 (SB 1368, Pretra) into law. SB 1368 required the CEC and the California Public Utilities Commission (CPUC) to develop and adopt regulations for GHG emissions performance standards for the long-term procurement of electricity by local publicly-owned utilities. The CEC adopted its standard on May 23, 2007, and the CPUC adopted its standard on January 25, 2007. SB 1368 includes measures that protect energy customers from financial risks by allowing new capital investments in power plants with GHG emissions that are as low as or lower than new combined-cycle natural gas plants, requiring imported electricity from out-of-state to meet GHG performance standards in California, and requiring that the standards be developed and adopted in a public process.¹⁰

Executive Order S-1-07

On January 18, 2007, California set a new Low Carbon Fuel Standard (LCFS) for transportation fuels sold within the state. Executive Order S-1-07 sets a declining standard for GHG emissions measured in CO₂-equivalent gram per unit of fuel energy sold in California. The target of the LCFS is to reduce the carbon intensity of California passenger vehicle fuels by at least 10 percent by 2020. The LCFS will apply to refiners, blenders, producers, and importers of transportation fuels and will use market-based mechanisms to allow these providers to choose how they reduce emissions during the "fuel cycle" using the most economically feasible methods. CARB identified the LCSP as an early action item under AB 32 and the final regulation was adopted on April 23, 2009.

¹⁰ The adopted SB 1368 regulations are available on the California Energy Commission's website at: http://www.energy.ca.gov/emission_standards/regulations/index.html.

SB 97

In August 2007, the legislature enacted SB 97 (Dutton), which directs the Governor's Office of Planning and Research (OPR) to develop guidelines under CEQA for the mitigation of greenhouse gas emissions. A number of actions have taken place under SB 97, which are discussed below.

OPR Climate Change Technical Advisory

On June 19, 2008, OPR issued a technical advisory as interim guidance regarding the analysis of GHG emissions in CEQA documents.¹¹ The advisory indicated that a project's GHG emissions, including those associated with vehicular traffic and construction activities, should be identified and estimated. The advisory further recommended that the lead agency determine significance of the impacts and impose all mitigation measures that are necessary to reduce GHG emissions to a less than significant level. The advisory did not recommend a specific threshold of significance.

CEQA Guidelines Amendments

In its work to formulate CEQA Guidelines Amendments for GHG emissions, OPR submitted the *Proposed Draft CEQA Guidelines Amendments for Greenhouse Gas Emissions* to the Secretary for Natural Resources on April 13, 2009. The Natural Resources Agency conducted formal rulemaking procedures in 2009 and adopted the CEQA Guidelines Amendments on December 30, 2009.

Senate Bill 375

The California Legislature passes Senate Bill 375 (SB 375) on September 1, 2008, and SB 375 was signed by Governor Schwarzenegger and chaptered into law on September 30, 2008. SB 375 requires CARB, working in consultation with the metropolitan planning organizations (MPOs), to set regional greenhouse gas reduction targets for the automobile and light truck sector for 2020 and 2035. CARB provided each MPO with its reduction target by September 30, 2010. The target must then be incorporated within that region's Regional Transportation Plan (RTP), which is used for long-term transportation planning, in a Sustainable Communities Strategy (SCS). Certain transportation planning and programming activities would then need to be consistent with the SCS; however, SB 375 expressly provides that the SCS does not regulate the use of land, and further provides that local land use plans and policies (e.g., general plan) are not required to be consistent with either the RTP or SCS.

¹¹ Office of Planning and Research, *CEQA and Climate Change: Addressing Climate Change Through California Environmental Quality Act (CEQA) Review*, (2008).

In accordance with SB 375, on January 23, 2009, CARB appointed a Regional Targets Advisory Committee (RTAC) to provide recommendations and methodologies to be used in the target setting process. The RTAC provides its recommendations in a report to CARB on September 29, 2009. On August 9, 2010, CARB staff issued the *Proposed Regional Greenhouse Gas Emission Reduction Targets for Automobiles and Light Trucks Pursuant to Senate Bill 375*.¹² CARB staff proposed draft reduction targets for the four largest MPOs (Bay Area, Sacramento, Southern California, and San Diego) or 7 to 8 percent for 2020 and reduction targets between 13 to 16 percent for 2035. For the Southern California Association of Governments (SCAG), which is the MPO for the region the City of Los Angeles is located, CARB established a draft target of 8 percent for 2020 and 13 percent for 2035, subject to SCAG Board approval. CARB staff proposed a draft reduction target for the combined San Joaquin Valley MPOs of 5 percent for 2020 and 10 percent for 2035, acknowledging that the growth rate in the San Joaquin Valley is projected to be double that of most other areas of California. The remaining six MPOs represent about 5 percent of both the State's greenhouse gas emissions and vehicle miles traveled from passenger vehicles. For these MPOs, CARB staff is proposing to use the most current greenhouse gas per capita projections from each MPO, adjusted for the impacts of the recession, as the basis for individual MPO targets for this first target-setting cycle. This approach allows the focus of this first target-setting cycle to appropriately remain on the largest and fastest growing regions of the State. Of note, the proposed reduction targets explicitly exclude emission reductions expected from the AB 1493 and low carbon fuel standard regulations. As indicated above, CARB adopted the final targets on September 30, 2010.

California Climate Action Registry

The California Climate Action Registry (CCAR) is a private non-profit organization formed by the State of California and serves as a voluntary GHG registry to protect and promote early actions to reduce GHG emissions by organizations. Senate Bill 1771 (SB 1771, Sher) formally established by the CCAR with technical changes made to the statute in SB 527, which finalized the structure of the CCAR. The CCAR began with 23 Charter Members and currently has over 300 corporations, universities, cities and counties, government agencies and environmental organizations voluntarily measuring, monitoring, and publicly reporting their GHG emissions using the CCAR protocols. The CCAR has published a General Reporting Protocol, as well as project- and industry-specific protocols for landfill activities, livestock activities, the cement sector, the power/utility sector, and the forest sector. The protocols provide the principles, approach, methodology, and procedures required for participation in the CCAR.

¹² California Air Resources Board, *Staff Report: Proposed Regional Greenhouse Gas Emission Reduction Targets For Automobiles And Light Trucks Pursuant To Senate Bill 375*, (2010).

Due to the growth of the CCAR, it now operates under the Climate Action Reserve,¹³ which is a national offsets program for the U.S. carbon market. As part of this transition, the CCAR was instrumental in establishing The Climate Registry, with the mission of expanding the California Registry's emissions reporting work to include all of North America.¹⁴ Emissions inventory reporting is being transitioned to The Climate Registry, and reports for the 2009 reporting year are the last the California Registry will accept. However, even after that year, the California Registry will continue to represent its members' emissions reports to the State of California.

Attorney General: Addressing Global Warming Impacts under CEQA

The California Attorney General's Office has published a document titled, *The California Environmental Quality Act: Addressing Global Warming Impacts at the Local Agency Level*.¹⁵ The document acknowledges that lead agencies can play an important role in "moving the state away from 'business as usual' and toward a low-carbon future." The document is intended to provide information to lead agencies that may be helpful in carrying out their duties under CEQA with respect to greenhouse gases and climate change impacts. Provided in the document are measures that can be included as project design features, required changes to the project, or mitigation measures at the project level and at the general plan level. The measures are not intended to be exhaustive and may not be appropriate for every project or general plan. The Attorney General's Office affirms that "the decision of whether to approve a project—as proposed or with required changes or mitigation—is for the local agency, exercising its informed judgment in compliance with the law and balancing a variety of public objectives."

CARB Draft GHG Significance Thresholds

On October 24, 2008, CARB staff released a draft and preliminary proposal for determining whether the emissions related to proposed new projects are significant impacts under the California Environmental Quality Act (CEQA). While the proposal is focused on helping lead agencies determine under which conditions a project may be found exempt from the preparation of an EIR, the proposal also provides a guide for establishing significance thresholds for projects for which EIRs would be prepared regardless of the project's climate change impact. According to this proposal, the threshold for determining whether a project's emissions are significant is not zero emissions, but must be a stringent performance-based threshold to meet the requirements of AB 32. If the project meets certain specific yet to be developed

¹³ Additional information about the Climate Action Reserve may be obtained at the following website: <http://www.climateactionreserve.org/>.

¹⁴ Ibid.

¹⁵ Department of Justice, "The California Environmental Quality Act – Addressing Global Warming Impacts at the Local Agency Level," http://ag.ca.gov/globalwarming/pdf/GW_mitigation_measures.pdf. 2008.

performance standards for several categories of emissions, including construction emissions, building energy use, water use, solid waste, and transportation, and the project emits no more than a certain to be determined amount of metric tons of carbon equivalents per year, the project's impact would not be significant. According to CARB, California Energy Commission Tier II building energy use standards are proposed to be used, which generally require a reduction in energy usage of 15 to 30 percent beyond Title 24 (2008) building code requirements. CARB has also proposed a 7,000 metric ton carbon dioxide equivalent (MTCO_{2e}) threshold for industrial projects, but has not yet proposed thresholds for residential and commercial projects. The annual threshold does not explicitly include emissions associated with construction- and transportation-related activities. The draft proposal was very controversial and CARB Staff no longer has any plans to move forward with any final threshold. A key Preliminary conclusion from the draft threshold, however, was that CARB staff, in setting a numerical threshold for industrial projects and suggesting performance standards, does not believe in 'zero threshold' mandated by CEQA.

CAPCOA CEQA and Climate Change White Paper

The California Air Pollution Control Officers Association (CAPCOA) prepared a white paper on CEQA and Climate Change in January 2008. The white paper contains a disclaimer that states the paper is intended to be used as a resource by lead agencies when considering policy options and not as a guidance document. The disclaimer also states that it "is not intended, and should not be interpreted, to dictate the manner in which an air district or lead agency chooses to address GHG emissions in the context of its review of projects under CEQA."¹⁶ Specifically, the white paper discusses three possible approaches to evaluating the significance of GHG emissions and possible mitigation measures; however, CAPCOA does not endorse any particular approach. The three alternative significance approaches are (1) not establishing a significance threshold for GHG emissions; (2) setting the GHG emission threshold at zero; and (3) setting the GHG emission threshold at some non-zero level. The white paper evaluates potential considerations and pitfalls associated with the three approaches. At the end of the white paper, CAPCOA provides a list of potential mitigation measures and discusses each in terms of emissions reduction effectiveness, cost effectiveness, and technical and logistical feasibility.

¹⁶ California Air Pollution Control Officers Association, *CEQA & Climate Change: Evaluating and Addressing Greenhouse Gas Emissions from Projects Subject to the California Environmental Quality Act*, (2008).