

## California Air Resources Board Approves Final Cap-and-Trade Regulations

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On October 20, 2011, the California Air Resources Board ("**CARB**") approved the final regulation for the California cap-and-trade program authorized by California's Global Warming Solutions Act (AB 32). As anticipated, CARB approved recent modifications to the regulation proposed in July and September 2011, paving the way for a cap-and-trade program with a compliance start date of January 1, 2013 for most entities covered by the regulation.

Under the cap-and-trade program, certain facility operators, including the operators of electricity generating facilities located in California, electricity importers and self-generators of electricity, will need to comply with California's mandatory reporting regulation if such entity's reported annual emissions in any year from 2008 to 2011 equal or exceed thresholds identified in the regulation. The applicability threshold for most facility operators, including electricity generating facilities, is currently set at 25,000 metric tons or more of carbon dioxide equivalent ("**CO<sub>2</sub>e**") per data year. An entity that has emissions from combustion of biomass-derived fuels is required to report and verify its emissions under the mandatory reporting regulation, but emissions from certain source categories (including the geothermal generating units and facilities) and certain biomass fuels (including biodiesel, fuel ethanol and agricultural crops or waste) will not be subject to the compliance obligation.

An entity that meets or exceeds the thresholds in the regulation in any year from 2008 to 2011 must register with CARB by January 31, 2012. An entity cannot hold a compliance instrument discussed below until the CARB Executive Officer approves the entity's registration.

The final regulation incorporates modifications to the regulation proposed in July and September 2011, including adjusting the start date for the first compliance period from January 1, 2012 to January 1, 2013. A covered entity must surrender one compliance instrument for each metric ton of CO<sub>2</sub>e emissions to meet its annual and triennial compliance obligations (as calculated pursuant to formulas set out in the regulation) beginning with the emissions data report for 2013 emissions, and for each subsequent year in which the covered entity has a compliance obligation.



Compliance instruments include allowances, CARB offset credits or sector-based offsets credits. Two auctions for emissions allowances are slated for 2012-on August 15 and November 14-and auctions will then be held quarterly beginning in 2013. The final regulations set forth the requirements for, and procedures for obtaining, CARB-issued offset credits, registry offset credits and sector-based offset credits, including the requirement that greenhouse gas emission reductions must be real, additional, permanent, quantifiable, verifiable and enforceable.

Copies of the text of the regulation are available CARB's rulemaking [webpage](#).

If you would like additional information about the California cap-and-trade program or have questions about your company's compliance obligations, please contact Todd Maiden, Donald Ousterhout or Brendan McNallen.

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