

CHAPTER 2: IS MY COMPANY SUBJECT TO THE CAP-AND-TRADE REGULATION?

For sectors covered as of January 1, 2013, your facility is a covered entity and is required to participate in the Cap-and-Trade Program if it is in a sector listed in Table 2.1 and has covered emissions that meet or exceed the applicability threshold in any data year from 2009 through 2012. If your facility exceeds the applicability threshold for the first time in any year following 2012, your facility becomes a covered entity during that year.

If your facility is in a sector covered as of January 1, 2015, and the covered emissions exceed the applicability threshold in any data year from 2011 through 2014, then your facility is a covered entity and required to participate in the Cap-and-Trade Program starting January 1, 2015. If your facility exceeds the applicability threshold for the first time in any year following 2014, your facility becomes a covered entity during that year.

Once a covered entity, your facility will continue to be a covered entity for the entire compliance period, even if emissions drop below the threshold or your facility ceases reporting and shuts down all processes, units, and supply operations subject to reporting. If your facility's emissions have dropped below 25,000 metric tons CO₂e for an entire compliance period, then your facility is no longer a covered entity, effective at the beginning of the next compliance period.

The entity with operational control over the covered sources will be responsible for the compliance obligation surrender under the Cap-and-Trade Regulation.

Nothing in this document supplements the provisions of the Cap-and-Trade Regulation.

Key Definitions

“Covered Entity” means an entity within California that has one or more of the processes or operations and has a compliance obligation as specified in subarticle 7 of the Cap-and-Trade Regulation; and that has emitted, produced, imported, manufactured, or delivered in 2008 or any subsequent year more than the applicable threshold level specified in section 95812 (a) of the Regulation.

“Compliance Period” means the three-year period for which the compliance obligation is calculated for covered entities, except for the first compliance period. The compliance obligation for the first compliance period only considers emissions from data years of 2013 and 2014.

Table 2.1 Covered Entities			
Sector	Emission Source	Applicability Threshold	When Covered
Carbon Dioxide Suppliers	Supplied CO ₂	≥ 25,000 metric tons of CO ₂ e	January 1, 2013
Cement Production	Stationary Combustion Emissions	≥ 25,000 metric tons of CO ₂ e	January 1, 2013
	Process Emissions		
Cogeneration	Stationary Combustion Emissions	≥ 25,000 metric tons of CO ₂ e	January 1, 2013
Electricity- In-state Generators	Stationary Combustion Emissions from Electricity Generating Facilities located in California (note – in 2015 natural gas comes into the program and captures plants emitting < 25,000 metric tons CO ₂ e)	≥ 25,000 metric tons of CO ₂ e	January 1, 2013
Electricity Importers	Imports from Specified Sources	A. All emissions from imports generated by sources with ≥ 25,000 metric tons of CO ₂ e emissions	A. January 1, 2013
		B. All emissions are covered. There is no threshold.	B. January 1, 2015
	Imports from Unspecified Sources	All imports from unspecified sources are included; there is no threshold.	January 1, 2015
Electricity- Self-Generation	Stationary Combustion Emissions	≥ 25,000 metric tons of CO ₂ e	January 1, 2013

Sector	Emission Source	Applicability Threshold	When Covered
Glass Production	Process and Stationary Combustion Emissions	≥ 25,000 metric tons of CO ₂ e	January 1, 2013
Hydrogen Production	Stationary Combustion	≥ 25,000 metric tons of CO ₂ e	January 1, 2013
Hydrogen Production Iron and Steel Production	Process Emissions	≥ 25,000 metric tons of CO ₂ e	January 1, 2013
	Stationary Combustion Emissions	≥ 25,000 metric tons of CO ₂ e	January 1, 2013
Iron and Steel Production Lime Manufacturing	Process Emissions	≥ 25,000 metric tons of CO ₂ e	January 1, 2013
	Stationary Combustion Emissions	≥ 25,000 metric tons of CO ₂ e	January 1, 2013
Lime Manufacturing Nitric Acid Production	Process Emissions	≥ 25,000 metric tons of CO ₂ e	January 1, 2013
	Stationary Combustion Emissions	≥ 25,000 metric tons of CO ₂ e	January 1, 2013
Nitric Acid Production Petroleum and Natural Gas Systems	Process Emissions	≥ 25,000 metric tons of CO ₂ e	January 1, 2013
	Stationary Combustion	≥ 25,000 metric tons of CO ₂ e	January 1, 2013
Petroleum and Natural Gas Systems	Process Vented Emissions	≥ 25,000 metric tons of CO ₂ e	January 1, 2013
	Flares and Destruction Devices		

Sector	Emission Source	Applicability Threshold	When Covered
Petroleum Refining	Stationary Combustion Emissions	≥ 25,000 metric tons of CO ₂ e	January 1, 2013
	Process Emissions		
	Catalyst Regeneration		
	Flares and Destruction Devices		
Pulp and Paper Manufacturing	Stationary Combustion Emissions	≥ 25,000 metric tons of CO ₂ e	January 1, 2013
	Process Emissions		
Stationary Combustion	Stationary Combustion Emissions	≥ 25,000 metric tons of CO ₂ e	January 1, 2013
Suppliers of Liquefied Petroleum Gas	Combustion Emissions from Total Volume of Liquefied Petroleum Gas Supplied	≥ 25,000 metric tons of CO ₂ e	January 1, 2015
Suppliers of Natural Gas	Combustion Emissions from the Total Volume of Natural Gas Delivered to Non-Covered Entities	≥ 25,000 metric tons of CO ₂ e	January 1, 2015
Suppliers of RBOB and Distillate Fuel Oil	Combustion Emissions from Total Volume of RBOB and Distillate Fuel Oil Supplied	≥ 25,000 metric tons of CO ₂ e	January 1, 2015

2.1 How Do I Know if My CO₂e Emissions Exceed the Applicability Threshold?

The inclusion threshold is based on the subset of emissions reported and verified under the MRR that generate a compliance obligation. See section 95852 of the Cap-and-Trade Regulation for more details on emissions categories used to calculate a compliance obligation. For most facilities, the total emissions for any year during the period 2008–2010 (excluding biomass CO₂ emissions) will give a rough estimate for comparison with the threshold.

There may be situations in which a facility's emissions for comparison with the threshold will be slightly different due to the presence of excluded or newly included process, vented, or fugitive emissions (see the examples).

Example 2.1.1

Refineries reported fugitive emissions under the 2008–2010 MRR, but these emissions do not apply toward the threshold for compliance under the Cap-and-Trade Regulation and should be subtracted when comparing 2008–2010 emissions with the threshold.

Example 2.1.2

Glass Manufacturers would have only reported combustion emissions from 2008–2010, and I will now need to include their process emissions using the methods in the revised MRR for comparison to the threshold.

Additionally, biomass-derived fuels that were reported in 2008–2010 have to meet stricter standards beginning 2011, and may count toward the compliance obligation in some situations.

Electricity importers that imported any amount of electricity from an unspecified source between years 2008–2010 are automatically a covered entity. Electricity importers that imported electricity from specified sources between years 2008–2010 are covered entities if any of the sources emitted more than 25,000 MTCO₂e. In almost all cases specified imports will be from large generators that exceed 25,000 MTCO₂e emissions. So a safe assumption would be that any entity with specified imports will be a covered entity.

If your facility meets the applicability requirements found in section 95101 of the MRR for both source category and emissions threshold, then it must report. Any facility that fits into one or more of the categories in subsection 95101 for calendar year 2011 or later must submit an emissions data report for that year and for subsequent calendar years, except as provided in the report cessation provisions of subsection 95101(h) in the MRR. The emissions data report must cover all source categories and GHGs for

which calculation methods are provided or referenced in the MRR for the facility type. More information about the MRR can be found at <http://www.arb.ca.gov/cc/reporting/ghg-rep/ghg-rep.htm> or by contacting sector-specific staff listed at <http://www.arb.ca.gov/cc/reporting/ghg-rep/ghg-contacts.htm>.

Key Definition

“Emissions Data Report” means the report that provides the information required by the MRR, prepared by an operator or supplier each year and submitted by electronic means to ARB.

2.2 Preliminary Draft List of Covered Entities

A preliminary list of entities determined to be covered by the Cap-and-Trade Regulation is listed at http://www.arb.ca.gov/cc/capandtrade/covered_entities_list.pdf.

This list includes covered entities with certified non-biomass emissions from 2008 and 2010 and verified emissions from 2009 that meet or exceed the specified thresholds, and is subject to change based on further review and verified emissions reports from 2010 and 2011. The list does not include entities covered starting in 2015, such as fuel suppliers. The preliminary list of covered entities was developed using current MRR data that were not collected explicitly to support the Cap-and-Trade Program. Amendments to the MRR, which are effective January 1, 2012, may modify the list of covered entities (because, for example, some biomass and process emissions have an obligation under the Cap-and-Trade Regulation but were not previously required to be reported).

This list neither substitutes for nor supplements the provisions of the Cap-and-Trade Regulation and is intended to provide information about program coverage based on the best available information as of the creation date indicated in the header of the file. An entity not listed here should not assume that it is not covered by the Cap-and-Trade Regulation.

2.3 Other Requirements Affecting Applicability

2.3.1. Eligibility Requirements for Biomass-Derived Fuels

Emissions from combustion of biomass-derived fuel which meets the requirements of 95852.1.1 will not be subject to a compliance obligation when reported as biomass CO₂ in an emissions data report that has received a positive or qualified positive emissions data verification statement and determined as exempt pursuant to section 95852.2 of the Regulation and 95103(g) of the MRR.

Contracts for purchasing any biomass-derived fuel must be executed prior to January 1, 2012, and remain in effect or have been renegotiated with the same California operator within one year of contract expiration. The delivery of the fuel under the contract must commence by 90 days after the execution date of the signed contract, by January 1, 2012, or 10 days after the date on which the California Energy Commission provides

notice that the operator's electricity generating facility is certified as eligible for California's Renewables Portfolio Standard for the contracted biomass-derived fuel, or cannot be so certified, provided that the application for certification was submitted to the CEC before January 1, 2012.

The fuel being provided under a contract must meet the provisions listed in section 95852.1.1(2) through (4).

As part of a biomass-derived fuel's eligibility to avoid a compliance obligation, no party may sell, trade, give away, claim, or otherwise dispose of any of the carbon credits, carbon benefits, carbon emissions reductions, carbon offsets, or allowances, howsoever entitled, attributed to the fuel production that would prevent the resulting combustion from not having a compliance obligation. This section was necessary to specify that Generation of Renewable Energy Credits is allowable and will not prevent a biomass-derived fuel that meets this section's requirements from being exempt from a compliance obligation. However, to prevent double-counting of the environmental attributes of utilizing biomass-derived fuel, the section prevents another source from claiming the benefits realized or using the benefits to fulfill a compliance obligation, or for any other purposes.