

## **CHAPTER 3: WHAT DOES MY COMPANY NEED TO DO TO COMPLY WITH THE CAP-AND-TRADE REGULATION?**

### **3.1 Register with the Cap-and-Trade Program**

The Compliance Instrument Tracking System Service (CITSS) is a market tracking system that will support the implementation of greenhouse gas (GHG) Cap-and-Trade Programs for California and other potential linked jurisdictions. The CITSS provides accounts for market participants to hold and retire compliance instruments and to conduct transactions of compliance instruments with other account holders.

The CITSS is used to:

- Register entities participating in the California Cap-and-Trade Program;
- Issue allowances and compliance offsets;
- Track the ownership of compliance instruments;
- Enable and record compliance instrument transfers;
- Facilitate emissions compliance; and
- Support market oversight.

Each entity participating in the California Cap-and-Trade Program must register with ARB through the CITSS. The table below provides the applicable registration deadlines.

<b>Type of Entity</b>	<b>Registration Deadline</b>
Entities not covered as of January 1, 2013	Within 30 days of MRR <sup>1</sup> reporting deadline
Entities exceeding inclusion thresholds in section 95812 of the Cap-and-Trade Regulation for data years 2008-2011	Within 30 calendar days of September 1, 2012
Opt-in covered entity	By November 30 of the calendar year prior to the first year in which voluntary election for compliance obligation is made
Voluntarily associated entity intending to hold ARB-issued compliance instruments	Prior to acquisition of compliance instruments

The Regulation states that only one registration is allowed per entity and the registration process has two steps:

<sup>1</sup> The ARB Regulation for the Mandatory Reporting of Greenhouse Gas Emissions Regulation (title 17, California Code of Regulations, Section 95100 et seq.)

*Step 1: Apply for a CITSS User ID*

Individuals who will be account representatives on the individual's or entity's account(s) must apply for CITSS User IDs. An account must have at least two representatives: the Primary Account Representative (PAR) and an Alternate Account Representative (AAR). Individual account holders are allowed to act as both the PAR and AAR on their account.

To register, individuals must complete electronic data entry in the CITSS and mail required hard copy documentation (information requested in the hard copy forms generated in the CITSS registration process) to the California Registrar who will review the registration package. The hard copy documentation is:

- 1) User registration form – the CITSS user registration information, terms and condition, and proof of the CITSS user identity;
- 2) Account application form – designation of account representatives, and corporate association and structure; and
- 3) Consolidation entity account form – option for entities that have a direct corporate association to manage only one account for multiple associated entities in the program.

Representatives and agents of covered or opt-in entities must complete Know-Your-Customer (KYC) documentation. Completion of additional forms may be required as per section 95834 of the Cap-and-Trade Regulation, including notarized documentation of: name; address of primary applicant residence; date of birth; employer name, contact information and address; passport or driver's license number; open bank account in the USA; employment or relationship to a registered entity with the California Cap-and-Trade Program; a government-issues document; and any criminal convictions during the previous five years.

Following approval, the user may then apply for compliance instrument accounts (STEP 2) on behalf of an entity or individual which has authorized the user to do so.

*Step 2: Setup an Account (Account Application)*

After Step 1 is completed and an individual has been approved as a CITSS user, an individual will be able to apply for his/her accounts for themselves or on behalf of an entity or individual that has authorized them to do so. In order to create an account to hold compliance instruments in the CITSS, you must both enter electronic data in the CITSS and mail required hard copy forms and attestations to the California Registrar. After completing the electronic account application, your information will be electronically submitted to the California Registrar. The electronic submission must be

augmented by printed hard copies, signed by the PAR and AAR, and mailed to the Registrar for approval.

For additional information and the CITSS registration and guidance on the forms, refer to the following link:

<http://www.arb.ca.gov/cc/capandtrade/markettrackingsystem/markettrackingsystem.htm>

### ***Disclosable versus Direct Corporate Associations***

The following list provides the general regulatory criteria on how to determine if you have a disclosable or direct corporate association. The Cap-and-Trade Regulation requires a registrant to provide the details of any entity with which it has a disclosable corporate association, regardless of whether or not those associated entities are registered in the CITSS.

1. Disclosable corporate association
  - a) One entity holds more than 20% of any class of listed shares, the right to acquire such shares, or any option to purchase such shares of the other entity;
  - b) One entity holds or can appoint more than 20% of common directors of the other entity; or
  - c) One entity holds more than 20% of the voting power of the other entity.
2. Direct corporate association
  - a) One entity holds more than 50% of any class of listed shares, the right to acquire such shares, or any option to purchase such shares of the other entity;
  - b) One entity holds or can appoint more than 50% of common directors of the other entity;
  - c) One entity holds more than 50% of the voting power of the other entity; or
  - d) Entity A and entity B have a direct corporate association if A and B share a common parent that is not registered with the California Cap-and-Trade Program and the parent has a direct corporate association with both A and B. For the purposes of satisfying disclosure requirements, a common parent means there is a common entity from which the registered entity descends. There does not need to be an immediate relationship between the common parent and registered entities.
3. Indirect corporate association
  - a) No direct corporate association exists;
  - b) Connection through a line of more than one corporate association; and
  - c) The controlling entity's percentage of ownership is more than 20% but less than or equal to 50% (after multiplying the percentages at each link in the chain of corporate associations).

## 3.2 Report and Verify Your Greenhouse Gas Emissions, Product Output and Energy Data

The ARB Regulation for the Mandatory Reporting of Greenhouse Gas Emissions Regulation (title 17, California Code of Regulations, Section 95100 et seq.) (MRR) includes specific requirements for greenhouse gas reporting and verification from specific types of facilities, fuel suppliers, and retail electricity providers.

All covered entities under the Cap-and-Trade Regulation are required to report and verify their emissions pursuant to MRR. Examples of types of information covered entities are required to report include, as applicable:

- Gallons of transportation fuels supplied or imported;
- Therms of natural gas delivered to end users (excluding electricity generating facilities) from natural gas utilities and intrastate pipelines;
- Therms received from interstate pipelines;
- Megawatt hours delivered to the California transmission and distribution system; and/or
- Combustion, process and fugitive emissions.

All new and existing data and information reported must be certified to be true, accurate, and complete under penalty of perjury, and be submitted via the Cal e-GGRT reporting system.

The ARB Mandatory Greenhouse Gas Emissions Reporting website has additional details and guidance: <http://www.arb.ca.gov/cc/reporting/ghg-rep/ghg-rep.htm>

## 3.3 Turn in Compliance Instruments

### 3.3.1 *What is a compliance obligation?*

A compliance obligation is the quantity of verified reported emissions or assigned emissions for which an entity must submit compliance instruments to ARB. It is calculated based on the data required to be reported and verified pursuant to MRR. Compliance requirements are detailed in section 3.7 of this document.

### **3.4 What types of compliance instruments can be used to fulfill my compliance obligation?**

Currently, the following compliance instruments may be used to meet a compliance obligation:

- 1) California Greenhouse Gas Emissions Allowances issued by ARB; and
- 2) Offset Credits issued by ARB, limited to 8% of an entity's compliance obligation per compliance period.

### **3.5 How do I know how many allowances will be freely allocated to my facility?**

Covered entities or opt-in entities from some industrial sectors and all electricity distribution utilities are eligible for direct allocation of California GHG allowances if they have complied with MRR requirements. For eligible industrial sectors, this requirement includes obtaining positive or qualified positive product or emissions data verification statements. For more details on allocations, see sections 95891 and 95892 of the Cap-and-Trade Regulation; more information can also be found at:

<http://www.arb.ca.gov/cc/capandtrade/allowanceallocation/allowanceallocation.htm>

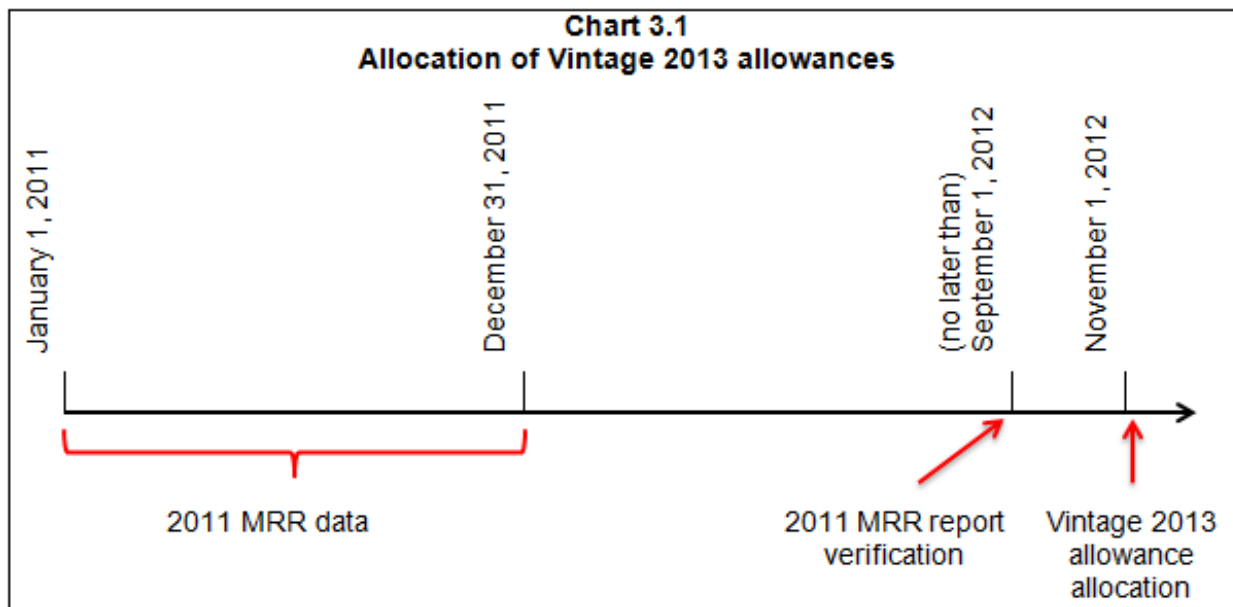
#### ***Timing of allowance allocation***

Allocation of allowances will occur in the calendar year preceding the vintage year of the allowances to be distributed, and will be informed by MRR reports from two calendar years preceding the vintage year.<sup>2</sup>

As an example, Chart 3.1 depicts the allocation of Vintage 2013 allowances. The allocation of Vintage 2013 allowances occurs in 2012, and is informed by MRR reports from 2011. Allowances will be allocated on this same schedule each year.

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<sup>2</sup> Allowance allocation for electrical distribution utilities have been finalized for all compliance periods through 2020. These allocations can be found in the "Electric Distribution Utility Allowance Table" on the ARB website: <http://www.arb.ca.gov/cc/capandtrade/allowanceallocation/pouallowancedistribution.htm>



### 3.6 What are important compliance surrender dates?

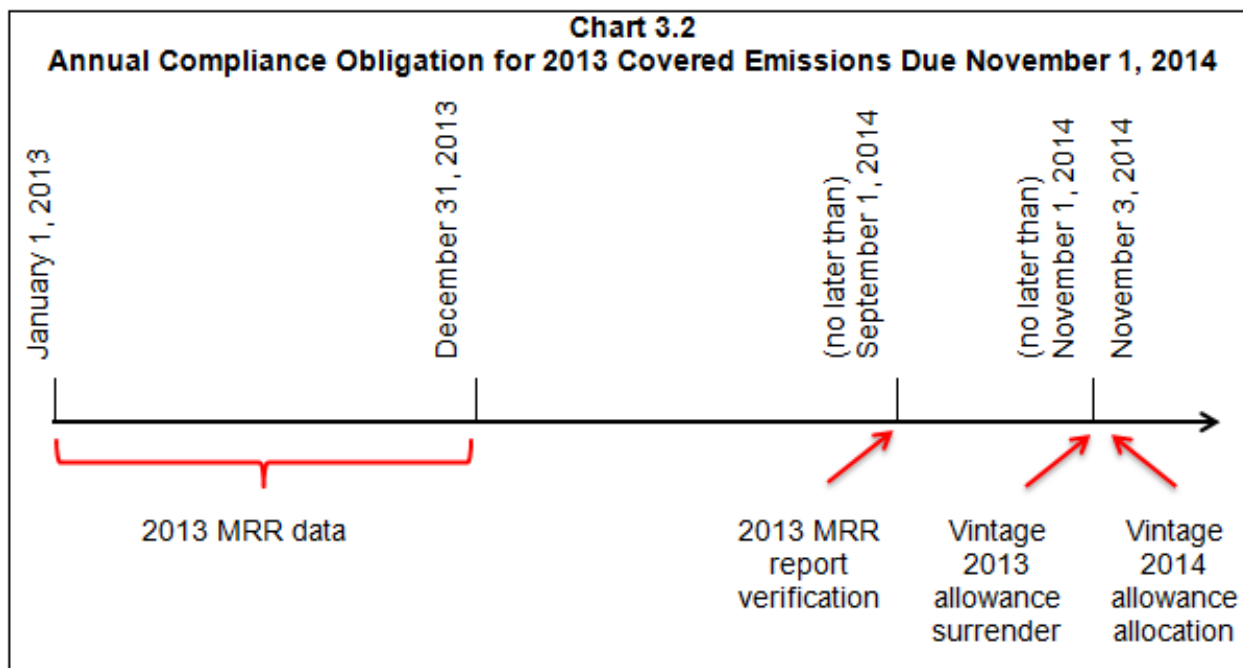
#### 3.6.1 Compliance periods

Table 3.1 summarizes the start and end dates of each compliance period.

Table 3.1 Compliance Periods (2013-2020)		
Compliance Period	Start	End
First	January 1, 2013	December 31, 2014
Second	January 1, 2015	December 31, 2017
Third	January 1, 2018	December 31, 2020

#### 3.6.2 Annual compliance obligations

Section 95855(b) of the Cap-and-Trade Regulation requires covered entities to submit 30 percent of their compliance obligation for the previous years covered emissions within the current compliance period. As shown in Chart 3.2, the first compliance surrender date is November 1, 2014. At that time, entities will need to provide ARB with compliance instruments (2013 allowances and/or offsets) to cover 30 percent of their covered emissions for 2013.



Section 95856 of the Cap-and-Trade Regulation states, “To fulfill a compliance obligation, a compliance instrument must be issued from an allowance budget year within or before the year for which an annual compliance obligation is calculated or the last year of a compliance period for which a triennial compliance obligation is calculated.” An entity may bank allowances from previous vintage years, but not borrow from future vintage years to meet a compliance obligation.

Table 3.2 lists which vintage year allowances may be used to meet an annual or triennial compliance obligation. There are no restrictions on which vintage year of offsets are used to meet a compliance obligation. Please note, that offsets can only be used to meet up to 8 percent of a compliance obligation in each compliance period.

<b>Table 3.2 Eligible Allowance Vintages for Annual and Triennial Compliance Obligations</b>			
<b>First Compliance Period</b>			
<b>Covered Emissions Year</b>	<b>Compliance Obligation Due Date</b>	<b>Percent of Compliance Obligation Due</b>	<b>Eligible Vintages of Allowances</b>
<b>2013</b>	November 1, 2014	30% of 2013 covered emissions	Vintage 2013 only
<b>2014</b>	November 1, 2015	70% of 2013 and 100% of 2014 covered emissions	Vintages 2013 and 2014, any combination
<b>Second Compliance Period</b>			
<b>2015</b>	November 1, 2016	30% of 2015 covered emissions	Vintages 2013-2015, any combination
<b>2016</b>	November 1, 2017	30% of 2016 covered emissions	Vintages 2013-2016, any combination
<b>2017</b>	November 1, 2018	70% of 2015 and 2016, and 100% of 2017 covered emissions	Vintages 2013-2017, any combination
<b>Third Compliance Period</b>			
<b>2018</b>	November 1, 2019	30% of 2018 covered emissions	Vintages 2013-2018, any combination
<b>2019</b>	November 1, 2020	30% of 2019 covered emissions	Vintages 2013- 2019, any combination
<b>2020</b>	November 1, 2021	70% of 2018 and 2019, and 100% of 2020 covered emissions	Vintages 2013-2020, any combination

For more details, see section 95856 of the Cap-and-Trade Regulation.

Example 3.1 demonstrates a selection of options for an entity to comply with its annual compliance obligation. The options include surrender of both allowances and offsets, however the options listed are not exhaustive.



**Example 3.1**

Based on the verified 2013 MRR report, Entity A has a compliance obligation of 100,000 MT CO<sub>2</sub>e in 2013. In 2014, Entity A must surrender at least 30%, or 30,000 compliance instruments. Compliance options include, but are not limited to the following examples:

**Option 1**

Surrender Vintage 2013 allowances

2013 compliance obligation	100,000 MT CO <sub>2</sub> e
<u>Vintage 2013 allowances surrendered in 2014</u>	<u>&lt;30,000 MT CO<sub>2</sub>e&gt;</u>
Balance of 2013 annual compliance obligation due in 2015	70,000 MT CO <sub>2</sub> e

**Option 2**

Surrender Vintage 2013 allowances and offsets

2013 compliance obligation	100,000 MT CO <sub>2</sub> e
Offsets surrendered in 2014 (8% threshold of 30%)	<2,400 MT CO <sub>2</sub> e>
<u>Vintage 2013 allowances surrendered in 2014</u>	<u>&lt;27,600 MT CO<sub>2</sub>e&gt;</u>
Balance of 2013 annual compliance obligation due in 2015	70,000 MT CO <sub>2</sub> e

Note: More than 8% in offsets can be used to meet the 30% minimum annual compliance obligation. However, offsets cannot exceed 8% of the compliance obligation for the compliance period.

**3.6.3 Triennial compliance obligations**

For years 2015, 2018, and 2021, there is no annual compliance obligation, only a triennial compliance obligation because it is the end of the compliance period. For more details, see section 95856 of the Cap-and-Trade Regulation.

Example 3.2 is a continuation of Example 3.1 and demonstrates a non-exhaustive list of options for an entity complying with its triennial compliance obligation.

**Example 3.2**

Entity A's compliance obligation (from Example 3.1) for 2014 is 200,000 MT CO<sub>2e</sub>. In 2015, Entity A must fulfill its triennial compliance obligation by surrendering compliance instruments to cover its 2014 compliance obligation and the balance of its 2013 compliance obligation. Compliance options include, but are not limited to:

**Option 1**

Surrender Vintage 2013 allowances and Vintage 2014 allowances

Balance of 2013 annual compliance obligation	70,000 MT CO <sub>2e</sub>
<u>2014 compliance obligation</u>	<u>200,000 MT CO<sub>2e</sub></u>
Triennial compliance obligation	270,000 MT CO <sub>2e</sub>
Offsets surrendered in 2015	0 MT CO <sub>2e</sub>
Vintage 2013 allowances surrendered in 2015	<70,000 MT CO <sub>2e</sub> >
<u>Vintage 2014 allowances surrendered in 2015</u>	<u>&lt;200,000 MT CO<sub>2e</sub>&gt;</u>
Balance of 2013-2014 triennial compliance obligation	0 MT CO <sub>2e</sub>

**Option 2**

Surrender Vintage 2013 allowances, Vintage 2014 allowances, and offsets

Balance of 2013 annual compliance obligation	70,000 MT CO <sub>2e</sub>
<u>2014 compliance obligation</u>	<u>200,000 MT CO<sub>2e</sub></u>
Triennial compliance obligation	270,000 MT CO <sub>2e</sub>
Offsets surrendered in 2015	<21,600 MT CO <sub>2e</sub> >
Vintage 2013 allowances surrendered in 2015	<52,400 MT CO <sub>2e</sub> >
<u>Vintage 2014 allowances surrendered in 2015</u>	<u>&lt;196,000 MT CO<sub>2e</sub>&gt;</u>
Balance of 2013-2014 triennial compliance obligation	0 MT CO <sub>2e</sub>

Note: Offsets cannot exceed 8% of the compliance obligation for the compliance period.

**3.7 Retention of Records**

Each entity must retain all of the following records for at least 10 consecutive years:

- Copies of all data and reports submitted;
- Records used to calculate a compliance obligation;
- Emissions data and product data verification statements; and
- Detailed verification reports as required.

Upon receiving a written request from ARB, entities must provide these records to ARB within 20 calendar days. See sections 95105, 95103(f), and section 95131 of MRR for more details.

For offset projects, information must be retained for a minimum of 15 years following the issuance of ARB offset credits. Entities must provide records within 10 calendar days of receiving a written request from ARB. See section 95976 of the Cap-and-Trade Regulation for details of specific information to be retained.

Offset project registries must retain documentation related to listed offset projects for a minimum of 15 years.

### **3.8 Additional Requirements for Electric Distribution Utilities**

Allowances allocated to investor owned utilities will be placed in Limited Use Holding Accounts. Publicly owned utilities or electrical cooperatives receiving allowances must complete the "POU and Co-op Allowance Distribution Form" each year to inform the Executive Officer where to distribute the allowances. Options include distribution of allowances to:

- Compliance accounts;
- Limited Use Holding Accounts; and/or
- Compliance accounts of other entities with which the publicly owned utility or electrical cooperative have a PPA.

The direction for distribution of allowances for the next year's vintage is due to ARB September 1, or the first business day thereafter. All allowances placed into the Limited Use Holding Accounts must be offered for sale during the next vintage year.

Additional details and the "POU and Co-op Allowance Distribution Form" can be found on the ARB website:

<http://www.arb.ca.gov/cc/capandtrade/allowanceallocation/pouallowancedistribution.htm>

#### **3.8.1 Proceeds from sale of allowances**

Proceeds obtained from the sale of allowances allocated to publicly and investor owned electric utilities at auction shall be used exclusively for the benefit of retail ratepayers of each electrical distribution utility, and may not be used for the benefit of entities or persons other than such ratepayers. Use of the value of any allowances allocated to an electrical distribution utility other than for the benefit of retail ratepayers consistent with the goals of AB 32 is prohibited.

No later than June 30, 2014, and each calendar year thereafter, each electrical distribution utility shall submit a report to the Executive Officer describing the disposition of any auction proceeds and allowance value received in the prior calendar year. The annual report shall include:

- Monetary value of auction proceeds received;
- How the use of proceeds benefits ratepayers;
- Monetary value of allowances received which were deposited directly into electrical generating facility compliance accounts. The value shall be based on the average market clearing price of the four quarterly auctions held in the same calendar year that the allowances are allocated; and
- How the use of monetary value of allowances benefits ratepayers.

See section 95892 of the Cap-and-Trade Regulation for more details.

### ***3.8.2 Specific Guidance for Electricity Importers***

Is there an easy to use formula so that I am able to determine my compliance obligation?

The equation to calculate a compliance obligation that results from covered emissions is in section 95852(b) of the Cap-and-Trade Regulation. This equation is consistent with how the covered entity reports pursuant to MRR in Cal e-GGRT. Each term contained in the compliance equation is calculated according to the provisions in section 95111(b) of MRR.

How do I receive an ARB emission factor for electricity delivered from a specified source?

In order to receive an ARB facility-specific emission factor, importers must directly deliver the electricity to California, as defined in section 95111(g) of MRR. Additionally, the importer must be the facility operator, or have ownership or a contract in place for the imported electricity. These requirements are contained in section 95852(b)(3) of the Cap-and-Trade Regulation. Facilities must be registered according to section 95111(g) of MRR to be claimed as a specified source. Refer to the ARB website for additional details: <http://www.arb.ca.gov/cc/reporting/ghg-rep/ghg-rep.htm>

How is imported renewable electricity treated and what if firming and shaping power was delivered to California? How is this counted if I procured electricity from an eligible renewable resource?

For electricity that is not directly delivered, the Cap-and-Trade Regulation includes a provision to adjust an importer's compliance obligation for eligible renewable electricity

procured to fulfill a California distribution utility's Renewables Portfolio Standards (RPS) requirement. The requirements to take the adjustment are contained in section 95852(b)(4) of the Cap-and-Trade Regulation.

For electricity that is directly delivered, the importer will follow the requirements contained in section 95852(b)(3) of the Cap-and-Trade Regulation for specified sources. If Renewable Energy Credits (RECs) were created, the Cap-and-Trade Regulation requires they be retired.

In order to claim the RPS adjustment, the importer must have a contract or ownership rights to procure the electricity generated by the eligible renewable energy resource, or the importer must have a contract to import electricity on behalf of another entity that has ownership or a contract rights to the electricity generated at the eligible facility. The renewable electricity must have been procured to meet California's RPS. The firming and shaping power is reported under the MRR just as with any other electricity import. A compliance obligation is assessed for these imports as specified in the Cap-and-Trade Regulation. RECs associated with the delivery must be retired the same year in which the importer claims an RPS adjustment. The importer, if not the distribution utility, will have a contractual relationship with the distribution utility and will need to work with the utility to ensure the REC was retired. The importer will report the REC serial numbers under the MRR, and should provide a REC retirement report as part of the report as evidence the RECs were retired.

#### How is the RPS adjustment calculated?

The compliance obligation adjustment is calculated as the total number of eligible MWhs reported and verified through MRR for that year multiplied by the default emissions factor for unspecified resources. The default emissions factor is calculated pursuant to provisions in MRR. The default emissions factor is currently set at 0.428 MTCO<sub>2</sub>e/MWh.

#### Are there any other restrictions on the RPS adjustment?

Yes. If a generator is located in a linked jurisdiction under California's Cap-and-Trade Regulation, then the electricity is no longer eligible for an RPS adjustment. Once a jurisdiction is linked, accounting for GHG emissions occurs within that jurisdiction. There is no California compliance obligation on electricity imported from the linked jurisdiction, so no adjustment is required.

What is the calculation that describes the Qualified Export adjustment (QE) used to a compliance obligation?

The equation to determine a Qualified Export adjustment is described in the provision contained in section 95852(b)(5) of the Cap-and-Trade Regulation. The equation is as follows:

$$\text{CO}_2\text{e}_{\text{QE\_adjustment}} = \sum_1^{8760} \text{QE hourly}$$

Where

$\text{CO}_2\text{e}_{\text{QE\_adjustment}}$  = annual sum of CO<sub>2</sub>e for all hours during the year in which QE hourly is calculated.  $\text{CO}_2\text{e}_{\text{QE\_adjustment}}$  is the total metric tons to be adjusted, and cannot result in a negative compliance obligation.

$$\text{QE hourly} = \text{MIN}(\sum_{i=1}^n \text{MWh}_{\text{import}}, \sum_{j=1}^n \text{MWh}_{\text{export}}) \times \text{MIN}(\text{MIN}(\text{EF}_{\text{import}}), \text{MIN}(\text{EF}_{\text{export}}))$$

Where

$\text{QE hourly}$  = the QE quantity, in CO<sub>2</sub>e, for an hour in which an electricity importer has both imports and exports

MIN is a function that selects the smallest of values identified

$\sum_{i=1}^n \text{MWh}_{\text{import}}$  = the sum in MWh during the hour for all import transactions

$\sum_{j=1}^n \text{MWh}_{\text{export}}$  = the sum, in MWh during the hour for all import transactions

$\text{EF}_{\text{import}}$  = the lowest emission factor, in CO<sub>2</sub>e/MWh, for each import transaction during the hour; and where

$\text{EF}_{\text{export}}$  = the lowest emission factor, in CO<sub>2</sub>e/MWh, for each export transaction during the hour.

Covered entities will do all their calculations in their own spreadsheet and enter the QE adjustment in MTCO<sub>2</sub>e, in the MRR Cal e-GGRT GHG reporting tool. The documentation will need to be retained for verification purposes, pursuant to MRR.

Please see this link to MRR guidance for reporting Qualified Exports:

[http://www.arb.ca.gov/cc/reporting/ghg-rep/guidance/qualified\\_exp\\_adj\\_guidance.pdf](http://www.arb.ca.gov/cc/reporting/ghg-rep/guidance/qualified_exp_adj_guidance.pdf)