

Daily Journal

JANUARY 18, 2017

NEW CALIFORNIA LAWS

FOR 2017

SB 32: Greenhouse gas goals extended

By Robert Hines

Senate Bill 32 and Assembly Bill 197 continue California on a path to cut greenhouse gas (GHG) emissions by at least 40 percent below 1990 levels by 2030. The reductions have been identified by Gov. Jerry Brown's office as the most ambitious reduction goals in North America and follow passage of the landmark California Global Warming Solutions Act of 2006, Assembly Bill 32.

The path towards passage was not an easy one, with resistance taking place in the final days of the legislative session in the Assembly in 2015. As a result, Eduardo Garcia, D-Coachella authored AB 197, which created support from moderate Democrats in the Assembly, who sought stricter legislative oversight over the climate change fight, including the appointment of two legislative members to the Air Resources Board, and requiring ARB to publish emission data for power companies and certain other operating facilities. SB 32 could only take effect if the companion AB 197 was also passed; once that occurred the governor was able to sign the two bills into law.

A number of GHG sources will be impacted by the passage of SB 32 and AB 197, including industrial facilities,



New York Times

commercial and residential developments, public utilities and private energy producers. With these impacts, however, will come opportunities to promote project development consistent with the targeted reduction of GHGs and provide sources of alternative energy — such as solar, geothermal, landfill gas to energy, biomass, wind and other technologies — and energy storage systems to support the state's Renewables Portfolio Standard. There will also be continued focus on the low-carbon fuel standard and accompanying low-carbon fuel industry — providing incentives for innovation and support for new technologies, in fuel sources as well as spurring advancements in reducing mobile source emissions from automobiles, trucks, heavy equipment and locomotives.

Less clear is the future of the state's cap-and-trade program. Under AB 32, cap-and-trade is only authorized through 2020. SB 32 and AB 197 did not clari-

fy the post-2020 status of cap and trade, and Brown has suggested that his office would pursue a ballot initiative in 2018 if the Legislature fails to act. The volume of allowances sold has recently decreased, and money raised through the state-run auction process has suffered. Whether this portends a shift to a command-and-control regulatory scheme, rather than the current cap-and-trade, remains to be seen. The state's last quarterly auction in November did show a dramatic turnaround.

Despite the uncertainty of cap and trade, California continues to lead with respect to climate change laws and policies, and the corresponding effort to reduce emissions of GHGs. So far, the effort has not unleashed the dire economic predictions that preceded AB 32. To the contrary, the state's economic growth has been twice the national rate, with significant creation of "green jobs."

Robert Hines is chair of Farella Braun + Martel's Air Quality and Climate Change Group in San Francisco.



ROBERT HINES