

Global impact

Anticipating California's global warming legislation **Interviewed by Leslie Stevens-Huffman**

All businesses will be affected by AB 32, known as the California Global Warming Solutions Act of 2006, especially with rising electricity and fuel prices. The only unknown is the extent of the fiscal impact and whether efficiencies will offset the increased costs. AB 32 is considered to be the most aggressive mandatory global warming program in the world, so the earlier CEOs develop an understanding of it, the better off they will be.

It is possible to forecast AB 32's final emission-cutting strategy by reviewing the 2007 ARB (Air Resources Board) draft recommendations, according to John J. Lormon, partner and chair of the Environmental, Land Use and Governmental Affairs Practice Group with Procopio, Cory, Hargreaves & Savitch LLP.

"California intends to publish its final scoping plan to reduce greenhouse gas emissions (GGE) through regulations, market mechanisms and other actions by Jan. 1, 2009," Lormon says. "CEOs should pay attention because the first draft of the scoping plan was released in June 2008, and the final strategy will be adopted by the end of 2010. The law includes fines up to \$1 million for corporations and criminal sanctions of up to one year in jail for individual offenders."

Smart Business spoke with Lormon about the likely final regulations under AB 32 and what CEOs should do to prepare.

What areas are targeted by AB 32?

AB 32 targets a return to 1990 emissions levels by 2020 (as much as a 30 percent reduction from what the 2020 emissions would otherwise be). There are many AB 32 effects, including the following: increases in electricity, fuel, construction and manufacturing cost; land use and forestry conservation impacts; and consumer lifestyle changes.

What were the early recommendations, and how will they impact energy and fuel?

Electrical utilities must triple their investment in renewable energy sources, and automobile manufacturers will have to produce more efficient light duty vehicles (if the U.S. EPA grants California a waiver), which may



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cost more to buy but should cost less to operate. Buildings, both new and retrofitted, will have to be more energy efficient, so property and leasehold acquisitions must consider these requirements and costs.

Regulations similar to those required for vehicle smog checks will apply to mobile air conditioning units and make it illegal to self-repair a motor vehicle air conditioning unit. Tire pressure monitoring system will be installed in all vehicles sold in California to increase mileage and reduce emissions.

What recommendations apply to manufacturers?

Appliance manufacturers will be impacted by regulations both directly and through their supply chains. Reduction of ozone-depleting substances used in consumer products will require reformulation of everything from cleaning products to paint and other coating materials; perfluorocarbons emissions in semiconductor manufacturing will be reduced or phased out. Regulation of the cement industry will impact all aspects of the building industry and its customers.

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Are there any other recommendations that will impact businesses?

The Governor's Office of Planning and Research (OPR) issued a new technical advisory on the California Environmental Quality Act (CEQA) and Climate Change. All projects subject to CEQA review must consider significant effects caused by GGE. California's clean car standards, goods movement measures, low-carbon fuel requirements and movement of water (which uses 20 percent of the electricity in the state) will all be subject to GGE regulation and price increases.

What should CEOs do to prepare?

Educate yourself. The effects of AB 32 will be significant and broad. AB 32 will change permit and recordkeeping requirements and purchasing decisions and practices; corporate disclosure requirements will be expanded to include GGE; due diligence in mergers and acquisitions will change, as will budget and financial planning. Risk analysis for D&O and CGL insurance should be reviewed for appropriate coverage. CEOs should set up AB 32 news alerts to track new developments and attend science, law and policy workshops to stay informed. The EPA Climate Change Business Guide can be found at: www.epa.gov/partners.

Document baseline emissions. On Jan. 1, 2008, certain large California emission sources were required to report their 1990 baseline emissions. Early action to reduce emissions is great, but to get credit for early action, inventory and document your company's emission baseline before making improvements or purchasing new equipment.

Take advantage of emerging opportunities. AB 32 will use market-based mechanisms like a cap-and-trade program, where companies can sell emission credits at a market price. So if your company converts its vehicles to natural gas, for instance, you'll have available credits you can use or sell. Also, new regulation frequently opens the door for new products, services and investments, but CEOs need to be educated to spot these new opportunities. <<