Appendix 2: Summary of Comments and Agency Response

E. Cost Containment Provisions

E-1 Allocation to Reserve from Post-2030 Allowance Budgets

E-1.1 Multiple Comments: Allocation of Allowances to Reserve:

IETA recognizes that CARB is attempting to enhance affordability and balance the distribution of allowances between APCR tiers by adding 1% of post-2030 allowance budgets to Tier 1 of the APCR to enhance the cost-containment features of the regulation. However, this process is gradual and will not fully balance the two tiers. We encourage CARB to also consider shaving allowances between 2027-2030 to increase the volume of allowance deposited into Tier I of the APCR. (45d-IETA-341.6)

Comment:

Second, CARB should evaluate whether the volume of allowances available through the APCR remains sufficient given the significantly tighter allowance budgets in the Proposed Amendments. As the cap declines, the size and responsiveness of the reserve become increasingly important to maintaining market stability. Adjustments to the reserve volume or replenishment structure may therefore be necessary to ensure that the mechanism continues to function as an effective price-containment tool under the more stringent cap trajectory. (45d-CCoC-374.5)

Comment:

Ag Council urges CARB to consider a more flexible APCR in its implementation process. Because the proposed cap is drastically decreasing before 2045, CARB may need additional allowances to introduce to the market in an effort to mitigate potential price spikes. (45d-ACC-433.6)

Agency Response:

No changes were made in response to these comments. The Proposed Amendments continue the current two-tier Allowance Price Containment Reserve format into the post-2030 Program and draw on the post-2030 budgets to further supply the Reserve to maintain support for the cost-containment mechanism and to continue providing cost-effective and flexible options for compliance to covered entities. Staff's proposal to allocate 1% of post-2030 budgets to the Reserve reflects the fact that a Reserve Sale has not been held to date and allowances currently in the Reserve do not expire. This supply will continue to be available to covered entities in future years. Additionally, a 1% allotment of post-2030 allowances to the Reserve provides flexibility for using remaining post-2030 allowances for other purposes, including minimizing leakage, protecting ratepayers, and auction sales. Tier 1 of the Reserve currently holds 66.8 million allowances, and Tier 2 holds 89.5 million allowances, so staff's proposal to add 1% of post-2030 allowances (about 13.7 million allowances) to Tier 1 will help to balance the distribution of allowances across the Reserve tiers, making the supply more consistent across both tiers. Broader changes to the design of the Reserve were not proposed as part of these Amendments and comments related to those concepts are out of scope of this rulemaking.

E-2 Annual Escalation Rate of Reserve Tier Prices

E-2.1a Multiple Comments: Escalation Rate of Reserve Tiers

Third, CARB should evaluate whether the current price escalation structure remains appropriate given the significantly tighter allowance budgets contemplated in the Proposed Amendments. Under the existing program design, key price-containment parameters, including the auction reserve price, the APCR tier prices, and the price ceiling, are adjusted annually at a rate of five percent plus inflation. This structure was originally adopted to ensure that the carbon price signal increased in real terms over time. However, when combined with a significantly tightening cap, this administrative escalator can contribute to rapid increases in allowance prices. Limiting the annual escalation of these price-containment parameters to inflation, rather than five percent plus inflation, would help moderate the long-term trajectory of allowance prices while preserving the program's carbon pricing signal. Because allowance prices would continue to increase with inflation, the program would retain an increasing nominal price floor while reducing the risk that administrative escalators compound the effects of tightening allowance supply.(45d-CCoC-374.6)

Comment:

Given the program's increasing stringency, more robust cost containment measures will be critical to mitigating leakage and consumer impact. The current method of increasing the Allowance Price Containment Reserve (APCR) and ceiling by 5% plus the consumer price index (CPI) is arbitrary and has a compounding effect. Using a historical average CPI of 2.5%, the current Tier 1/Tier 2/Ceiling prices of $65/$84/$103 would reach approximately $125/$161/$197 by 2035 and $256/$331/$406 by 2045.

Therefore, we encourage CARB (consistent with legislative direction in AB 1207) to further analyze whether the current structure of the price containment reserve and price ceiling "adequately protect California consumers" and minimize leakage or if additional actions are warranted beyond the proposed addition of 1% of post-2030 allowances to the Tier 1 Reserve. (45d-CCEEB-377.2).

Agency Response:

No change was made in response to these comments. When considering how cost-containment mechanisms should be updated to support a more stringent Program as part of this rulemaking process, staff revisited the factors influencing demand for allowances in the Program from 2013 through 2030. The inclusion of 1% of post-2030 allowance budgets to Tier 1 of the Reserve works to further support the Reserve as an effective cost-containment mechanism. No changes to the Reserve Tier price escalation were proposed, and therefore, these comments are out of scope.

E-2.1b Multiple Comments: Cost Containment Mechanisms

The 15-Day Amendments also do not address CalChamber's concerns regarding retention of the annual five percent plus inflation escalator applied to the auction reserve price, APCR tiers, and the price ceiling. That escalator was designed in a very different program context. In a program where cap stringency is increasing substantially, maintaining an automatic administrative escalator above inflation compounds the effects of tightening supply and can contribute to allowance prices reflecting administratively induced scarcity as much as underlying marginal abatement costs. The interaction of these two forces, reduced supply and administratively accelerated price growth, raises important affordability concerns the 15-Day Amendments leave unresolved. (15d-CCoC-158.9)

Comment:

A higher APCR intervention point and continued above-inflation administrative price escalation will weaken cost-containment as cap stringency increases. The program's affordability safeguards must remain responsive to the market conditions created by a materially tighter cap. CalChamber therefore encourages CARB, in subsequent rulemakings, to consider whether retaining a less responsive APCR trigger and an unchanged five percent-plus-inflation escalator remains appropriate. Recalibrating those elements would not weaken California's emissions goals; it would help ensure that increased ambition is supported by safeguards capable of moderating unnecessary price volatility and reducing avoidable cost pressure on consumers and covered entities. (15d-CCoC-158.10)

Agency Response:

No change was made in response to these comments. Please refer to the Agency Response to E-2.1a.

E-3 Threshold for Offering a Reserve Sale

E-3.1a Comment: Threshold for Offering a Reserve Sale

First, CARB should preserve the current Allowance Price Containment Reserve (APCR) trigger that allows allowances contained in the APCR to be released when market prices reach 60 percent of the applicable price ceiling rather than the 80 percent threshold in the Proposed Amendments. This trigger acts as an additional safeguard to prevent excessive price escalation before the market reached the ceiling level. Preserving the current lower trigger threshold of 60 percent, given the tightened allowance supply, is necessary to help reduce the risk that allowance price spikes will negatively impact California cost of living. (45d-CCoC-374.4)

Agency Response:

No change was made in response to this comment. Currently, a Reserve Sale is offered when the settlement price of the previous quarter's Current Auction is greater than or equal to 60% of the lowest Reserve tier price. Additionally, a Reserve Sale is offered each year in the quarter before the November 1 compliance event. The change made to the Regulation was to change the settlement price at which a Reserve Sale is offered from 60% of the lowest Reserve tier price to 80% of the lowest Reserve tier price. Whether or not a Reserve Sale is offered is not based on the price ceiling price. Staff has not changed the requirements for offering a Reserve Sale to be based on the price ceiling price, nor has staff proposed to change the price setting of the Reserve tiers. Through April 2026, five Reserve sales have been offered as a result of auction settlement prices exceeding the 60% threshold since the threshold went into effect in 2018. No Reserve sales have been held because there has not been any qualified applicants when those sales were offered. Staff proposed to increase the auction settlement price threshold that triggers the offering of a Reserve sale from 60% to 80% of the lowest Reserve tier price to reduce administrative burden, while ensuring that Reserve allowances are made available as needed.

E-3.1b Comment: Threshold for Offering a Reserve Sale

As CalChamber previously noted, the APCR has long served as a central component of the program's cost-containment architecture by providing additional allowance supply before prices approach the ceiling. The proposal to move the release trigger from 60 percent to 80 percent would reduce the responsiveness of that safeguard despite the fact the program is entering a significantly more constrained phase. In a market with materially reduced allowance supply and continued uncertainty regarding the pace of commercially viable decarbonization pathways, preserving an earlier intervention point becomes more important. Because the 15-Day Amendments do not modify this proposal, CalChamber remains concerned that a higher trigger unnecessarily increases the risk of avoidable price volatility before reserve mechanisms can respond. (15d-CCoC-158.8)

Agency Response:

No change was made in response to this comment. Please refer to the Agency Response to E-3.1a.

E-4 Cost-containment Mechanisms to Prevent Leakage

E-4.1a Comment: Cost-containment Mechanisms

CARB should expand offset opportunities and implement additional cost-containment measures to preserve market stability. AB 1207 provides CARB with flexibility to "consider additional actions to ensure consumers are protected," including but not limited to "adjustment to the allowance price containment reserve or the price ceiling." CARB should use this flexibility to implement broader cost-containment mechanisms to help address leakage. (45d-WSPA-381.15)

Agency Response:

No change was made in response to this comment. Additional cost containment mechanisms were not added as part of this rulemaking. As part of AB 398, the Legislature mandated that CARB balance six factors when setting the price ceiling price. One of the factors to be balanced was emissions leakage. Staff reviewed this factor and the other factors set forth in AB 398 when setting the price ceiling price in 2018 and reviewed them again when considering any changes to cost-containment provisions as part of this rulemaking. The Program includes multiple cost containment provisions including (1) compliance offset credits, which are available at a lower cost than allowances, (2) linkage with other jurisdictions to enhance liquidity, and increase cost-effective trade opportunities, (3) multi-year compliance period to accommodate compliance when there are variations in emission levels, and (4) an Allowance Price Containment Reserve with two tiers and a separate price ceiling, which allow covered entities access to allowances at set prices.

E-4.1b Comment: Cost-containment Mechanisms

Ag Council and Dairy Institute urge CARB to consider a more flexible APCR in its implementation process. Because the proposed cap is drastically decreasing before 2045, CARB may need additional allowances to introduce to the market in an effort to mitigate potential price spikes. (15d-ACC-102.6)

Agency Response:

No change was made in response to this comment. Additional or flexible cost containment mechanisms were not added as part of this rulemaking. Please refer to the agency response to E-4.1a.

E-5 Price Ceiling Units Definition

E-5.1 Multiple Comments: Price Ceiling Units

The proposed amendments redefine "Price Ceiling Units" in a manner that eliminates the previous requirement that revenues generated from their sale be used to achieve emission reductions on at least a metric ton for metric ton basis. Under the proposed language, proceeds are instead deposited into the "California Climate Mitigation Fund" with no equivalent accountability mechanism. This change reveals the program's true trajectory: it is evolving from a market-based emissions reduction mechanism into an unconstrained revenue extraction tool. The Board is asking Californians to pay ever-increasing costs at the pump with no assurance that the money collected will produce commensurate environmental benefits. (45d-Nemeth-228.3)

Comment:

Maintain Environmental Integrity at the Price Ceiling. CARB's Proposed Amendments include an update to the definition of a Price Ceiling Unit (PCU) and the destination of revenue generated by the sale of PCUs. Prior to the program's 2025 reauthorization, revenue from price ceiling unit sales was required to be used to purchase at least an equivalent ton-for-ton quantity of emissions reductions. This preserved the cap's integrity even in the event of PCUs being sold, as CARB could issue unlimited PCUs to cover all outstanding emissions obligations, which would undermine the integrity of the emissions cap without a ton-for-ton abatement requirement.

... CARB should develop an approach or a set of options for the use of PCU revenue that both provides consumer benefits and maintains the environmental integrity of the cap, in the event the Legislature must appropriate price ceiling revenue in the future.

... For example, this could be achieved by issuing consumer rebates that have quantifiable emission reductions such as zero-emission vehicle (ZEV) and building electrification investments, as implied in AB 1207. By quantifying the emission reductions from these expenditures, measured by the associated emissions of the internal combustion vehicles replaced by additional ZEVs, CARB could identify and ideally avoid any potential remaining gap between emissions above the cap represented by PCUs and the tons of abatement expected from the revenue expenditures. This approach requires that CARB make assumptions about which decarbonization activities would have happened in the absence of this additional subsidy, and CARB would also need to verify that the decarbonization activity took place. It could therefore be practically challenging to ensure these investments sufficiently close the emissions gap in the event of PCU sales, creating more of an administrative burden for CARB, but with conservative assumptions this approach could be consistent with the aim of preserving environmental integrity while also delivering consumer benefits. Alternatively, CARB could recommend that the Legislature appropriate a portion of the price ceiling revenue to purchase reductions to offset PCUs, in line with AB 398, with the remainder of revenue returned directly to consumers via rebates as is suggested in AB 1207. This is likely the easiest option for CARB to implement, considering that offset protocols are already approved. (45d-EDF-424.8)

Agency Response:

No changes were made in response to these comments. The January proposed changes are necessary to reflect changes to where the proceeds from sale of price ceiling units are deposited and how they will be used, as prescribed in AB 1207 (Irwin, 2025). In AB 1207, the Legislature established the new California Climate Mitigation Fund for all proceeds generated by Price Ceiling Sales. The Legislature also specified in AB 1207 that it will determine future appropriation of those moneys for the purposes detailed in HSC section 38562(c)(2)(A)(ii)(II). Before the direction in AB 1207, the proceeds were to be used only to purchase reductions on a ton per ton basis to ensure environmental integrity of the Program. The proposed changes follow legislative direction.

F. Updated Market Rules and Registration Requirements

F-1. CAG Trigger Update - Individuals with Shared Roles: Consultant/Advisor Disclosure Requirements and Clarifications

F-1.1 Multiple Comments: Legal Services

CARB's proposed (and existing) regulations require attorneys to describe for CARB the legal services they provide to clients. CARB also requires companies to tell CARB who their attorneys are. These regulations have been in effect for a dozen years. Continuing this is a bad idea. The risk that attorneys could face federal, and possibly state, revenge for providing cap-and-trade legal advice is not theoretical- it is potential, and with reasonably foreseeable consequences. During the dozen years these regulations have been in force, CARB has presumably built a robust attorney-client database, usable by a hostile federal, and possibly state, government to intimidate attorneys away from serving disfavored clients and causes. Some lawyers would resist, but not all. I don't know how I would respond if it happened to me. Program participant choice of counsel should not be limited to lawyers willing to take personal risk. CARB should stop building its attorney-client database. (45d-LoJW-265.1)

Comment:

The risk that attorneys could face federal, and possibly state, revenge for providing cap-and-trade legal advice is not theoretical- it is potential, and with reasonably foreseeable consequences. During the dozen years these regulations have been in force, CARB has presumably built a robust attorney-client database, usable by a hostile federal, and possibly state, government to intimidate attorneys away from serving disfavored clients and causes. Some lawyers would resist, but not all. I don't know how I would respond if it happened to me. Program participant choice of counsel should not be limited to lawyers willing to take personal risk. CARB should stop building its attorney-client database. "Bidding strategy" is not defined; §95914(c)(1)(B) says the term "include[s]" price targets; however "regarding" is very broad and prior CARB enforcement actions make it clear that "bidding strategy" also includes public communications of intent to comply with the requirement to participate in the auction. This means CARB's regulations require attorneys to give CARB a description of advice given to clients.

This regulatory text seems substantially at odds with what CARB said was its intent on p.408 of the May 2014 Cap-and-Trade FSOR:

Various commenters raised concerns with respect to whether section 95923 would require the disclosure of confidential, privileged attorney-client communications. This was not staff's intent, and staff agrees with the multiple comments asserting the long history and legal protections for confidential, privileged legal advice and communications provided by attorneys to their clients. However, under existing legal precedent, ARB staff understands the rule protecting confidential attorney-client communications applies to the communications, and generally not to the existence of the attorney-client relationship in and of itself. In response to these comments, staff has deleted section 95923(b)(2) in 15-day changes to remove the previously proposed language requiring a "description of services" to be disclosed. This amendment ensures that protected attorney-client communications are not in fact disclosed. As amended, the only information required to be disclosed under section 95923 is the name, contact information, physical work address, and employer of the retained Consultant(s) or Advisor(s). Moreover, regarding commenters' concerns about attorneys disclosing any information themselves, section 95923 applies not to the Consultant or Advisor, but to the entity which contracts with such Consultant or Advisor. Only the registered entity is required to disclose the names, contact information, physical work address, and employer (if applicable) of any retained Consultants or Advisors.

The regulation very clearly says it requires disclosure by the "Consultant or Advisor [i.e.,attorney]", §95914(c)(3)(C), to CARB, §95914(c)(3)(C), of a "[d]escription of the advisory [i.e., §95979(b)(2)(R) 'legal'] services being performed", §95914(c)(3)(C)2. If

CARB did not intend to require this, CARB should eliminate the requirement. (45d-LoJW-265.2)

Comment:

If CARB threatens an enforcement action against a company in connection with an auction, CARB requires that company to tell CARB that it sought counsel, and identify the attorney. How, including with whom, a company plans to defend against allegations is not a proper subject of government inquiry. Referring again to p. 409 of the FSOR: In addition, multiple commenters have raised questions about which types of “legal services” being provided by outside counsel would require a disclosure. As specified in section 95923(a), these would include those services provided specifically for the entity registered in the Cap-and-Trade Regulation. With respect to legal services, staff does not intend this language to apply to legal advice specifically related to enforcement related matters initiated by ARB or another regulatory body, white collar criminal proceedings, or legal support in preparing individual and entity registration in CITSS. Registered entities however would have to disclose the nature and status of investigations (ongoing and for the previous 10 years) associated with any commodity, securities, environmental, or financial market pursuant to section 95912(d)(4)(E).” If CARB does not mean to require a company to disclose that it has sought legal advice in connection with an enforcement, then CARB should so state in its regulations. (45d-LoJW-265.3)

Agency Response:

No change was made in response to these comments. Section 95979(b)(2)(R) of the Regulation lists “legal services” among the list of services that would qualify an individual or entity as a Cap-and-Invest Consultant/Advisor pursuant to section 95923(a) of the Regulation. Individuals or entities providing such a service to a registered entity must be disclosed by the entity at time of registration or within 30 days of entering into contract pursuant to section 95923(c) of the Regulation. No changes were proposed to these sections as CARB must continue to require the disclosure of Cap-and-Invest Consultants/Advisors for proper market oversight and implementation of market rules. Staff maintains that an entity retaining outside counsel as it relates to enforcement matters does not have to disclose this counsel as they are not a Cap-and-Invest Consultant/Advisor advising their client specifically to participation in the Program. The identities of all Cap-and-Invest Consultants and Advisors disclosed by a registered entity are treated as confidential by CARB pursuant to section 96021 of the Regulation. Additionally, only in cases where a Cap-and-Invest Consultant/Advisor is contracted to consult and provide auction bidding strategy must they self-disclose to CARB pursuant to section 95914(c) and describe the services they are performing. It is unlikely that legal counsel would be providing this service.

F-1.2 Multiple Comments: Transaction Brokers

Make clear in Section 95979(b)(2) that Cap and Trade Consultants are not "providing services" if they only broker one off transactions for an entity. In this scenario, they do not know entity's position nor provide any strategy nor do they have authority to transact on behalf of client. (45d-EEI-19.1)

Comment:

Section 95979(2)(I), states that if participating in “Brokering in, advising on, or assisting in any way in carbon or GHG-related markets;” [emphasis added] an individual falls into the category of a Consultant. The subparagraph is very broad, not-defined, and sweeps in policy, regulatory, and non-market consulting. Regulatory and Policy advising is completely different from advising on the actual GHG market and market ecosphere. The former addresses the formal/informal agency regulatory actions, the Administrative Procedures Act processes, and policy decisions (which do impact the market fundamentals, but not individual trading), but whereas the latter focuses on buying/selling advice, market analytics, forecasting and market opportunities. They are as different as apples and oranges, yet the ‘assisting in any way’ can pull in both types of advisors, where clearly CARB is focused on those engaging in the market dynamics and market participant behavior. (45d-TAI-39.1)

Comment:

AQC also respectfully requests that CARB provide clarification on the regulatory definition of a “broker” as it applies to the Cap-and-Invest market. As currently written, the regulation does not establish a clear and distinct definition of a broker separate from that of a consultant/advisor. This ambiguity creates practical uncertainty for compliance entities and market participants attempting to accurately categorize and disclose their market intermediaries. Specifically, it is unclear whether a broker—defined in common market practice as a party who facilitates the identification, negotiation, and execution of allowance transactions between buyers and sellers without taking title to the instruments or making compliance decisions on behalf of either party—falls within the existing disclosure categories or requires a separate treatment under the regulation. A clear regulatory definition and associated reporting framework would allow compliance entities and independent brokers alike to fulfill their obligations with confidence, reduce the risk of inadvertent non-compliance, and support the transparency objectives that CARB has articulated for the program. (45d-AQCEBS-304.2)

Agency Response:

No change was made in response to these comments. Section 95979(b)(2)(I) of the Regulation identifies “Brokering in, advising on, or assisting in any way in carbon or GHG related markets” among the list of services that would qualify an individual or entity as a Cap-and-Invest Consultant or Advisor pursuant to section 95923(a). Individuals or entities providing such a service to a registered entity must be disclosed by the entity at the time of registration or within 30 days of entering into contract pursuant to section 95923(c). No changes were proposed to these sections as CARB must continue to require the disclosure of Cap-and-Invest Consultants/Advisors for proper market oversight and implementation of market rules. However, staff recognizes the interplay of the list of services that would require an individual to be disclosed as a Cap-and-Invest Consultant/Advisor with the changes made to the individual with shared roles corporate association group trigger in section 95833. An individual serving as a broker for over-the-counter trades on a one-off basis is not required to be disclosed as Cap-and-Invest Consultant/Advisor. Brokering an individual transaction likely does not give the broker knowledge of or access to the market position of either party to the transaction.

F-1.3 Multiple Comments: Removal of administrative and operational burden for covered entities that may incur from the updated Shared Role CAG Exemption

Requiring small covered entities to establish conflict of interest and confidentiality policies and procedures and keep them updated to provide within 10 days of request by Executive Officer, will result in many of covered entities to incur cost of hiring an attorney to develop this policies and procedures, as well as ongoing costs, with minimal direction from ARB as of what is an acceptable policy. The attorney costs may be too burdensome and result in entities terminating contracts with Cap and Invest Consultants, and hoping they know enough to comply with Cap and Invest Program. ARB should consider providing a standard conflict of interest and confidentiality policy for entities to adopt that they know will be acceptable or consider removing this altogether for small to midsize entities. (45d-EEI-19.2)

Comment:

To not add to the costs and additional administration work to covered entities, especially the smaller ones that benefit from having a Cap and Invest Consultant, ARB should consider adding a "Box" to check on Corporate Form 3 on same page they disclose a Cap and Invest Consultant that their Consultant meets the Shared Role Exemption. And then another "Box" to check to accept ARB provided language on Conflict of Interest and Confidentiality Policy. This would go a long way of not adding additional costs and giving clarity to small and midsize covered entities that their policy is acceptable and will not receive an unexpected request with only 10 days to respond with a policy they do not know if is acceptable. This burden should not be added to the California small and midsize firms in the program especially as prices are expected to rise and free allowances are being reduced. Please help keep the administrative portion of this program affordable to comply with. (45d-EEI-19.3)

Comment:

AQC supports CARB's continued efforts to maintain market integrity, transparency, and safeguards against coordinated market behavior. We respectfully submit comments that the proposed consultant/advisor provisions introduce significant administrative complexity without materially improving oversight outcomes, and may unintentionally create operational burdens for regulated entities and independent consultants who already operate within defined regulatory boundaries.

Under the current program structure, consultants/advisors are listed separately, and not defined as employees of regulated entities, and disclosed on the Corporate Form 3 through the existing registration process. By definition, and per industry standard, consultants do not act as decision makers for regulated entities, do not execute transactions on behalf of their clients, and operate in an advisory capacity.

Rather than implementing a Shared Role Exemption process where an additional attestation would have to be submitted for each entity that works with a consultant, AQC recommends CARB adopt a clearer and simpler regulatory definition. Define a consultant/advisor as:

An individual or firm providing advisory services to a registered entity who:

- Does not act as a CITSS Primary Account Representative or Alternative Account Representative with the authority to facilitate market transfers;
- Does not have the authority to transact on behalf of the customer;
- Does not make compliance or market position decisions on behalf of the entity;
- Is bound by confidentiality obligations; and
- Is disclosed to CARB through Corporate Form 3 submission.

For consideration, if a consultant does not meet the definition outlined above, the consultant would be responsible for submitting a separate disclosure identifying a potential shared role with other CITSS-registered entities. Per industry standards, Cap-and-Invest consultants, we are bound by strict confidentiality obligations. The identities of our clients are not disclosed to one another, and our consulting clients are not aware of the other entities we may advise. Requiring disclosure in a manner that could indirectly reveal client relationships places existing contractual confidentiality provisions at risk and creates potential conflicts with legally binding non-disclosure obligations.

Revising the definition of a Cap-and-Invest Consultant—rather than requiring separate attestations for each consultant relationship—would eliminate unnecessary administrative burden on compliance entities. A clarified definition would allow entities to acknowledge the Shared Role Exemption within the standard registration framework, without the added complexity of coordinating and submitting separate exemption requests for each entity that engages the same consultant under the program.

AQC respectfully requests CARB reconsider the proposed Shared Role Exemption framework and instead clarify the regulatory definition of consultants/advisors consistent with existing program structures while improving administrative processing transparency and timelines. (45d-AQCEBS-304.1)

Agency Response:

Changes were made in response to these comments. Staff updated the text in section 95833(c)(3) of the 15-day Amendments such that a covered entity or opt-in covered entity subject to a direct corporate association due to contracting with an individual Cap-and-Invest Consultant or Advisor who has shared roles is exempt from disclosing the direct corporate association and does not need to apply for any Shared Role Exemption if the individual Cap-and-Invest Consultant or Advisor with shared roles (1) provides Cap-and-Invest consulting services to only covered entities, only opt-in covered entities, or both, and (2) does not have a user account in the tracking system. The change is necessary to enable continued compliance support for covered entities and to streamline the process for administering this exemption from direct corporate association information disclosure requirements for covered entities. Comments specific to the design of the Corporate Associations and Structure Form #3 and the definition of the Cap-and-Invest Consultant or Advisor are out of scope, and no changes were proposed.

F-1.4 Comment:

PacifiCorp appreciates that CARB's new corporate association trigger (CAG) rules include an exemption for consultants or advisors who have neither legally binding authority over a registered entity nor decision making authority over an entity's specific market position. PacifiCorp and its many direct affiliates use their own consultants and advisors as the Cap-and-Invest program is a complex regulation… The proposed rule requires the entity to apply for an exemption and submit an officer attestation that the consultant or advisor meets the qualifying criteria. PacifiCorp recommends modifying the attestation to be an account representative attestation rather than an officer attestation. Account representatives are already trusted with attestations like the corporate association disclosure, and downgrading the officer attestation will reduce administrative burden. (45d-PC-295.7)

Agency Response:

Changes were made in response to this comment. Staff updated the text in section 95833(c)(4)(A)1. in the 15-day Amendments such that the requirement to submit an attestation was changed from a requirement for the director or officer of the entity to a requirement for an account representative. Account representatives of an entity are authorized to make submissions on behalf of the entity pursuant to section 95832 of the Regulation. Staff agrees with the commenter that an account representative attestation will reduce administrative burden on entities and streamline the Shared Role Exemption application and review process.

F-1.5 Comment:

While IETA supports continued and rigorous oversight to ensure a well running program free of market manipulation, the proposed CAG provisions may inadvertently eliminate the value of advisors by defining all advisors as subject to a CAG due to knowledge of multiple registrants' market positions. This may be appropriate for such advisors that effectively control their clients, such as by having the power to legally bind or direct their clients with respect to CCA transactions. However, it is not necessarily appropriate for advisors that do not have such authority or are otherwise limited by fiduciary duties and strict information sharing restrictions. For example, the proposal to automatically trigger CAGs on the basis of common account viewing agents is overbroad. Account viewing agents often require account access for audit and financial verification purposes and by the very nature of the role have no authority to conduct CCA transactions.

As such, we suggest considering adjustments to the CAG provisions to better reflect the different categories of advisors and related market participants, particularly distinguishing between those with transaction authority and those in purely advisory or administrative roles. CARB can identify criteria that address actual sources of potential market manipulation while preserving the value advisors bring to the program. (45d-IETA-341.12)

Agency Response:

No change was made in response to this comment. The Shared Role CAG exemption is designed to support Cap-and-Invest Consultants and Advisors in the Program. Under the Proposed Amendments, entities using a Cap-and-Invest Consultant or Advisor that has neither legally binding authority over any of the entities that they serve nor decision-making authority over market positions of any of the entities that they serve, are eligible for the Shared Role Exemption because these individuals would not be able to exert significant control or influence over the multiple accounts they service. For example, an individual providing administrative services, accounting services, or auditing services would likely qualify for the Shared Role Exemption, as they likely would not exert control or influence over the entities that they serve. Voluntarily associated entities employing transaction advisors or managers of allowance holdings will not qualify for the Share Role Exemption because staff due to the potential for market manipulation and the potential to create a prohibited beneficial holding situation.

F-1.6 Comment:

The CCCA supports CARB's efforts to clarify, and in some cases, expand, the rules governing Corporate Association Groups ("CAGs"). However, we believe further modifications are necessary to avoid overly broad restrictions that could significantly impact Voluntarily Associated Entities ("VAEs") and the consultants, advisors and other entities who provide valuable services that support Program participation and integrity. VAEs are essential to the Program, contributing liquidity and stimulating demand, both of which are beneficial for the overall health and effectiveness of the market. VAEs typically rely on a wide range of consultants and advisors to access the Program given the highly technical rules and requirements. In the absence of sophisticated advisors, we anticipate VAE participation in the Program may decrease, which would directly impact cornerstone aspects of the Program. The CCCA appreciates CARB's efforts to refine its market monitoring toolset, but CARB should not take actions that inadvertently result in decreased Program participation. This is particularly significant given that the Program is functioning well and CARB has not identified any specific compliance concerns.

CARB creates CAGs to treat affiliated entities as a single participant for purposes of applying the holding limit. But overly broad CAG rules do not materially support that purpose, and will create unintended and problematic effects. If implemented, the Proposal may inadvertently and unintentionally create CAGs between market participants who have no direct affiliation. In addition, creating unnecessary CAGs (from a market conduct perspective) will have broader market-wide impacts. According to CARB's own estimates, the Proposal could force entities to divest 23 million allowances, which has the potential to create Program shocks and impact Program stability and allowance pricing… With the following changes, we believe CARB can strike the right balance by providing clearer CAG rules without being so restrictive that it negatively impacts VAEs and the overall market. In particular, the CCCA's recommendations adhere to the principle that only individuals who have the bona fide ability to direct, authorize and control (with limited restriction) multiple registrants should trigger the creation of CAGs. Rules in the Proposal that are broader than this principle should be narrowed to avoid capturing individuals or entities that do not present coordination risks. (45d-CCCA-407.3)

Agency Response:

No changes were made in response to this comment. The intent of the Proposed Amendments is to prevent potential coordinated market activities and ensure market integrity while supporting participation in the Program by Cap-and-Invest Consultants and Advisors. The Program has allowed voluntarily associated entity (VAE) participation to add liquidity to the market and to promote cost-effective and competitive transactions. While a covered entity's main goal in the market is to procure compliance instruments as economically as possible to meet their emissions compliance obligation, VAEs voluntarily participate in the Program, do not incur compliance obligations, and may have varied goals for market participation, some with unique expertise in the securities and derivative markets. These differences among VAEs and covered entities in their reasons for participating in the Program and in their program requirements can mean that the role of VAEs in the market must be carefully monitored, especially in the context of a more stringent program with lower allowance supply. Under the Proposed Amendments, an entity using Cap-and-Invest Consultants or Advisors that have neither legally binding authority over any of the entities that they serve nor decision-making authority over market positions of any of the entities that they serve are eligible for the Shared Role Exemption because these individuals are not able to exert significant control or influence over the multiple accounts they service. VAEs employing transaction advisors or managers of allowance holdings will not qualify for the Share Role Exemption because staff due to the potential for market manipulation and the potential to create a prohibited beneficial holding situation. During the Shared Role Exemption determination process, staff will evaluate each individual's roles and responsibilities and verify if the individual meets the exemption qualification as specified in the Regulation to ensure against coordinated practices and to protect against manipulative behaviors.

F-1.7 Comment:

The CCCA strongly supports the Proposal's extended grace period through January 1, 2030 for entities placed in CAGs to reallocate a single holding limit, but CARB should take steps to fully mitigate any unnecessary, forced divestiture of allowances. Again, this is especially pressing given the lack of evidence or data indicating that such changes are necessary or that market coordination issues actually exist. (45d-CCCA-407.2)

Agency Response:

No change was made in response to this comment. Staff appreciates the commenter's support for the Proposed Amendments. However, a change was made to section 95833(f)(1) in the 15-day Amendments such that the delayed deadline for identifying corporate association group (CAG) purchase limit shares and holding limit shares is changed from December 31, 2029, to December 31,

2027. The shortened phase-in timeline balances concerns related to short-term price volatility upon immediate implementation of CAG holding limit shares and purchase limit shares and concerns related to unintended market incentives related to a longer deadline. Staff analysis of the most recent information available suggests that the number of allowances released to the market from entity holding accounts due to implementation of the proposed CAG rules may be toward the low end of the previously expected range, making a shorter deadline more feasible. The December 31, 2027, deadline also aligns with the November 1, 2027, compliance event for the fifth compliance period (2024-2026), where covered entities must meet their full compliance period compliance obligation. The December 31, 2027, deadline provides affected entities over one year to either restructure corporate affiliations or adjust allowance holdings before any newly required purchase limit shares and holding limit shares take effect, thus mitigating the potential for short-term volatility and supporting market stability compared to immediate implementation. The change is necessary to support market stability and integrity, and to mitigate short-term market volatility.

F-1.8 Multiple Comments: Shared Roles CAG Trigger

The Proposal updates the Regulation’s “Shared Roles” test such that if an individual has direct access to two or more registrants’ CITSS account, the individual will trigger a CAG between the applicable registrants. The CAG is triggered without regard to the individuals’ role which means any commonality of “Primary Account Representatives,” (“PAR”), Alternate Account Representatives (“AAR”) or Account Viewing Agents (“AVA”) between two registrants trigger a CAG. The Initial Statement of Reasons explains CARB’s concern that individuals with direct access to CITSS accounts possess unique information which may allow them to facilitate impermissible coordinated market behavior. Respectfully, that rationale is overbroad. Direct access to a CITSS account does not automatically confer authority or practical ability to influence market behavior.

- PARs and AARs: While it is true that PARs and AARs ultimately facilitate transactions by processing and confirming requests in CITSS, a PAR or AAR may be required to follow the express orders of the CITSS account owner or controlling entity. In other words, if the PAR and AAR are acting in an administrative capacity, rather than a decision-making capacity, their direct access should not trigger a CAG.
- AVAs: Similarly, the role of an AVA, by its nature, does not provide any authority or control. Often AVAs have direct access to CITSS account solely for purposes of financial auditing, reconciling or asset security. Only a limited number of sophisticated financial services firms act as AVAs (such as Deloitte or PWC) and the Proposal may inadvertently force these types of institutions to limit their services. This would not be a good outcome for the Program, as the Program

should be encouraging, rather than limiting, highly sophisticated advisors from expanding their market services.

We propose CARB adopt a functional test that evaluates an individual's actual capacity to influence or execute transactions, focusing regulatory concern on decision-making authority rather than visibility into account data. While direct CITSS account access may be a factor CARB evaluates to create a CAG, it should not be dispositive. (45d-CCCA-407.4)

Comment:

The CCCA supports expanding the shared role exemption to cover PARs, AARs and AVAs, in each case where the individual lacks trading discretion or pricing authority and performs only administrative, compliance, or ministerial functions. The shared role exemption is an appropriate mechanism for accommodating advisors that provide Program related services to multiple registrants and do not present coordination risks. Extending the exemption to PARs, AARs and AVAs would preserve necessary operational support for VAEs, while also preserving CARB's ability to monitor market coordination, since CARB must verify and approve applications for the exemption.

CARB should also specify in the Proposal, or subsequently provide guidance, on how CARB determines whether an individual has any "decision-making authority over the market positions of any of the entities that they serve." An individual advisor may provide services that could influence an entity's transaction strategy for instance, but as long as the entity still retains the ability to overrule the advisor's recommendation, CARB should not consider the advisor as having "decision-making authority." To make the application of the shared role exemption consistent, fair and predictable, CARB should provide more specific language as to how it will evaluate and determine the shared role exemption. (45d-CCCA-407.5)

Agency Response:

No change was made in response to these comments. The intent of the updated individuals with shared role CAG trigger is to prevent potential coordinated market activities and to ensure market integrity. Under the Proposed Amendments, any shared account representative or account viewing agent on multiple registered entities' tracking system accounts would trigger a CAG among those registered entities, without any exception, due to a common individual having immediate access to those entities' market position information. With direct access to this market-sensitive information, individuals with shared roles may, inadvertently or intentionally, facilitate coordinated trades and market activities due to their specialized knowledge or access to the tracking system for multiple accounts regardless of their roles as an employee or contractor. Cap-and-Invest Consultants or Advisors will likely still be able to provide their services to entities without access to the tracking system as they can still have knowledge of entities' market position and still remain eligible for the Shared Role Exemption. During the Shared Role Exemption determination process, staff will evaluate each individual's roles and responsibilities and verify if the individual meets the exemption qualification specified in the Regulation to protect against coordinated practices and manipulative behaviors.

F-1.9 Comment:

Instituting CAGs for all registrants with shared commodity pool operators ("CPOs") and commodity trading advisors ("CTAs"), even those without control or management over registrants, is overbroad and duplicative of the CFTC's robust anti-fraud/manipulation rules and compliance regime. As written, the Amendment will likely chill participation in the Program and force entities to decide if they want to participate, and invest, in the Program or rather focus on derivative activities (futures trading, etc.) in markets where CARB has no significant jurisdiction or authority. Moreover, CARB should be encouraging registrants to operate within a framework of enhanced oversight and transparency, rather than discouraging registration by treating such oversight as a trigger for CAG status. CPOs and CTAs are not unique in this context and should be treated the same as other service providers or advisors; a CAG should only be triggered when they possess actual knowledge of market position, not merely by virtue of their role or registration status.

Instead of this broad provision, CARB should institute a CAG for registrants with shared CPOs and CTAs if those CPOs and CTAs have actual trading authority. (45d-CCCA-407.6)

Agency Response:

No changes were made in response to this comment. The Proposed Amendments include a new CAG trigger for a shared commodity pool operator (CPO) or shared commodity trading advisor (CTA) due to the level of control or influence that a CPO or CTA holds over the trade decisions or trade strategies of compliance instruments for registered entities, which pose risks of market manipulation and coordinated activities. For this requirement, staff will track CPOs and CTAs actively registered with the National Futures Association (NFA). An individual or organization that operates a commodity pool and solicits funds for that commodity pool for the purpose of trading futures or options is required to register as a CPO with the NFA. If a CPO qualifies for an exemption from registration with NFA, then they would not trigger a CAG due to this requirement. Separately, all registered CTAs who manage or exercise discretion over customer accounts or provide commodity trading advice based on, or tailored to, the commodity interest or cash market positions of particular clients must be NFA

Members. Under 17 C.F.R. § 4.14, if an individual or organization does not engage in directing client account or providing commodity trading advice based on, or tailored to, the commodity interest or cash market positions or other circumstances or characteristics of particular clients, then they are not required to register as a CTA with the NFA and therefore would not trigger a CAG due to this requirement. The Cap-and-Invest Program's compliance instruments are considered a commodity that is both physically traded within the tracking system and through derivative markets by CPOs and CTAs. However, compliance instruments are unique from other commodities in that they were specifically designed for compliance use by covered entities subject to CARB oversight. CARB's authority over the physical trading of compliance instruments includes setting rules regarding conduct of trade to protect the Cap-and-Invest Program market, specifically. This new market rule is designed to prevent potential collusive trading behaviors among those entities and clients employing a shared CPO or CTA and to enhance market liquidity and market integrity.

F-1.10 Comment:

Layered on top of this is the market circulation dynamic. As the ISOR separately notes, the annual release of allowances from entity accounts due to the accelerated holding limit decline is expected to roughly double during 2027–2030, rising from an average of approximately 14 million allowances per year under the current regulation to approximately 22 million per year under the proposed amendments. While this increases market liquidity in the near term, it also signals that entities holding allowances as a compliance buffer will be forced to release them into the market on a compressed timeline, a dynamic that interacts unpredictably with rising compliance demand. (45d-CBC-446.3)

Agency Response:

No changes were made in response to this comment. Under the current Regulation, covered entities are able to accumulate current vintage allowances for compliance through the Limited Exemption from the Holding Limit. The Limited Exemption is not available to voluntarily associated entities as they do not have compliance obligations. The Proposed Amendments make no changes to the design of the Limited Exemption. The annual amount of allowances released into market circulation under the Proposed Amendments is expected to be steady and released in a manner that can support access to allowances needed for compliance by covered entities in the context of the proposed removals of allowances from overall annual budgets.

F-1.11 Comment:

Please find comments regarding the following proposed language "95833. Disclosure of Corporate Associations. (c)(3) "A covered entity or opt-in covered entity subject to a direct corporate association pursuant to section 95833(a)(6) due to a relationship with an individual Cap-and-Invest Consultant or Advisor who has shared roles is not required to disclose direct corporate association information resulting from the relationship and is not required to apply for the Shared Role Exemption described in section 95833(c)(4) if the Cap-and-Invest Consultant or Advisor both provides Cap-and-Invest consulting services pursuant to section 95979(b)(2) to only covered entities, opt-in covered entities, or both, and does not have a user account in the tracking system."

Numerous small compliance entities have relied on Cap-and Invest Consultants since 2012 to assist them with compliance with the Cap-and-Invest Program. This includes having consultants familiar with the CITSS tracking system and assisting them with numerous tasks including sharing screens and walking employees of these small firms through their three accounts in CITSS and do transfers from their general account to their compliance accounts. Many small businesses have not been able to afford to hire a dedicated employee to manage all the aspects to comply with the Cap-and-Invest Program and rely on consultants. Some of the services have included ensuring their CITSS account is ready for each annual compliance date as well as understanding how to accept and or initiate pending transfers from their general account, and how to check their annual allocation as well as to manage where to have their True UP amount in CITSS for past years as not easy for many small businesses. ARB regulations have allowed for 14 years for consultants to have access to tracking system, and this change especially harms small businesses. I have not seen any of the small businesses with consultants who have view only access express support to ARB for this meaningful change to the program after 14 years of benefits have been received.

Please amend the proposed language with prevents Consultants access to the tracking system as clause that would require entities to apply for Shared Role Exemption. In addition, ARB has utilized Consultants with access to the tracking system to assist in reaching out to companies that were on path to not comply with the regulations when ARB was unsuccessful in getting any response from those firms. This removes a tool ARB has successfully used in the past to ensure as close to 100% compliance with program as possible. Air Pollutant Specialists in ARB's Market Monitoring Section have experience utilizing this tool. (15d-EEI-5.1)

Agency Response:

No changes were made in response to this comment. An individual with a tracking system account that is an account representative or account viewing agent on multiple registered entities’ tracking system accounts would trigger a

CAG among those registered entities, without any exception, due to a common individual having immediate access to those entities' market position information. With direct access to this market-sensitive information, individuals with shared roles may, inadvertently or intentionally, facilitate coordinated trades and market activities due to their specialized knowledge or access to the tracking system for multiple accounts regardless of their roles as an employee or contractor. Cap-and-Invest Consultants and Advisors may continue to advise their clients on how to navigate and use the tracking system, including for example while an account representative is screen shares with the consultant during a virtual meeting. The core functions of Cap-and-Invest Consultants and Advisors working for covered entities do not require that the consultant have direct access to the registry account for multiple clients. Registered entities retain the ability to decide who is designated as their account representatives or viewing agents. This decision includes considering the impacts of having direct corporate associations that must be disclosed should one of their representatives or agents have shared roles.

Registered entities are still required to disclose all individuals with knowledge of an entity's market position including disclosing contact information for those individuals so that staff can reach them if the need arises. When reaching out to a registered entity regarding their participation in the Program, staff always starts with the entity's active registry account representatives. Staff only contact other individuals or directors and officers if there is reason to believe that the account representatives may no longer represent the entity or are unable to do so.

F-2. Updates to Registration Requirements

F-2.1 Multiple Comments: Government Agencies

There are a few sections in § 95830 that, as applied to a PMA like BPA, are inapplicable or overly broad. Specifically, subsection (c)(1)(B) refers to "directors and officers," which are terms with a legal meaning specific to corporations. BPA is a federal agency, not a corporation, and does not have corporate "directors and officers." Subsection (c)(1)(B) ostensibly fits BPA by using the word "individuals," but the phrase "with authority to make legally binding decisions on behalf of the entity" is overly broad. As currently articulated, that phrase could potentially apply to any BPA employee with delegated authority. BPA asks CARB to constrain this requirement insofar as it applies to a PMA with more precise language, perhaps by adding a narrowing clause such as "individuals with authority to make legally binding decisions [regarding the subject matter at issue] on behalf of the entity." (45d-BPA-301.1)

Comment:

Similarly, subsection (c)(1)(J) is excessively broad in its application to a PMA. Information concerning compliance instruments or covered emissions may be deliberated in BPA's public processes, such as Rate Case proceedings, making this information accessible to an unknown number of individuals. BPA suggests CARB extend the exemption, which currently applies to "Employees and delegates of local, state, and federal regulatory agencies who have the ability to gain knowledge of or access to the entity's specific market positions . . .", to federal entities generally. Although BPA is a federal entity, it is not a regulatory agency and therefore does not fall under the current classification of a "federal regulatory agency." Extending this exemption would not only reduce unnecessary administrative burden but also acknowledge the unique operational and governmental nature of federal PMAs. (45d-BPA-301.2)

Agency Response:

No change was made in response to these comments. To maintain market oversight, CARB must require all registered entities, including local, state, and federal entities, such as a PMA, to disclose individuals with authority to make legally binding decisions on behalf of the entity regardless of title. Any individual with legally binding authority for an entity is viewed as an individual authorized to represent the entity, designate additional representatives to serve on the tracking system account, make decisions to bind the entity, and has responsibility to ensure the entity complies with Program requirements. Depending on the specific terms of the authority granted to them, individuals with delegated authority may need to be disclosed by registered entities. Similarly, the disclosure of all individuals with knowledge of or access to market position of a registered entity is necessary to maintain market oversight. An individual must be disclosed if they have knowledge of both current and/or expected holdings and current and/or expected covered emissions of a registered entity, whether it is a corporation or a government entity. This disclosure requirement is designed to identify individuals that are aware of or responsible for compliance strategies by knowing information on both an entity's holdings and emissions. This information directly relates to the proposed changes in section 95833(a)(6). Individuals with knowledge of or access to market position information of two or more registered entities have ability to coordinate activities for these accounts, so such individuals must be disclosed and monitored. The disclosure requirement does not require disclosure of individuals who are only casually aware of or associated with issues related to compliance instruments or reported emissions.

F-2.2 Comment:

The requirement that, effective January 1, 2028, all VAEs maintain at least two account representatives with a primary residence in the United States is overly restrictive and risks discouraging participation by international entities, thereby reducing market diversity and liquidity. CARB will retain sufficient jurisdiction and oversight so long as each entity has at least one U.S.-based director and/or one U.S.-based account representative. We do not see a compelling need to mandate two U.S.-based representatives. The proposal imposes administrative obstacles on current, and potential future, VAEs, without a corresponding compliance or enforcement benefit. (45d-CCCA-407.11)

Agency Response:

No changes were made in response to this comment. The requirement to employ at least two account representatives with a primary residence and physical address in the United States is needed to guarantee that the key individuals responsible for an entity's trade and market activities are present within the United States and can be reached as needed. Specifically, this requirement is intended to ensure that an entity registering as a voluntarily associated entity has a business presence in the United States and is subject to the enforcement jurisdiction of CARB in the event of any violation of the Regulation. This requirement supports market monitoring work, including outreach and compliance assistance efforts.

F-2.3 Comment:

Under the Proposal, new applicants seeking to register as a VAE would be required to submit a comprehensive set of documents, including loan or financing documents. This request represents significant regulatory overreach and offers no meaningful benefit to CARB. If CARB intends this request to cover all loan and financing documents that are currently in place for the prospective applicant, then it essentially compels applicants to disclose sensitive financial information that has no connection to the applicant's Program activities. If this is the case, then CARB will only be expending valuable time and resources to review hundreds of pages of financing documents for no particular benefit. It will also likely discourage financial participants from registering in the Program as we anticipate the majority of financial institution's chief executives, risk management and compliance teams will not view this as a reasonable requirement and thus abandon participation. The Proposal and prior CARB guidance provide a framework for permissible financing arrangements that market participants should be expected to follow. If in the course of its routine market monitoring authority, CARB feels the need to request information regarding financing arrangements, CARB already has the power to do so. (45d-CCCA-407.12)

Agency Response:

No changes were made in response to this comment. The Proposed Amendments require that all individuals and entities registering as a voluntarily associated entity (VAE), excluding a VAE registering solely to hold offsets, submit supplemental registration information, such as founding and governing agreements, fund prospectus, loan or financing documents, a description of planned market activities, the amount of initial capital funds, the projected capital the entity plans to invest in the carbon market, the source of funds, and a statement of compliance with section 95921(f). This requirement clarifies registration practices and implementation processes. Supplemental registration information is often collected during the registration process when staff conduct due diligence checks to help ensure that every approved applicant conforms with the Regulation and has provided complete and accurate disclosures. Based on implementation experience, staff recognizes that governance documents, contractual agreements, prospectus documents, and other financial materials and statements are necessary for staff to review to understand the corporate structure and associations disclosed by market participants, and to confirm conformance with conduct of trade requirements of the Regulation. This information is necessary in order to understand an entity's expected market behavior and activities at the time of registration and for effective market monitoring and oversight. This requirement is also expected to help streamline the registration process, as staff will have all needed documents readily available for their review.

F-2.4 Multiple Comments: Knowledge of Market Position

The term "knowledge of market position" is critical to multiple aspects of the Regulation, including the expanded CAG triggers, yet it remains undefined in the Regulation. The absence of a clear definition of "knowledge" creates administrative challenges, increases compliance costs, and generates ambiguity for due diligence and CAG determinations. The CCCA proposes CARB adopt a specific definition of "Knowledge of Market Position" as follows, which would provide a brightline rule for registrants, their employees and their advisors and help make Program structuring and Program compliance more efficient.

"Knowledge of Market Position means knowledge of a registered entity's specific position information or compliance information (e.g., current or expected holdings or covered emissions) that is less than thirty (30) days old."

Alternatively, CARB could issue regulatory guidance to clarify the term "knowledge of market position." (45d-CCCA-407.7)

Comment:

The proposed amendments introduce the concept of knowing an entity's "market positions". This term is not defined but could easily be in a subsequent amendment package. If it were, then it could be used to distinguish between those helping navigate the rulemaking process from those advising market activities. It is important to make this distinction, now more than before as the requirements of entities employing Consultants have grown. Therefore, I recommend CARB take this opportunity to provide a bit more clarity in this area, such that the new amendments accomplish their intent without being overly encompassing. (45d-TAI-39.2)

Agency Response:

No changes were made in response to these comments. An entity's market position is defined in section 95830(c)(1)(J) of the Regulation as an entity's current and/or expected holdings of compliance instruments and current and/or expected covered emissions. For voluntarily associated entities, this includes the knowledge that the entity has no covered emissions. The intent of this disclosure requirement is to identify individuals that have awareness of this market-sensitive information for market oversight. This disclosure allows CARB staff to identify and track new corporate association groups and is necessary for Program oversight.

F-3. Updates to Auction Administration and Rules

F-3.1 Comment:

95912(i)(4): CCEEB requests that CARB clarify what occurs if entities temporarily do not have space in their holding accounts for all their allowances. Regulated entities have expressed concern that this will force entities to transfer allowances into compliance accounts before they are needed. (45d-CCEEB-377.8)

Agency Response:

No changes were made in response to these comments. The Proposed Amendments do not introduce a new requirement but rather include an administrative update designed to support implementation practices. The requirement for an entity to transfer allowances into their Compliance Account if its Holding Account exceeds its holding limit is not a new requirement nor is CARB evaluating the account holdings of winning bidders in advance of distribution of allowances awarded at auction. Specifically, the Proposed Amendments clarifies the timing of when CARB staff evaluates the account holdings of bidders that are awarded allowances at auction. This minimum seven-day lead time is strictly necessary to provide time for the administrative processing and coordination needed across linked jurisdictions.

F-3.1a Comment: Holding Limits and Auction Winnings

95912(i)(4): CCEEB requests that CARB clarify what occurs if entities temporarily do not have space in their holding accounts for all their allowances. Regulated entities have expressed concern that this will force entities to transfer allowances into compliance accounts before they are needed. (15d-CCEEB-165.9)

Agency Response:

No change was made in response to this comment. Please refer to the Agency Response to F-3.1.

F-4. Updates to Compliance Instrument Retirement Rules

F-4.1 Comment:

In Section 95856 (h)(1)(A), we support the Draft Language requiring "oldest credits retired first." This reflects best practice offset usage and is consistent with our current recommendation to our clients. We believe codifying this makes sense. (45d-AC-396.17)

Agency Response:

No change was made in response to this comment. Staff thanks the commenter for their support of this clarification. The addition of the clause that the oldest offset credits will be retired first matches implementation practice and clarifies the requirement for all covered entities.

F-4.2 Multiple Comments: Offset Credits

Offsets operate as a cost-containment mechanism. They allow covered entities to meet a defined portion of their compliance obligation using verified reductions outside the capped sector. When offsets are liquid and usable within the defined percentage limits, they moderate compliance costs without altering the cap trajectory. However, if administrative practices make offsets difficult to register, slow to verify, or unpredictable to retire, the practical availability of offsets shrinks below the regulatory limit. That dynamic functions as an implicit tightening of the cap, but without transparent Board action. Section 95856(h) currently governs retirement ordering and references the quantitative usage limit. The ISOR explains that these changes are intended to provide clarity and reflect the revised percentage limits adopted in prior legislative actions. Clarity is welcome. What is needed now is a guardrail against incremental administrative tightening. We therefore recommend inserting the following language into § 95856(h): "…subject to the quantitative usage limit set forth in section 95854; provided that the Executive Officer shall not impose administrative or technical requirements that materially restrict offset credit availability or timely usability unless the Executive Officer makes written findings that such restrictions are necessary to prevent a material risk to environmental integrity." This amendment preserves CARB's authority to protect environmental integrity. It simply requires that any usability restriction be justified transparently and tied to a demonstrable risk. In other words, if offsets are to be limited beyond the statutory cap, the record should explain why. That transparency protects the program from unintended cost escalation. (45d-CBC-446.13)

Comment:

In a tightening cap environment, allowance prices are expected to rise. When offset usability remains stable and administratively predictable, entities can moderate compliance cost exposure within the allowed percentage limit. If offset usability becomes uncertain, compliance costs increase abruptly. Those costs flow through to electricity rates, fuel prices, and industrial product pricing. A well-functioning offset market therefore supports affordability without weakening the cap. This is entirely consistent with CARB's statutory mandate to achieve cost-effective reductions and minimize leakage. Offsets should not be treated as a marginal policy tool. They are part of the economic balance that keeps the carbon market politically and economically durable. (45d-CBC-446.15)

Agency Response:

No change was made in response to these comments. The compliance offsets serve as an important cost-containment mechanism for the Program. The continued inclusion of offset credits and the quantitative usage limit confirms that offset credits will remain an important cost-containment mechanism for the Program and offsets are clearly contemplated in AB 1207. Program staff and the Executive Officer provide continuous oversight of offset project monitoring, reporting, verification, and credit issuance to ensure all credits continue to meet the offset criteria established in AB 32.

F-5. Updates to Holding Limit Share Allocation Requests

F-5.1 Comment:

Holding Limit Allocations Should be Considered Effective Upon Submission 95920(f)(3)(B)

The Proposal changes existing procedures by mandating that the Executive Officer must approve changes to the holding limit allocation before they become effective. This approval may expose registered entities to potential compliance issues because of regulatory delays. The Proposal is expected to increase the number of CAGs, leading more entities to review and adjust holding limits. This could lengthen Form 3 processing times, making approval dates unpredictable and hindering market planning. In some cases, entities may need to pause market activities late in the year to allow CARB sufficient time to process allocations in advance of the annual decrease of the holding limit. To preserve oversight while enabling operational efficiency, CARB could adopt one or more alternatives: (i) expedited approval for routine or ministerial changes; (ii) provisional allocation changes pending CARB review with safeguards; and/or (iii) categorical de minimis exemptions. These adjustments would maintain Program integrity without imposing avoidable timing risks. (45d-CCCA-407.9)

Agency Response:

A change was made in response to this comment. The text in section 95920(f)(3)(B) was clarified that the Executive Officer will approve changes to a corporate association group's purchase and holding limit shares within 10 business days of a completed request being received. This change was made for procedural clarity for all market participants. Updated purchase and holding limit shares must be received from all members of the corporate association group for the request for shares to be updated to be considered complete.

F-6. Clarifications to Unpriced and Zero Price Transaction Reporting

F-6.1a Multiple Comments: Unpriced Transfer Reporting Requirements

95921(b)(7): CCEEB recommends CARB remove the requirement for parties to transactions involving unpriced compliance instruments to provide screenshots and invoice records. (45d-CCEEB-377.9)

Comment:

We support CARB's proposal to clarify the transaction agreements for which transfers of compliance instruments may be reported as unpriced to ensure that market participants are in conformance with the trade rules specified in the regulation. We suggest that CARB not specify the need to include invoice records or broad contractual agreements as part of the tracking system. We believe that a transaction agreement that includes a description of the agreement and signed counterparty confirmation is sufficient to substantiate the transaction. Broad contractual agreements may include complex and confidential information that is unnecessary to substantiate the instrument transactions. (45d-AP-351.12)

Comment:

Streamline reporting for certain allowance trades to minimize unnecessary administrative burden. … 11. CARB's proposed additional documentation requirements for certain trades are unnecessary. The Proposed Amendments for certain allowance trades would require an additional level of documentation that is unnecessary and would increase compliance burdens for covered entities. In particular, CARB is proposing to add § 95921(b)(7), which would require that, for a transfer of compliance instruments that does not contain a price at the time of transfer, "Parties to the transaction must submit the transaction agreement, invoice records, written counterparty confirmation, and screenshots of completed trade details…" However, these documents are not necessary in all instances to ensure that CARB has sufficient information to verify that the transaction is accurate and permitted. The proposed language should be revised to allow submittal of one or more documents that verify the transaction rather than require all these documents, some of which may not be available. (45d-WSPA-381.13)

Agency Response:

No change was made in response to these comments. The Proposed Amendments list the range of documents an entity must submit to support the transfer details reported in CITSS for unpriced transfers. As part of this rulemaking, staff evaluated the conditions under which an entity may report an unpriced transfer and the types of supporting documentation that must be submitted to the Executive Officer to substantiate the information reported in CITSS. The updated reporting requirements in the Proposed Amendments are designed to make sure all unpriced transfers follow the Regulation's trading requirements and reflect arm's length transaction and independent market activity. The Proposed Amendments require parties to submit transaction agreements, invoice records, counterparty confirmations, and screenshots to verify that the transfer details reported in CITSS are accurate. The listed documents are necessary for proper market oversight and to ensure that transfers are legitimate, not collusive, and conform with conduct of trade rules in the Regulations. A well-functioning market is critical to ensure fair access to allowances, especially for compliance entities.

F-6.1b Multiple Comments: Unpriced Transfer Reporting Requirements

95921(b)(7): CCEEB recommends CARB remove the requirement for parties to transactions involving unpriced compliance instruments to provide screenshots and invoice records. (15d-CCEEB-165.10)

Comment:

We still support CARB's proposal to clarify the transaction agreements for which transfers of compliance instruments may be reported, but we continue to suggest that CARB not specify the need to include invoice records or broad contractual agreements as part of the tracking system in §95921(b)(7)(A). Unfortunately, the 15-day package proposed amendments did not address this concern. We believe that a transaction agreement that includes a description of the agreement and signed counterparty confirmation is sufficient to substantiate the transaction. Broad contractual agreements may include complex and confidential information that is unnecessary to substantiate the instrument transactions. (15d-AP-83.8)

Agency Response:

No change was made in response to these comments. Please refer to the Agency Response to F-6.1a.

F-7. Clarifications to Conduct of Trade Rules: Beneficial Holding

F-7.1a Multiple Comments: Beneficial Holding

95921(f)(1)(B): Our members have expressed concern that the prohibitions on agreements with second entities are overly prohibitive. (45d-CCEEB-377.10)

Comment:

Prohibition on In-Kind Trading (Section 95921(f)(1)).

The Proposal outright prohibits in-kind trades without identifying any market harm or compliance concern, even though in-kind trades are a long-standing and legitimate commercial practice. The CCCA recommends that CARB remove this prohibition because it is not substantially supported.

More Specific Definitions Related to Control in Section 95921(f)(1)(B)

The Proposal contains changes to the prohibition on third-party contractual control in Section 95921(f)(1)(B) as follows: “A registrant may not hold allowances pursuant to an agreement or contract that gives a second entity *any degree of control* over the transaction decisions and the trading of allowances…” (emphasis added).

This language could sweep in routine commercial, advisory, and financing arrangements that pose no coordination or manipulation risk. We recommend CARB adopt a more precise phrase, such as “authority to direct.” The CCCA also urges CARB to expand Section 95921(f)(1)(B)(1), which clarifies what lender and secured-party actions are impermissible, to affirmatively state that standard remedies in events of default do not constitute prohibited control. Financing arrangements are essential for ensuring market liquidity, and if the Regulations do not provide clear expectations around permissible arrangements, it may unintentionally discourage a well-established and standard commercial practice that poses absolutely no risk to Program integrity.

Finally, the CCCA recommends CARB revisit and revise the revisions to Section 95921(f)(1)(B)(2), which provide: “Agreements that grant legally binding authority to a second entity to represent or manage the tracking system account of a registered entity are prohibited.”

This language is overly broad and not clear. CARB should indicate whether the provision covers third-party PARs, AARs and AVAs (such as professional accounting firms or investment advisors) and which contractual arrangements, if any, remain permissible for account-management services. (45d-CCCA-407.8)

Agency Response:

No changes were made in response to these comments. The clarifications to the beneficial holding prohibition provide examples of agreements that would violate the prohibition. The clarifications do not create any new conduct of trade rules and align the regulation with previously released guidance and staff implementation of the prohibition on beneficial holding.

In-kind trades have not been previously allowed in the Program, as they would create a situation where an unregistered entity outside of a direct corporate association has control over a registrant's holdings. Such activity would potentially enable an entity to circumvent the allowance holding limit established in the Regulation. The Proposed amendments clarify that in-kind trade activity continues to be prohibited, including activity whereby a first entity delegates or reassigns its control over trading activities or sell its ownership in allowances to a second entity while they reside in the first entity's account.

Section 95921(f)(1)(B) of the Proposed Amendments clarifies that a registered entity is prohibited from holding allowances as a result of an agreement or contract that gives any degree of control over allowance transaction decisions and trading activities to another entity, unless the two entities have an accurately disclosed direct corporate association or the activity is a result of trading with an exchange clearinghouse registered pursuant to section 95814(a)(1)(C). The change is necessary to clarify the beneficial holding prohibition and ensure that another entity does not exert any degree of control over the registrant's transaction decisions and trading of allowances held by the registrant. Any amount of control over a registered entity's holdings by an entity that is not a direct corporate associate constitutes a violation of the beneficial holding prohibition.

Section 95921(f)(1)(B)1. clarifies that this prohibition applies to financing agreements and loans outside of an event of default. Security agreements, investment prospectuses, or other financing documents that give or can give control of the allowances held in a registered entity's tracking system account to a second entity, regardless of registration status or eligibility, could undermine market rules and result in prohibited trade conduct under this provision. CARB recognizes that secured parties may take actions after an event of default that are necessary to remedy the default situation but would otherwise be considered beneficial holding of allowances, and that is clarified in the Proposed Amendments.

Section 95921(f)(1)(B)2. is added to provide an example of prohibited trade conduct where legally binding authority over a registered entity's holding account is granted to a second entity by mutual agreement. This example aligns with the changes made to the Shared Roles CAG trigger in section 95833(a)(6), whereby a disclosed Cap-and-Invest Consultant or Advisor is not necessarily exempt from creating a direct corporate association between the entities they serve. One of the criteria for approval of a Shared Role Exemption in section 95833(c)(4) is that the Cap-and-Invest Consultant Advisor that has shared roles must not have a registry system account. Management of multiple registry accounts by a third party is prohibited to prevent market manipulation. Section 95921(f)(1)(B)2. further confirms that the execution of agreements that give a disclosed Cap-and-Invest Consultant or Advisor the ability and authority to conduct each transaction of allowances and transfer recorded in the tracking system, without the express prior approval of a designee of the registered entity with authority to make legally binding decisions, is prohibited.

F-7.1b Comment: Beneficial Holding

95921(f)(1)(B): Our members have expressed concern that the prohibitions on agreements with second entities are overly prohibitive. (15d-CCEEB-165.11)

Agency Response:

No change was made in response to this comment. Please refer to the Agency Response to F-7.1a.

F-8 Clarifications to User Registration Requirements

F-8.1 Comment:

WPTF is concerned that staff proposal to shorten the timeframe for making changes to information submitted pursuant to the ‘know-your-customer’ provisions is too tight. In particular, the requirement for users to update the contact information within 5 days of any changes is unrealistic. We request that staff revert to the original 60 days, as is allowed for other information. (45d-WPTF-335.1)

Agency Response:

No change was made in response to this comment. CARB staff must be able to contact individual registry users regarding their user registration and entities that they represent. Staff may need to contact an entity account representative on an urgent basis regarding market matters. Therefore, it is imperative that user contact information be up-to-date and any changes disclosed to CARB within 5 days.

F-9 Support for Registry Development

F-9.1 Comment:

ABC supports CARB's proposal to utilize an electronic registry for compliance instruments and tracking within the Cap-and-Invest program. A centralized and transparent registry system can improve market integrity, enhance traceability of environmental attributes, and provide stakeholders with greater confidence in program outcomes. Given the scale and complexity of the program, which distributes allowances and tracks compliance across numerous entities, transparency tools such as registries are essential to effective implementation. (15d-ABC-95.5)

Agency Response:

No change was made in response to this comment. Staff appreciate the support for continued Cap-and-Invest registry development.

G. Updates to Compliance Period Duration

G-1 Updates to Compliance Period Duration

G-1.1 Comment:

PG&E is broadly supportive of CARB's compliance period proposals to align with the years in which statutory emissions targets have been set. If CARB changes the lengths of the compliance periods, PG&E prefers 2- and 3-year compliance periods, rather than 4-year (or longer) compliance periods, for inventory management and administration purposes. (45d- PG&E-445.13)

Agency Response:

No change was made in response to this comment. Staff appreciates support for the updates to the length of compliance periods.

G-1.2 Multiple Comments: Compliance Period Duration

BPA urges CARB to reconsider the compliance periods proposed in § 95840. The proposed two-year compliance periods are a notable departure from CARB's historical and more practical use of three-year compliance periods. A three-year compliance period offers considerably more flexibility for covered entities to strategically plan for and effectively meet their compliance obligations. This extended horizon is particularly crucial for electric power entities like BPA that rely heavily on hydroelectric generation. The inherent year-to-year variability in hydro generation, which directly influences BPA's Asset Controlling Supplier emission factor, necessitates longer planning horizons to enable robust compliance management without imposing undue burdens. Further, BPA suggests that CARB contemplate aligning its compliance periods with those established by Washington's cap-and-invest program. While BPA understands that CARB intends to address program linkage in a later, separate rulemaking, establishing consistent compliance period lengths now could facilitate future linkage efforts and provide covered entities with valuable additional time to prepare for future compliance periods. (45d-BPA-301.3)

Comment:

NCPA opposes changes to the regulation that would reduce the three-year compliance period, even intermittently. The three-year compliance cycle is one of the most important flexible compliance and cost control mechanisms available to a compliance entity. CARB proposes to "[a]djust future compliance periods so that the last year of a compliance period aligns with statutory GHG emissions reduction target dates." To accomplish this, CARB proposes to modify compliance period six and seven to be biannual and for the subsequent compliance periods to alternate between a duration of three and two calendar years.

Compliance Periods must continue to be a minimum of three years. The three-year period was decided on as the appropriate time frame to provide sufficient flexibility for covered entities to meet their compliance obligations, while helping to smooth allowance price volatility related to variations in emissions levels due to changes in weather, market conditions, or other variables. CARB concluded that the three-year compliance periods—with interim partial surrenders annually—would appropriately balance the goals of flexibility and environmental integrity. Minimum three-year compliance periods are necessary to allow for fluctuations in weather and resource availability, to support long-term planning, and as a cost containment tool; all of which would be adversely impacted by instituting two-year compliance periods. If it is necessary to force compliance entities into a timeline that is wholly unrelated to actual emissions reductions, then the compliance periods should be increased to four years, rather than reduced. The fact that compliance entities will continue to have an annual surrender obligation should obviate any concerns that a four-year compliance period will adversely impact Program compliance. Alignment of the compliance periods with the statutory GHG emissions target dates can be accomplished by instituting four-year, rather than two-year compliance periods in the alternating years.

The three-year compliance period was not arbitrarily adopted. The three-year duration is necessary to address resource variability. It facilitates forecasting and resource planning. This is especially true for EDUs that have hydroelectric resources. Hydroelectric resources can vary considerably year-over-year, and a longer compliance period helps provide certainty for compliance entities. During the initial Cap-and-Invest rulemaking, stakeholders deliberated the merits of longer versus shorter compliance periods. It was also made in response to stakeholder concerns about the fluctuations and volatility in the electricity markets associated with seasonal resources, such as hydroelectric generation. Indeed, the multi-year compliance periods are in place to help with year-to-year variability that may affect the emissions obligation, including issues such as low hydro years. The three-year compliance period was also offered as a cost containment measure. CARB itself repeatedly references the three-year compliance period as one of the Program's protections for price volatility. "There are also several cost-containment measures that are integrated into the program, including the use of offsets, *three-year compliance periods*, and the Allowance Price Containment Reserve." (emphasis added)

Even with the proposal to alternate between two- and three-year compliance periods, the change would negate the ability of some compliance entities to address seasonal fluctuations in their emissions, and in particular, the use of renewable, seasonal electric resources. If CARB was to lengthen the alternating compliance periods to four years, compliance entities would be better able to utilize effective cost-containment tools for compliance entities, allowing them to plan over variations and fluctuations with minimal impact on electricity rates.

Since its adoption, nothing has changed the importance of ensuring that the compliance periods are sufficiently long enough to take into account those variations and other variables that occur across electricity resource planning and procurement. Any changes to the compliance periods should not shorten the time allowed to level and control compliance costs. (45d-NCPA-402.11)

Comment:

Shortening compliance periods, as proposed, would materially increase financial and operational risk for SCPPA Members and other regulated parties. Shorter compliance timelines reduce flexibility in managing market exposure and heighten uncertainty associated with clean energy project development schedules. This concern is particularly acute in the electric sector, where annual emissions and procurement costs are significantly influenced by variable weather conditions, hydrology, and boarder market dynamics. In addition, SCPPA Members are actively advancing emerging technologies and large-scale clean energy projects, which are inherently subject to supply chain disruptions, permitting timelines, and construction delays beyond their control. Participation in quarterly joint auctions requires SCPPA Members to secure upfront capital through lines of credit or bond financing. Shorter compliance periods would necessitate accessing this financing more frequently, increasing borrowing costs, financial exposure, and administrative burden. Many SCPPA Members operate with limited staffing resources and would face additional compliance and reporting demands under a shortened structure. Longer compliance periods provide critical market flexibility, allowing regulated entities to manage unforeseen operational, financial, and environmental variables while continuing to make steady progress toward emissions reduction goals. Accordingly, SCPPA recommends that CARB maintain compliance periods of no less than 3 years. If CARB determines modifications are necessary, SCPPA strongly encourages consideration of four-year instead of two-year compliance periods as necessary to preserve market stability and ratepayer protections. (45d-SCPPA-357.10)

Comment:

In considering the proposed changes to compliance period duration, PGP urges CARB to consider alternative approaches that avoid the need for two-year compliance periods in order to preserve the expected benefits of linkage for Washington's electric utilities who are covered entities. Instead of pursing compliance periods that alternate between two and three years, PGP recommends that CARB maintain the current three-year compliance period approach, consistent with the Western Climate Initiative's (WCI) 2009 Design Recommendations for the WCI Regional Cap-and-Trade Program, of which both California and Washington State are signatories... While PGP understands CARB's interest in aligning forthcoming compliance periods with California's statutory GHG emissions reduction target years, PGP finds that the two-year compliance periods proposed by CARB could potentially eliminate one of the core benefits to Washington's current four-year approach: smoothing out the emissions and compliance costs associated with hydropower variability...Should CARB decide to adopt Staff's proposal for compliance period sequencing, PGP strongly urges CARB to consult with Ecology, covered entities, and other stakeholders to identify alternative programmatic approaches that can enable linkage without ultimately requiring Washington to forego the benefits of its adopted compliance period structure, which was specifically designed to address the unique characteristics of hydropower variability in the Northwest. (45d-PGP-361.1)

Comment:

CARB should maintain the existing three-year compliance period. CARB is proposing to reduce Compliance Periods 6 and 7 to two years and thereafter alternate between two-year and three-year compliance periods. This change would introduce unnecessary complexity and regulatory uncertainty for covered entities. Alternating compliance period lengths would create carbon accounting challenges by forcing entities to continually shift planning horizons, recalibrate internal tracking systems, and adjust allowance procurement strategies on a recurring basis. These disruptions increase administrative burden and financial risk without improving environmental outcomes. Instead, CARB should retain the existing three-year compliance periods. Maintaining a stable, predictable three-year compliance period provides regulatory certainty and minimizes avoidable compliance costs, while supporting accurate GHG emissions accounting, long-term investment planning, and alignment with business and carbon management strategies. (45d-WSPA-381.19)

Agency Response:

No changes were made in response to these comments. The two-year durations for the sixth and seventh compliance periods, followed by alternating two- and three-year compliance periods through 2045, are necessary to strengthen compliance accountability, facilitate assessment of emissions relative to the State's 2030 and 2045 climate targets, and support timely application of the accounting mechanism for net flows of compliance instruments between California and Québec.

Staff agrees that multiyear compliance periods provide regulated entities with flexibility to manage year-to-year fluctuations in emissions. A two-year compliance period maintains some flexibility while allowing entities to minimize compliance costs through existing cost containment provisions, including trading and banking of compliance instruments. However, given California's 2030 climate target for GHG emissions and the proposed revisions to increase Program stringency through 2030, establishing two biennial compliance periods rather than a single four-year period enhances compliance accountability without forgoing flexibility.

G-1.3a Multiple Comments: Compliance Period Duration and the Limited Exemption from the Holding Limit

CMUA opposes shortening the compliance periods absent a clear demonstration that doing so would neither compromise program stability nor increase program costs. The three-year compliance periods were established to balance multiple objectives, including providing information on the State's progress toward meeting its GHG reduction goals, minimizing administrative costs, and recognizing the variable nature of zero- and low-carbon emitting generation, such as hydroelectric power. CARB should also evaluate the operational and administrative impacts of altering compliance periods, including potential misalignment with reporting and audit processes in the Mandatory Reporting Regulation. This misalignment could disrupt the timeline for some third-party verification contracts and could result in additional, costly site visits. CMUA recommends that CARB maintain compliance periods of at least three years.

In the scenario that CARB considers shifting to a two-year compliance period, CMUA requests clarification on how CARB would calculate and reset the Limited Exemption under a two-year compliance period. Current Limited Exemption guidance explains that the Limited Exemption is updated annually after the compliance deadline and that, at the start of a new compliance period, the Limited Exemption "resets" to reflect the sum of the two most recent years' verified emissions reports. If CARB adopts a two-year compliance period, CMUA requests clarification on whether the Limited Exemption would continue to be based on the two most recent verified emissions years and when that reset would occur under the revised compliance period structure. (45d-TCMUA-368.7)

Comment:

The proposed amendments to the Cap-and-Invest program include changes to the duration of the compliance periods from three-year compliance periods to alternating two-year and three-year compliance periods. This proposal will introduce complications to entities' compliance strategies and may cause misalignment with the three-year verification cycle in the Mandatory Reporting Regulation. LADWP recommends that CARB staff evaluate the impact of a two-year compliance period on compliance with the trading and banking rules. LADWP also requests clarification on how CARB would calculate and reset the Limited Exemption under a two-year compliance period . According to CARB's Guidance on Limited Exemption from the Holding Limit, "At the start of a new compliance period, the Limited Exemption is a smaller value, representing the two most recent emissions years' reports, and increases over time as additional emissions obligations are due for surrender. The Limited Exemption is updated each year to reflect additional verified covered emissions that result in an obligation due." In the current Regulation, Section 95920(d)(2) details the calculation of the Limited Exemption from the Holding Limit. It is not clear how the Limited Exemption would be calculated after a two-year compliance period. LADWP recommends that CARB revise the rule language to clarify that, at the start of a new compliance period, the Limited Exemption shall represent the two most recent emissions years' reports, regardless of the number of years in the compliance period. (45d-LADWP-408.5)

Agency Response:

No changes were made in response to these comments. The proposed two-year durations for the sixth and seventh compliance periods, followed by alternating two- and three-year compliance periods through 2045, are necessary to strengthen compliance accountability, facilitate assessment of emissions relative to the State's climate targets in 2030 and 2045, and support timely application of the accounting mechanism for net flows of compliance instruments between California and Québec.

Related to the limited exemption from the holding limit, changing the compliance period length does not affect the existence of the limited exemption. Covered entities will continue to maintain a limited exemption under a two-year compliance period, and it will continue be calculated pursuant to section 95920(d)(2).

Verification and audit process requirements fall under the Mandatory Reporting Regulation. Related to the comment regarding verification site visits being tied to compliance period length, proposed changes to the Mandatory Reporting Regulation decouple site visits from compliance periods and require that they be done every three years.

G-1.3b Multiple Comments: Compliance Period Duration and the Limited Exemption from the Holding Limit

In regard to the compliance period, the City of Needles formally requests do not shorten the compliance period of three years if CARS must shift to two years; then clarity is needed on calculating the limited exemption. As mentioned, Needles spent over $1.7M to meet a three-year compliance period (2021-2024), and if this is shortened, there would be significant hardship to the residents of Needles. (15d-CN-25.4)

Comment:

Longer Compliance Period Timelines Support Investment Planning and Procurement SCPPA reiterates the comments submitted March 9, 2026, regarding compliance period length, as this is unchanged in the revised draft. We continue to be concerned that shortened compliance periods would materially increase financial and operational risk for SCPPA Members and other regulated parties by reducing flexibility to manage market exposure and by heightening uncertainty associated with clean energy project development schedules, which are already subject to weather variability, hydrogeology, broader market dynamics, and permitting and construction delays beyond POU control. Shorter periods would also require SCPPA Members to access financing for quarterly joint auctions more frequently, increasing borrowing costs, financial exposure, and administrative burden for entities that often operate with limited staffing resources. By contrast, longer compliance periods provide critical market flexibility, allowing regulated entities to navigate unforeseen operational, financial, and environmental variables while continuing to make steady progress toward emissions reduction goals. Accordingly, SCPPA continues to recommend that compliance periods be no less than three years, and, if CARB determines that modifications are necessary, to strongly consider four-year instead of two-year compliance periods to preserve market stability and protect ratepayers. (15d-SCPPA-39.5)

Comment:

Compliance Period Duration and Calculating the Limited Exemption. In comments on the 45-day proposal, LADWP requested clarification on how the Limited Exemption will be calculated for a two-year compliance period as well as the impact on compliance with the trading and banking rules. Since it appears this comment was not addressed in the 15-day proposal, LADWP requests that CARB reconsider this comment, which is copied below.

The proposed amendments to the Cap-and-Invest program include changes to the duration of the compliance periods from three-year compliance periods to alternating two-year and three-year compliance periods. This proposal will introduce complications to entities' compliance strategies and may cause misalignment with the three-year verification cycle in the Mandatory Reporting Regulation. LADWP recommends that CARB staff evaluate the impact of a two-year compliance period on compliance with the trading and banking rules. LADWP also requests clarification on how CARB would calculate and reset the Limited Exemption under a two-year compliance period. According to CARB's Guidance on Limited Exemption from the Holding Limit, "At the start of a new compliance period, the Limited Exemption is a smaller value, representing the two most recent emissions years' reports, and increases over time as additional emissions obligations are due for surrender. The Limited Exemption is updated each year to reflect additional verified covered emissions that result in an obligation due." In the current Regulation, Section 95920(d)(2) details the calculation of the Limited Exemption from the Holding Limit. It is not clear how the Limited Exemption would be calculated after a two-year compliance period. LADWP recommends that CARB revise the rule language to clarify that, at the start of a new compliance period, the Limited Exemption shall represent the two most recent emissions years' reports, regardless of the number of years in the compliance period. (15d-LADWP-177.5)

Agency Response:

No change was made in response to these comments. Please refer to the Agency Response G-1.3a.