

## Final Decision Suspends California's AB 32 GHG Regulations

On March 18, 2011, Judge Ernest Goldsmith of the San Francisco County Superior Court suspended implementation of AB 32, California's landmark law to reduce greenhouse gas ("GHG") emissions. In *Association of Irrigated Residents v. California Air Resource Board*, [Statement of Decision] the Court found the California Air Resource Board (the "ARB")'s adoption of AB 32's Climate Change Scoping Plan (the "Scoping Plan") to be in violation of the

California Environmental Quality Act ("CEQA"). The ruling determined that the ARB abused its authority by not adequately analyzing potential alternatives to a carbon "cap-and-trade" program aimed at limiting GHG emissions.

Presently, the ARB staff is attempting to clarify the scope of Judge Goldsmith's ruling and writ to be issued, so that it will apply solely to the cap-and-trade program, allowing

the other Scoping Plan policies to continue as scheduled.

Taken at its word, any glimmer of hope to expedite a resolution to quickly advance the ARB's cap-and-trade program fades and significant delay, though not defeat, is inevitable.

To read this article in its entirety go to:  
<http://www.natlawreview.com/article/final-decision-suspends-california-s-ab-32-ghg-regulations-what-now>

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## Gov. Brown signs law requiring 33% of energy be renewable by 2020

On April 12, 2011 Governor Brown signed Senate Bill (SB)X1 2, codifying in law the increase of the Renewable Portfolio Standard (RPS) mandate to 33% by 2020. SBX1 2 makes major modifications to the current RPS program. This includes the use of multi-year compliance periods with incremental targets, the specification of a minimum product content for retail sellers' RPS portfolios which changes with each compliance period, and imposition of an obligation to secure contracts with 10-year or longer durations. SBX1 2

also imposes a preference for in-state resources, and modifies delivery requirements for out-of-state resources. Retail sellers' abilities to bank RPS procurement surpluses are modified and restricted by SBX1 2, limiting the ability to carry forward unbundled renewable energy credits ("RECs"). Lastly, SBX1 2 formally extends the RPS program to publicly owned utilities.

While the legislation almost introduces more questions than answers about how the new laws will integrate with the current rules as well as

CPUC implementation, there is also the question about "clean-up" legislation as referred to in Governor Brown's signing letter to SBX1 2. The statement was as follows: "The bill contains some provisions that will create implementation difficulties or inefficiencies, particularly for regulatory agencies charged with the bill's implementation. These provisions should be amended quickly. Therefore, while I am signing this bill today, I ask the Legislature to immediately begin work on additional legislation to correct these problems."

**NEWS FLASH**  
 Former CPUC Commissioner Dian Grueneich and her former Chief of Staff have joined Morrison & Foester in the San Francisco office.

**AB 512 (Gordon) – Local governmental renewable energy self generation.** This bill modifies Public Utilities Code (PU Code) Section 2830 to expand the maximum size for renewable generating systems eligible for the Renewable Energy Self-Generation Bill Credit Transfer Program (RES-BCT) Program from 1 megawatt (MW) to 5 MW.

**CPUC Recommended Position:** Support

**Legislative Status:** AB 512 is awaiting hearing in the Assembly Appropriations Committee.

**SB 836 (Padilla) – Renewable Energy Resources: Cost Reporting.** This bill would require the California Public Utilities Commission (CPUC) to publicly report the costs of contracts for eligible renewable resource contracts and the costs for utility-owned generation approved by the Commission since January 1, 2003, by January 31, 2012 and every six months after July 31, 2012. Cost data would be released in aggregate by the year it was approved, by eligible renewable energy resource type, the kilowatt/hour cost, and whether the approval was limited to renewable energy credits.

**CPUC Recommended Position:** Support with Technical Ammendements

**Status:** SB 836 is pending hearing in the Senate Committee on Energy, Utilities and Communications.

**SB 372 (Blakeslee) – Distributed Generation.** This bill would require the large investor owned utilities (IOUs) and the large publicly owned utilities (POUs) to provide maps on their website that identify and designate zones that are optimal for deployment of distributed generation (DG). The bill also requires the CPUC to give priority to DG projects from the California Solar Initiative (CSI) or the Small Generator Incentive Program (SGIP) that are located within those zones, and to review interconnection rules to facilitate DG interconnection within those zones.

**CPUC Recommended Position:** Oppose Unless Amended

**Status:** SB 372 is scheduled to be heard in the Senate Committee on Energy, Utilities and Communications on April 28, 2011.

**SB 682 (Calderon) – Energy: Clean distributed generation unites: oil and gas extraction.** SB 682 would direct the California Public Utilities Commission (CPUC) to require an electrical corporation to develop and offer a specific tariff for the purchase of excess electricity from a customer that uses a microturbine or fuel cell that meets specified requirements and runs off of waste or stranded gas associated with the extraction of oil or gas.

**CPUC Recommended Position:** Oppose Unless Amended

**Status:** SB 682 is scheduled for hearing in the Senate Committee on Energy, Utilities and Communications on April 28, 2011.

**SB 585 (Kehoe) – Energy: Solar Energy Systems: Funding.** The bill amends the California Solar Initiative (CSI) statute to allow the 10-year program to collect additional funds above the current \$2.167 billion current cap in order to fully fund the non-residential portion of the solar program. The bill, sponsored by the California Solar Energy Industry Association and the Solar Alliance, would address the funding shortfall of approximately \$200 million needed to fully attain the California Public Utilities Commission (CPUC) authorized goals for the program. The additional funding will help attain approximately 400 MW of non-residential solar through the CSI. The bill allows the CPUC to first authorize the use of interest accumulated in the balancing accounts, currently estimated at \$30 million, and then increase the revenue requirements by the residual amount needed to fully fund the non-residential portion of the solar program. This bill grants the CPUC authority to order the utilities to encumber the program budget (i.e. grant projects confirmed reservations), and to collect additional revenues as needed. This bill contains an urgency clause, and if passed as-is, would allow the CPUC to immediately amend the budget and effectively open the “wait-list” portions of the CSI program (i.e. the non-residential portions of CSI in Pacific Gas & Electric (PG&E) and San Diego Gas and Electric (SDG&E) territories).

**CPUC Recommended Position:** Support

**Status:** SB 585 is pending hearing in the Senate Appropriations Committee.