

## CHAPTER 4: WHAT ARE THE REQUIREMENTS IF MY COMPANY CHOOSES TO VOLUNTARILY PARTICIPATE IN THE CAP-AND-TRADE PROGRAM?

There are three levels of voluntary participants within the Cap-and-Trade Program: (1) opt-in covered entities, (2) voluntarily associated entities, and (3) other registered participants. In order to qualify to register as each type of participant, the entity must meet separate criteria and adhere to specific requirements. Please read Table 4.1 and the following sections carefully to determine which type of voluntary participant description most accurately reflects your desired role in the Cap-and-Trade Program.

Table 4.1 Voluntary Participants		
Type of Voluntary Participant	Qualification Criteria	Examples
Opt-in Covered Entity	<ul style="list-style-type: none"> <li>• Not classified as a covered entity</li> <li>• Entity within a sector subject to the Cap-and-Trade Program, with annual GHG emissions below the inclusion threshold</li> <li>• Has not had a holding account revoked</li> </ul>	<ul style="list-style-type: none"> <li>• Cement, glass, iron, petroleum, paper manufacturing facilities, or energy providers emitting less than 25,000 MTCO<sub>2</sub>e of GHG emissions annually</li> </ul>
Voluntarily Associated Entity	<ul style="list-style-type: none"> <li>• Not classified as a covered entity or an opt-in covered entity</li> <li>• Intends to purchase, hold, sell, retire or clear allowances or ARB offset credits</li> <li>• Has not had a holding account revoked</li> </ul>	<ul style="list-style-type: none"> <li>• Non-covered entities seeking to purchase, hold, sell, or retire allowances or ARB offset credits</li> <li>• Registered offset and early action offset project operators</li> <li>• Derivatives clearing organizations*</li> </ul>
Other Registered Participants	<ul style="list-style-type: none"> <li>• Do not intend to hold allowances or ARB offset credits</li> </ul>	<ul style="list-style-type: none"> <li>• Accredited offset verifiers</li> </ul>

	<ul style="list-style-type: none"> <li>• Has not had a holding account revoked</li> </ul>	<ul style="list-style-type: none"> <li>• Accredited offset verification bodies and Offset Project Registries</li> <li>• Approved Early Action Offset Programs</li> </ul>
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\* All derivatives clearing organizations must meet the requirements of the Commodities Exchange Act and be registered with the U.S. Commodity Futures Trading Commission.

## 4.1 What is an Opt-In Covered Entity (Section 95813)?

An *opt-in covered entity* is an entity that voluntarily elects to surrender allowances for each ton of GHGs it emits. To become an opt-in covered entity, the entity must be in one of the sectors covered under the Cap-and-Trade Program but emit less than 25,000 MTCO<sub>2</sub>e annually. For example, a glass manufacturer that emits 18,000 MTCO<sub>2</sub>e annually, and is therefore not subject to the program, could become an opt-in participant.

### 4.1.1 How Do I Become an Opt-in Covered Entity?

For an entity to voluntarily participate in the Cap-and-Trade Program as an opt-in covered entity, we request that you submit the Opt-in Request Form to the California Air Resources Board's (ARB) Executive Officer (EO) for approval:

- An entity that does not intend to receive free allocation of allowances must submit the information contained in the form by November 30 of the calendar year prior to the year it desires to voluntarily participate in the program.
- An entity wishing to receive free allocation of 2013-vintage allowances in 2012 must submit the information contained in the form to the Executive Officer by certified mail, to be received by ARB by May 1, 2012.

We request that, in subsequent years, entities wishing to opt in and receive free allocation of allowances during their first year of participation should submit this form to the Executive Officer by certified mail, to be received by ARB by March 1 of the calendar year preceding the first calendar year the entity wants to participate in the program.

If the Executive Officer approves the request to opt into the program, the entity will then need to register with the Compliance Instrument Tracking System Service (CITSS). After all of the necessary registration information is received, both a holding account and a compliance account will be created for the opt-in covered entity.

Opt-in covered entities must adhere to all reporting, verification, and compliance requirements applicable to covered entities, or they will be subject to enforcement actions. For example, opt-in participants must surrender compliance instruments equivalent to their emissions by the same deadline as the covered entities, and are subject to the same penalties if allowances and/or offset credits are surrendered in an untimely manner.

#### **4.1.2 Can Opt-in Covered Entities Receive Free Allowances?**

Opt-in participants may be eligible to receive free allowances based on the same criteria as covered entities. We request that entities wishing to opt in to the program and receive free allowances for the following year complete the following list of items:

1. Submit a request to opt into the Cap-and-Trade Program, to be received by ARB by May 1 (2012) or March 1 (subsequent years).
2. Register with CITSS upon approval to opt in.
3. Register with Cal e-GGRT, the Greenhouse Gas Reporting Tool, and report emissions (and product data, if applicable) from the previous year by June 1 (2012) or April 10 (subsequent years) one year prior to the first calendar year the entity wants to participate in the program.
4. Verify emissions (and product data, if applicable) by September 1.

If an entity wishes to receive free allowances under the energy-based allocation calculation methodology (i.e., sectors listed in Table 8-1 but not listed in Table 9-1 of the Regulation), we request that the entity report (by June 1, 2012, or April 10 in subsequent years) and verify (by September 1) the previous year's emissions *and* work with ARB staff to provide historical fuel and steam use data necessary to determine allocation. We request that any entity wishing to receive free allocation under the energy-based methodology contact ARB by May 1 to state its intent to receive free allocation under the energy-based methodology. It will be extremely helpful for ARB to have the final data necessary to calculate the entity's allocation no later than September 1, the verification deadline.

#### **4.1.3 Why Would an Entity Want to Opt in to the Cap-and-Trade Program?**

For entities within sectors receiving free allocation through the product-based allocation methodology, an entity may want to opt in if they are more efficient than other entities in the sector. An entity that purchases steam from another entity may also be eligible to receive allowances to compensate for a portion of the cap-and-trade costs included in

purchased steam. Furthermore, beginning in 2015, natural gas providers will be covered in the Cap-and-Trade Program. ARB expects that natural gas providers will pass the cost of cap-and-trade compliance to fuel purchasers. By opting in to the program, an entity will be able to manage its compliance obligation (and associated costs) directly. In this scenario, an entity may also be eligible for free allowances.

#### **4.1.4 How Do Opt-in Covered Entities Terminate Their Status?**

An opt-in covered entity can elect to opt out of the program at the end of a compliance period if its GHG emissions remain under the inclusion threshold. We request that, if a facility wishes to opt out of the program, it submit a termination request to the Executive Officer, to be received by ARB by September 1 of the last year of the compliance period. The entity must also either:

1. Surrender allowances (and or a limited number of offset credits) equivalent to its total GHG emissions during the compliance period (i.e., fulfill its compliance obligation for the entire compliance period), or
2. Turn in allowances equivalent to the number of free allowances it received from ARB during the compliance period within which it seeks to terminate its participation. For example, if an opt-in covered entity is directly allocated 51,000 free allowances over the course of a three-year compliance period (17,000 per year), in order to opt out of the program, the entity would be required to surrender 51,000 allowances to ARB, regardless of their emissions over the compliance period. The exact serial numbers of the allowances returned to ARB are not required to match serial numbers of the allowances the opt-in covered entity was originally allocated.

## **4.2 What is a Voluntarily Associated Entity (VAE)?**

A *voluntarily associated entity* (VAE) is an entity that intends to purchase, hold, sell, clear, or voluntarily retire allowances or offset credits, but is not obligated to surrender any allowances or offset credits to ARB in order to comply with the cap-and-trade program. That is, a VAE is not a covered entity or an opt-in covered entity. Examples of entities that may qualify as VAEs are listed in Table 4.

### **4.2.1 How Do I Become a Voluntarily Associated Entity (VAE)?**

For an entity to become a VAE, it must submit a registration request to the Executive Officer **prior** to holding allowances or offset credits. Derivative clearing organizations are exempt from providing specific information if they meet predetermined criteria. If the Executive Officer approves the registration request, the entity or individual is then designated as a VAE, and a holding account and an exchange clearing holding account

will be created for the VAE. All of the requirements on trading and retiring compliance instruments apply to a VAE, as do the enforcement provisions.

#### ***4.2.2 How Do VAEs Terminate Their Status?***

If a VAE wishes to opt out of the program, it must submit a request to the Executive Office. After a period of three years in which no allowances or offset credits have been transferred into or out of the account, a VAEs account may be closed.