Appendix A-2

Proposed Regulation Order

Proposed Amendments to the Regulation for the California Cap on Greenhouse Gas Emissions and Market-Based Compliance Mechanism

[Note: This version of the Proposed Regulation Order complies with Government Code section 11346.2 subdivision (a)(3). The proposed amendments are shown in underline to indicate additions and strikethrough to indicate deletions from the existing regulatory text. For ease of readability, CARB has also provided a version of the proposed amendments that can toggle between amendments in strikeout/underline and a “clean" version with amendments incorporated into the regulatory text, which can be found in the Word version of this Proposed Regulation Order.]

Subarticle 2. Purpose and Definitions

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95802. Definitions.

(a) Definitions. For the purposes of this article, the following definitions shall apply:

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"95705 Project" means any carbon capture, removal, utilization, or storage project that has been certified by the Executive Officer of CARB under section 95705 of Title 17 of the California Code of Regulations. This certification confirms the project has met all procedural and technical requirements specified in that section.

"Active life" means the operational phase of a GCS site in which injection and, if applicable, production occurs. The term omits the monitoring and site care phase of the GCS site following injection completion.

"Geologic ~~Sequestration~~carbon storage " or "GCS" means the ~~process~~permanent (≥ 100 years) containment of ~~injecting~~ CO_2 deep underground within porous rock formations .

"Geologic carbon storage project" or "GCS project" is the site in which CO_2, previously captured from ~~an emissions source~~industrial or atmospheric sources, is injected deep underground into ~~deep subsurface~~ porous rock formations for permanent ~~storage.~~geologic sequestration (≥ 100 years).

"Geologic carbon storage project operator" or "GCS project operator" means the operator responsible for the GCS site operations and conformance with the GCS Protocol.

"GCS site," "storage site," or "site" means the storage complex, all injection, production, monitoring, and observation wells and plugged and abandoned wells that penetrate the storage complex, and any facilities or infrastructure inclusive of and downstream of the injection meter or wellhead of the injection well (whichever is further upstream from injection) and any other location that is identified as requiring in-situ monitoring to ensure permanent storage of injected CO_2."

"GCS project reversal" means (1) sequestered CO_2 that has reduced an entity's compliance obligation migrating outside of the storage complex of a GCS project site with permanence certification pursuant to the GCS Protocol, and (2) sequestered CO_2 that has reduced an entity's compliance obligation and that is stored at a GCS project site that has its permanence certification revoked and not reissued within two years of revocation pursuant to the GCS Protocol.

“Intentional GCS project reversal” means any GCS project reversal that is caused by a GCS project operator’s negligence, gross negligence, willful intent, or failure to adhere to the requirements of the GCS Protocol.

“Post-injection site care and monitoring period” means the time between the last date of final injection and 100 years after the last date of injection.

“Section 95705 Project reversal” means a GHG emission reduction or GHG removal enhancement for which an ARB offset credit has been issued for a project certified pursuant to Section 95705 that is subsequently released or emitted back into the atmosphere, or that is later determined to have never occurred. A reversal is either intentional or unintentional.

“Section 95705 Project intentional reversal” means any Section 95705 project reversal that is caused by a Section 95705 project operator’s negligence, gross negligence, willful intent, or failure to adhere to the requirements of the project certified pursuant to Section 95705.

“Section 95705 Project unintentional reversal” means any reversal that is not the result of a Section 95705 project operator’s negligence, gross negligence, willful intent, or failure to adhere to the requirements of the project certified pursuant to Section 95705.

“Storage zone” or “reservoir” means the sub-surface pore space into which CO_2 is injected for geologic storage.

“Storage complex” means the three-dimensional subsurface volume comprised of a zone used for the injection and permanent storage of CO_2, the primary confining layer, and may include other formations that dissipate pressure or impede CO_2 plume migration vertically or laterally. CO_2 within the storage complex can be monitored for leakage.

“Unintentional GCS project reversal” means any reversal that is not the result of a GCS project operator’s negligence, gross negligence, willful intent, or failure to adhere to the requirements of the GCS Protocol.

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NOTE: Authority cited: Sections 38510, 38560, 38562, 38570, 38571, 38580, 39600 and 39601, Health and Safety Code. Reference: Sections 38530, 38560.5, 38564, 38565, 38570, ~~and~~ 39600, and 39741.1, Health and Safety Code.

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Subarticle 3. Applicability

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95814. Voluntarily Associated Entities and Other Registered Participants.

(a) Voluntarily Associated Entities (VAE). An entity not identified as a covered entity or opt-in covered entity that intends to hold California compliance instruments may apply to the Executive Officer pursuant to section 95830(c) for approval as a voluntarily associated entity. A GCS project operator must register for an account in the Tracking System pursuant to section 95830(c).

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NOTE: Authority cited: Sections 38510, 38560, 38562, 38570, 38571, 38580, 39600 and 39601, Health and Safety Code. Reference: Sections 38530, 38560.5, 38564, 38565, 38570, ~~and~~ 39600, and 39741.1, Health and Safety Code.

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Subarticle 5. Registration and Accounts

95831. Account Types.

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(b) Accounts under the Control of the Executive Officer. The accounts administrator will create and maintain the following accounts under the control of the Executive Officer:

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(11) A holding account to be known as the CCUS Buffer Account:

(A) Into which allowances will be contributed pursuant to section 95852.3(b) and offsets will be contributed pursuant to section 95983.2.

(B) From which CARB may retire allowances pursuant to section 95852.3 or compliance instruments pursuant to section 95983.2.

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NOTE: Authority cited: Sections 38510, 38560, 38562, 38570, 38571, 38580, 39600 and 39601, Health and Safety Code. Reference: Sections 38530, 38560.5, 38564, 38565, 38570, ~~and~~ 39600, and 39741.1, Health and Safety Code.

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Subarticle 7. Compliance Requirements for Covered Entities

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95852.3. Compliance Obligations for Sequestered or Utilized Captured Carbon Dioxide~~.~~

(a) An entity has an aggregated compliance obligation for every MT of CO_2 captured from a ~~CO_2 stream~~covered facility, except for the amount of CO_2 that is ~~verified to be~~ sequestered or utilized ~~through use~~pursuant to the requirements of a Board-approved ~~carbon capture, utilization, and sequestration quantification methodology~~protocol that ensures that the emissions reductions are real, permanent to at least a 100-year permanence standard, quantifiable, verifiable, and enforceable. The Executive Officer shall calculate the covered emissions for a facility based on its reported emissions less the amount of CO_2 emitted from the facility that is captured by a carbon capture unit that was installed after September 16, 2022, and that is permanently sequestered as included in an emissions data report that has received a positive or qualified positive emissions data verification statement issued pursuant to MRR. Any methodology must be consistent with Section 39741.1 of the Health and Safety Code. The Board-~~approved quantification methodology~~adopted protocol must be incorporated into the Cap-and-Invest Regulation before it can be used to reduce ~~a CO_2 supplier's~~an entity's compliance obligation.

(1) The Geologic Carbon Storage Protocol, herein referred to as the GCS Protocol [date], is hereby incorporated by reference.

(b) An entity that reduces its compliance obligation by capturing CO_2 from a covered facility and sequestering or using it pursuant to the requirements of a Board-adopted protocol that is incorporated by reference in section 95852.3(a) must submit compliance instruments to the CCUS Buffer Account.

(1) The entity shall submit a number of allowances to the CCUS Buffer Account determined by the following equation:

$$Contribution = Risk\ Rating \times Reduced\ Compliance\ Obligation$$

Where:

"*Contribution*" is the number of compliance instruments the entity must submit to the CCUS Buffer Account;

"*Risk Rating*" is the GCS project site risk rating as determined under the Board-adopted protocol.

"*Reduced Compliance Obligation"* is the overall reduction in the entity's covered emissions, in $MTCO_2$, that is achieved by following the requirements of the Board-approved protocol, from a carbon capture unit that was installed after September 16, 2022, as reflected in the emissions data report that has received a positive or qualified positive emissions data verification statement is issued pursuant to MRR.

(2) The entity must identify the number and vintage of allowances that the Executive Officer will administratively transfer from the entity's Tracking System account to the CCUS Buffer Account by sending an email with that information to CACITSSRegistrar@arb.ca.gov at least 60 calendar days before the deadline to surrender allowances for the reduced compliance obligation. The total number of allowances identified for transfer to the CCUS Buffer Account must equal the number calculated pursuant to section 95852.3(b)(1).

(c) An allowance will be retired from the CCUS Buffer Account for every metric ton of CO_2 that is subject to an unintentional GCS project reversal. The amount of CO_2 must either be included in an emissions data report that has received a positive or qualified positive emissions data verification statement or be assigned by the Executive Officer pursuant to the GCS Protocol.

(d) If a GCS project reversal occurs, then the amount of CO_2 subject to the reversal must either be included in an emissions data report that has received a positive or qualified positive emissions data verification statement or be assigned by the Executive Officer pursuant to the GCS Protocol.

(1) For every metric ton of CO_2 that is subject to an unintentional GCS project reversal, CARB will retire an allowance from the CCUS Buffer Account.

(2) For every metric ton of CO_2 that is subject to an intentional GCS project reversal, the GCS project operator must submit one allowance to CARB for transfer to the Retirement Account within six months of the verification or assignment by the Executive Officer of the amount of CO_2 subject to the reversal.

NOTE: Authority cited: Sections 38510, 38560, 38562, 38570, 38571, 38580, 39600 and 39601, Health and Safety Code. Reference: Sections 38530, 38560.5, 38564, 38565, 38570, ~~and~~ 39600, and 39741.1, Health and Safety Code.

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Subarticle 13. ARB Offset Credits and Registry Offset Credits

95970. General Requirements for ARB Offset Credits and Registry Offset Credits.

An Offset Project Operator or Authorized Project Designee must ensure the requirements for ARB offset credits and registry offset credits are met as follows:

~~(b)~~(e) A registry offset credit must:

(1) Represent a GHG emission reduction or GHG removal enhancement that is real, additional, quantifiable, permanent, verifiable, and enforceable;

(2) Result from the use of a Compliance Offset Protocol that meets the requirements of section 95972 and is adopted by the Board pursuant to section 95971 or results from a project certified by the Executive Officer pursuant to section 95705;

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NOTE: Authority cited: Sections 38510, 38560, 38562, 38570, 38571, 38580, 39600 and 39601, Health and Safety Code. Reference: Sections 38530, 38560.5, 38564, 38565, 38570, ~~and~~ 39600, and 39741.1, Health and Safety Code.

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95973. Requirements for Offset Projects ~~Using ARB Compliance Offset Protocols~~.

(a) General Requirements for Offset Projects. To qualify under the provisions set forth in this article, an Offset Project Operator or Authorized Project Designee must ensure that an offset project:

(1) Meets all of the requirements in a Compliance Offset Protocol approved by the Board pursuant to section 95971 or is a project certified by the Executive Officer pursuant to section 95705;

(2) Meets the following additionality requirements, as well as any additionality requirements in the applicable Compliance Offset Protocol, as of the date of Offset Project Commencement:

* * *

(C) The GHG reductions and GHG removal enhancements resulting from the offset project exceed the project baseline calculated under the project certified by the Executive Officer pursuant to section 95705 or calculated by the applicable version of the Compliance Offset Protocol under which the offset project has been listed pursuant to section 95975 or under which the offset project has been transitioned to pursuant to section 95973(a)(2)(D) for that offset project type as set forth in the following:

* * *

(E) The offset project must meet all the requirements in this Regulation for the project certified pursuant to section 95975 or the applicable version of the Compliance Offset Protocol under which the offset project has been listed pursuant to 95975 or under which the offset project has been transitioned to pursuant to section 95973(a)(2)(D).

* * *

(b) Local, Regional, State, and National Regulatory Compliance and Environmental Impact Assessment Requirements. An Offset Project Operator or Authorized Project Designee must fulfill all local, regional, state, and national requirements on environmental impact assessments that apply based on the offset project location. In addition, an offset project must also fulfill all local, regional, state, and national environmental and health and safety laws and regulations that apply based on the offset project location and that directly apply to the offset project, including as specified in a Compliance Offset Protocol. The project is considered out of regulatory compliance if the project activities were subject to enforcement action by a regulatory oversight body during the Reporting Period, although whether such enforcement action has occurred is not the only consideration ARB may use in determining whether a project is out of regulatory compliance.

(1) An offset project using a protocol from sections 95973(a)(2)(C)1., 2., 4., or 5. or a project certified by the Executive Officer pursuant to section 95705 that is out of regulatory compliance is not eligible to receive ARB or registry offset credits for GHG reductions or GHG removal enhancements that occurred during the period that the offset project is out of regulatory compliance. The Offset Project Operator or Authorized Project Designee must provide documentation indicating the beginning and end of the time period that the offset project is out of regulatory compliance to the satisfaction of ARB.

* * *

(f) An offset project using a Compliance Offset Protocol in section 95973(a)(2)(C)2. or a project certified by the Executive Officer pursuant to section 95705 may not receive both ARB offset credits and credits from a Low Carbon Fuel Standard pathway within the same reporting period. An offset project that transitions to a Low Carbon Fuel Standard pathway must maintain its continuous reporting obligation pursuant to section 95976(d). An offset project not meeting its continuous reporting obligation will be terminated pursuant to section 95976(d) and be ineligible to transition back to the compliance offset program.

NOTE: Authority cited: Sections 38510, 38560, 38562, 38570, 38571, 38580, 39600 and 39601, Health and Safety Code. Reference: Sections 38530, 38560.5, 38564, 38565, 38570, ~~and~~ 39600, and 39741.1, Health and Safety Code.

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95975. Listing of Offset Projects ~~Using ARB Compliance Offset Protocols~~.

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(c) General Requirements for Offset Project Listing. For offset projects being listed by ARB or an Offset Project Registry in an initial or renewed crediting period, the Offset Project Operator and any Authorized Project Designees approved pursuant to section 95974 must:

(1) Attest, in writing, to ARB as follows:

"I certify under penalty of perjury under the laws of the State of California the GHG reductions and/or GHG removal enhancements for [project] from [date] to [date] will be measured in accordance with the [appropriate ARB Compliance Offset Protocol or the project certified by the Executive Officer pursuant to section 95705] and all information required to be submitted to ARB is true, accurate, and complete.";

* * *

(e) Offset Project Listing Information Requirements. Before an offset project is publicly listed for an initial crediting period the Offset Project Operator or Authorized Project Designee must provide the listing information in the project certified by the Executive Officer pursuant to section 95705 or in the most recent version of a Compliance Offset Protocol for that offset project type as set forth in section 95973(a)(2)(C).

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(h) Timing for Offset Project Listing in an Initial Crediting Period. The Offset Project Operator or Authorized Project Designee must submit the information in section 95975(e) to ARB or an Offset Project Registry no later than the date at which the Offset Project Operator or Authorized Project Designee submits its required Offset Project Data Report for its first Reporting Period under a Compliance Offset Protocol or under a project certified by the Executive Officer pursuant to section 95705 to ARB or an Offset Project Registry pursuant to section 95976. The Offset Project Operator or Authorized Project Designee must submit the listing information in section 95975(e) to ARB or an Offset Project Registry no later than one year after Offset Project Commencement, or no later than one year after meeting the requirements of section 95975(l), whichever is later. If the Offset Project Operator or Authorized Project Designee does not submit the listing information in section 95975(e) for the offset project to ARB or an Offset Project Registry within one year of Offset Project Commencement, or within one year of meeting the requirements of section 95975(l~~),~~) or within one year of Executive Officer certification pursuant to section 95705, whichever is later, it will be ineligible to be listed ~~under a Compliance Offset Protocol~~ and will not be issued registry offset credits and ARB offset credits pursuant to sections 95980 and 95981.

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(j) Timing for Offset Project Listing in a Renewed Crediting Period. The Offset Project Operator or Authorized Project Designee must submit information for a renewed crediting period to CARB or an Offset Project Registry no earlier than when the Offset Project Data Report is submitted for the penultimate reporting period of the current crediting period and no later than 3 months before conclusion of current crediting period. Offset projects with an initial crediting period that ends on or before June 30, 2027, may submit the information to an Offset Project Registry by June 30, 2027, to renew their crediting period. For a project that previously missed its deadline to submit information to renew its crediting period but submits its listing information for a renewed crediting period by June 30, 2027, any missed Offset Project Data Report submittal deadlines pursuant to section 95976(d) for reporting periods in the renewed crediting period through June 30, 2027, will not terminate the project, but ARB offset credits and registry offset credits will not be issued for a reporting period with a lapsed deadline pursuant to section 95976(d)(3). Information submitted for a renewed crediting period must contain the following:

* * *

(1) Name and date of the Compliance Offset Protocol under which the offset project most recently reported or the date of certification for a project certified by the Executive Officer pursuant to section 95705;

* * *

NOTE: Authority cited: Sections 38510, 38560, 38562, 38570, 38571, 38580, 39600 and 39601, Health and Safety Code. Reference: Sections 38530, 38560.5, 38564, 38565, 38570, ~~and~~ 39600, and 39741.1, Health and Safety Code.

95975.1. Notice and Disclosures for Sequestration Offset Project Ownership Transfer.

(a) Notice and Disclosures for Sequestration Offset Project Ownership Transfers. In the event of a sale or transfer of any real property interests containing any portion of an offset project boundary underlying a registered sequestration offset project, the Offset Project Operator and, if applicable, the Authorized Project Designee must meet the following requirements before the transfer of title:

* * *

(2) The Offset Project Operator and, if applicable, Authorized Project Designee must obtain the following attestation statement signed by the individual or entity that is actively pursuing acquisition of any interest in the real property comprising the offset project boundary or a portion thereof: "I certify under penalty of perjury under the laws of the State of California that [enter name of Offset Project Operator selling the land or storage zone] provided the information and disclosures required by section 95975.1(a)(1)(A)-(G) and confirm my awareness and acceptance of the offset project responsibilities and commitments as a forest owner or storage zone owner under the California Greenhouse Gas Cap-and-Invest Program under title 17, article 5. I understand that upon transfer of the property to me, I am voluntarily participating in the California Greenhouse Gas Cap-and-Invest Program under title 17, article 5, and by doing so, subject to all regulatory requirements and enforcement mechanisms of this program and subject myself to the jurisdiction of California as the exclusive venue to resolve any and all disputes arising from the enforcement of provisions in this article."

(b) Notice to CARB of Transfer of Ownership. Within 60 days after the sale or transfer of title of any real property interest containing a sequestration offset project boundary or storage zone, the former Offset Project Operator or, if applicable, Authorized Project Designee, must notify CARB of the transfer of ownership and submit to CARB the following:

(1) Name, phone number, mailing address, and email address of each forest owner or storage zone owner that sold or transferred their interest in real property comprising any portion of the offset project boundary;

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(c) If a sale or transfer of any real property interest containing an offset project boundary occurs without meeting the requirements in sections 95975.1(a)(1)(A)-(G), 95975.1(a)(2), and 95975.1(b)(1)-(4), then the project terminates and the project forest owner(s) or storage zone owner(s) that had the compliance offset project under the CARB Compliance Offset Program prior to sale or transfer will be responsible for compensation pursuant to section 95983(c)(4).

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(f) If transfer of title of offset project land or storage zone is to any entity or person who is not eligible to register pursuant to section 95830, the offset project will terminate prior to transfer and the forest owner(s) or storage zone owner(s) that had the compliance offset project under the CARB Compliance Offset Program prior to sale or transfer will be responsible for compensation pursuant to section 95983(c)(4).

NOTE: Authority cited: Sections 38510, 38560, 38562, 38570, 38571, 38580, 39600 and 39601, Health and Safety Code. Reference: Sections 38530, 38560.5, 38564, 38565, 38570, and 39600, and 39741.1, Health and Safety Code.

95976. Monitoring, Reporting, and Record Retention Requirements for Offset Projects.

(a) General Requirements for Offset Project Monitoring Equipment. All equipment and software used for monitoring, reporting, and verification must be maintained, employed, and calibrated in a manner and at a frequency suggested by the equipment manufacturer or software developer, unless otherwise specified in the applicable Compliance Offset Protocol. or the project certified by the Executive Officer pursuant to section 95705. All modeling, monitoring, sampling, testing and all software applications must be implemented in a manner consistent with the applicable procedure, whether explicitly described in the Compliance Offset Protocol, the project certified by the Executive Officer pursuant to section 95705, or project-specific documentation for quality assurance and reporting.

(b) The Offset Project Operator or Authorized Project Designee must use the missing data methods as provided in a Compliance Offset Protocol for that offset project type or as provided in the project certified by the Executive Officer pursuant to section 95705, if provided and applicable.

(c) An Offset Project Operator or Authorized Project Designee must put in place all monitoring equipment or mechanisms required by the applicable version of the Compliance Offset Protocol set forth in section 95973(a)(2)(C).) or the project certified by the Executive Officer pursuant to section 95705.

(d) Offset Project Reporting Requirements. An Offset Project Operator or Authorized Project Designee shall submit an Offset Project Data Report to CARB or an Offset Project Registry for each Reporting Period as defined in section 95802. Each Offset Project Data Report must cover a single Reporting Period. Reporting Periods must be contiguous; there must be no gaps in reporting once the first Reporting Period has commenced. If the Offset Project Operator or Authorized Project Designee fails to submit an Offset Project Data Report, then the Offset Project, except for a project in its monitoring period that has an extended deadline pursuant to section 95976(h)(2), will be considered terminated and not eligible for ARB offset credits. An Offset Project Data Report may be submitted after the deadline identified in section 95976(d)(2), but before the end of the next Reporting Period, to maintain continuous reporting; however, no ARB offset credits will be issued for the GHG emission reduction or removal enhancements quantified and reported in the Offset Project Data Report pursuant to section 95976(d)(3). For projects developed under the Compliance Offset Protocol in section 95973(a)(2)(C)1., there may be one Offset Project Data Report submitted for each offset project and the Offset Project Data Report may cover up to a maximum of 12 months of data. The Offset Project Operator or Authorized Project Designee must submit an Offset Project Data Report to CARB or an Offset Project Registry within 28 months of listing their offset project pursuant to section 95975 and must also meet all other applicable deadlines pertaining to submittal of the Offset Project Data Report. If the Offset Project Operator or Authorized Project Designee does not submit an Offset Project Data Report to ARB or an Offset Project Registry within 28 months of listing an offset project, then the Offset Project Operator or Authorized Project Designee must update the listing information in the Offset Project Data Report to reflect the most recent version of the Compliance Offset Protocol for that project type in order to remain eligible to be issued ARB offset credits. If an Offset Project Data Report that does not meet the 28 month deadline also fails to meet the deadline in section 95976(d)(2), an Offset Project Data Report covering the Reporting Period must be submitted using the most recent version of the Compliance Offset Protocol; however, no ARB offset credits will be issued for the GHG emission reductions or removal enhancements, pursuant to section 95976(d)(3). For forestry offset projects, when an Offset Project Data Report is not filed within the deadline specified in section 95976(d)(2), the values used for $AC_{onsite,y-1}$ and $BC_{onsite,y-1}$ in the Offset Project Data Report for the following Reporting Period will be the $AC_{onsite,y}$ and $BC_{onsite,y}$ values reported in the untimely Offset Project Data Report for the preceding Reporting Period. The Offset Project Data Report shall contain the information required by the applicable version of the Compliance Offset Protocol for that offset project type as set forth in section 95973(a)(2)(C~~).~~) or the project certified by the Executive Officer pursuant to section 95705.

(1) The Primary Account Representative or Alternate Account Representative on the Offset Project Operator's tracking system account must attest, in writing, to ARB as follows:

"I certify under penalty of perjury under the laws of the State of California the GHG reductions and/or GHG removal enhancements for [project] from [date] to [date] are measured in accordance with the [appropriate ARB Compliance Offset Protocol or the project certified by the Executive Officer pursuant to section 95705] and all information required to be submitted to ARB in the Offset Project Data Report is true, accurate, and complete."

This attestation must be provided with each version of the Offset Project Data Report to an Offset Project Registry if the offset project is listed with an Offset Project Registry, or to ARB if the offset project is listed with ARB.

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(f) General Procedure for Interim Data Collection. This section only applies if a Compliance Offset Protocol or the project certified by the Executive Officer pursuant to section 95705 does not already include methods, or does not include a specific method for the data in question, for collecting or accounting for data in the event of missing data due to an unforeseen breakdown of gas or fuel analytical monitoring equipment or other data collection systems.

* * *

(g) General Procedure for Approving Alternate Monitoring and Measurement Methods Pursuant to Compliance Offset Protocols. or Project Certifications Pursuant to section 95705. This section applies only to alternate methods for monitoring and measurement that were not in common usage at the time when ARBCARB adopted the Compliance Offset Protocol or certified a project pursuant to section 95705 under which an Offset Project Data Report is being submitted. Alternate methods may include use of otherwise unapproved models or other alternate methods that meet the requirements of this section.

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(7) If information comes to ARB's attention subsequent to approving an alternate method indicating that the alternate method is not at least reasonably equivalent to the accuracy of the method(s) commonly employed when the Compliance Offset Protocol was adopted or the project was certified pursuant to section 95705, or is not capable of being verified to a reasonable level of assurance, ARB may rescind approval of the alternate method at any time. If after using the alternate method for one reporting period ARB has not determined that the alternate method is

not at least reasonably equivalent to the accuracy of the method(s) commonly employed when the Compliance Offset Protocol was adopted or the project was certified pursuant to section 95705, or is not capable of being verified to a reasonable level of assurance, ARB may approve the alternate method, including any conditions, on a permanent basis.

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NOTE: Authority cited: Sections 38510, 38560, 38562, 38570, 38571, 38580, 39600 and 39601, Health and Safety Code. Reference: Sections 38530, 38560.5, 38564, 38565, 38570, ~~and~~ 39600, and 39741.1, Health and Safety Code.

95977. Verification of GHG Emission Reductions and GHG Removal Enhancements from Offset Projects.

(a) General Requirements. An Offset Project Operator or Authorized Project Designee must obtain the services of an ARB-accredited verification body when verifying Offset Project Data Reports submitted under this article.

(b) Schedule for Verification of Non-Sequestration Offset Projects. For registry offset credits or ARB offset credits to be issued for a Reporting Period, offset verification services must be performed on a Reporting Period basis and cover the Reporting Period for which the most recent Offset Project Data Report was submitted unless otherwise specified in a Compliance Offset Protocol or in a project certified by the Executive Officer pursuant to section 95705, or unless an Offset Project Data Report submitted pursuant to section 95976(d)(2) reports fewer than 25,000 metric tons of GHG reductions. For Reporting Periods with fewer than 25,000 metric tons~~,~~ verification may be deferred to the next reporting period such that that verification covers at most two consecutive Reporting Periods. For non-sequestration offset projects, offset verification services is not required for a Reporting Period for which the Offset Project Operator and, if applicable, Authorized Project Designee are not seeking registry offset credits or ARB offset credits.

(c) Schedule for Verification of Forest Sequestration Offset Projects during the Crediting Period. An initial verification of GHG emission reductions and GHG removal enhancements for ~~all~~forest sequestration offset projects must be performed following the first Reporting Period and cover one Reporting Period. After the first Reporting Period, verification must be conducted at least once every six Reporting Periods and may cover up to six Reporting Periods for which Offset Project Data Reports were submitted. After an initial verification with a Positive Offset Verification Statement, reforestation offset projects and urban forest offset projects that meet the requirements of the applicable Compliance Offset Protocol may defer the second verification for twelve Reporting Periods, but verification of Offset Project Data Reports must be performed at least once

every six Reporting Periods thereafter. Sequestration offset projects during the crediting period will terminate as follows:

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NOTE: Authority cited: Sections 38510, 38560, 38562, 38570, 38571, 38580, 39600 and 39601, Health and Safety Code. Reference: Sections 38530, 38560.5, 38564, 38565, 38570, ~~and~~ 39600, and 39741.1, Health and Safety Code.

95977.1. Requirements for Offset Verification Services.

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(b) Offset Verification Services. Offset Verification Services shall be subject to the following requirements.

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(3) Offset verification services must include the following:

(A) Offset Verification Plan. The Offset Project Operator or Authorized Project Designee must submit the following information necessary to develop an Offset Verification Plan to the offset verification team:

* * *

3. The name and date of the Compliance Offset Protocol or the project certified by the Executive Officer pursuant to section 95705 used to quantify and report project baselines, GHG reductions, GHG removal enhancements, and other required data as applicable in the project certified by the Executive Officer pursuant to section 95705 or the Compliance Offset Protocol; and

* * *

(D) Site Visits for Offset Projects. For a non-sequestration offset project, at least one accredited offset verifier in the offset verification team, including the offset project specific verifier, must make at least one site visit for each Reporting Period that an Offset Project Data Report is submitted, except for those non-sequestration offset projects for which the Offset Project Data Reports qualify for a two-reporting period offset verification period pursuant to section 95977(b). In this case, at least one offset verifier in the offset verification team, including the offset project specific verifier, must make a site visit each time offset verification services are performed; offset verification services for non-sequestration offset projects would include one or two Reporting Periods, depending on whether verification is eligible to be deferred pursuant to section 95977(b). For projects using protocols in section 95973(a)(2)(C)1., 2., or 3., if the project is no longer in operation and all destruction devices, metering and monitoring equipment has been removed, the site visit can occur at the offices of the Offset Project Operator, or Authorized Project Designee. Such a site visit cannot be used for reducing the invalidation timeframe in section 95985. For a forest or urban forest offset project, at least one accredited offset verifier in the offset verification team, including the offset project specific verifier, must make a site visit after every reporting period that offset verification services are provided, except for those offset projects approved for less intensive verification, for which a site visit must be performed at least once every six reporting periods. A site visit is also required after the first Reporting Period of an offset project under a Compliance Offset Protocol or under a project certified by the Executive Officer pursuant to section 95705 and after the first Reporting Period for each renewed crediting period under a Compliance Offset Protocol- or under a project certified by the Executive Officer pursuant to section 95705. Any site visit performed under this section must be conducted after the Offset Project Operator or Authorized Project Designee submits its Offset Project Data Report to ARB or an Offset Project Registry. During the required verification, the offset verification team member(s) must conduct the following, and document or explain how each requirement was checked and fulfilled in the detailed verification report:

1. During the initial verification conducted following the first Reporting Period of the crediting period the offset verification team members must complete all of the following requirements, either during the required site visit or as part of a desk review:

    a. Assess offset project eligibility and that the offset project meets the requirements for additionality according to section 95973 and the applicable Compliance Offset Protocol or the project certified by the Executive Officer pursuant to section 95705;

    * * *

    f. Confirm that all applicable eligibility criteria to design, measure, establish the chain of custody, and monitor the offset project conforms to the requirements of the applicable Compliance Offset Protocol or the project certified by the Executive Officer pursuant to section 95705.

    * * *

2. During the initial verification conducted following the first Reporting Period of the crediting period and each subsequent verification the offset verification team must complete all of the following requirements, either during the required site visit or as part of a desk review:

    * * *

b. Review and understand the data management systems used by the Offset Project Operator or Authorized Project Designee to track, quantify, and report GHG reductions, GHG removal enhancements, or other data required as applicable in the project certified by the Executive Officer pursuant to section 95705 or the Compliance Offset Protocol. This includes reviewing data collection processes and procedures, sampling techniques and metering accuracy, quality assurance/quality control processes and procedures, and missing data procedures. The offset verification team member(s) must evaluate the uncertainty and effectiveness of these systems;

* * *

g. Review all chain of custody documents as required in the project certified by the Executive Officer pursuant to section 95705 or the Compliance Offset Protocol, if applicable.

* * *

(E) The offset verification team must review offset project operations to identify applicable GHG emissions sources, project emissions, GHG sinks, and GHG reservoirs required to be included and quantified in the Offset Project Data Report as required by the applicable project certified by the Executive Officer pursuant to section 95705 or the Compliance Offset Protocol. This must include a review of each type of GHG emissions source, GHG sink, and GHG reservoir to ensure that all GHG emissions sources, GHG sinks, and GHG reservoirs required to be reported for the offset project are properly included in the Offset Project Data Report.

(F) An Offset Project Operator or Authorized Project Designee must make available to the offset verification team all information and documentation used to calculate and report project baseline and project GHG emissions, GHG reductions, and GHG removal enhancements and other information required by the applicable project certified by the Executive Officer pursuant to section 95705 or the Compliance Offset Protocol.

(G) Sampling Plan for Offset Project Data Reports. As part of confirming the Offset Project Data Report, the offset verification team must develop a sampling plan that meets the following requirements:

* * *

3. The offset verification team must include a qualitative narrative of uncertainty risk assessment in the following areas as applicable to the project certified by the Executive Officer pursuant to section 95705 or the Compliance Offset Protocol:

* * *

(H) After completing the analysis in section 95977.1(b)(3)(G), the offset verification team must include in the sampling plan a list which includes the following:

1. GHG emissions sources, GHG sinks, and GHG reservoirs that will be targeted for document reviews to ensure conformance with the project certified by the Executive Officer pursuant to section 95705 or the Compliance Offset Protocol and data checks as specified in section 95977.1(b)(3)(L) and an explanation of why they were chosen;

* * *

(J) The offset verification team must revise the sampling plan to describe tasks completed or needed to be completed by the offset verification team as relevant information becomes available and potential issues emerge of offset material misstatement or nonconformance with the requirements of this article and either the Compliance Offset Protocol ~~and this article~~or the project certified by the Executive Officer pursuant to section 95705.

* * *

(L) Data Checks for Offset Project Data Reports. To determine the reliability of the submitted Offset Project Data Report, the offset verification team must use data checks. Such data checks must focus first on the largest and most uncertain estimates of project baseline GHG emissions, project emissions, GHG reductions, and GHG removal enhancements, and the offset verification team must:

1. Use data checks to ensure that the appropriate methodologies and GHG emission factors have been applied in calculating the project baseline and Reporting Period GHG emissions, project emissions, GHG reductions, and GHG removal enhancements calculations in the project certified by the Executive Officer pursuant to section 95705 or the Compliance Offset Protocol;

* * *

3. Use professional judgment in the number of data checks required for the offset verification team to conclude with reasonable assurance whether the Offset Project Operator's or Authorized Project Designee's total reported GHG reductions and GHG removal enhancements are free of offset material misstatement and the Offset Project Data Report otherwise conforms to the requirements of the project certified by the Executive Officer pursuant to section 95705 or the Compliance Offset Protocol and this article. At a minimum a data check must include the following:

* * *

e. Reviewing calculation methodologies used by the Offset Project Operator or Authorized Project Designee for conformance with the project certified by the Executive Officer pursuant to section 95705 or the Compliance Offset Protocol and this article;

f. Reviewing meter and fuel analytical instrumentation calibration, if applicable; and

g. Reviewing the quantification from models approved for use in the project certified by the Executive Officer pursuant to section 95705 or the Compliance Offset Protocol, if applicable; and

* * *

(M) Offset Project Data Report Modifications. As a result of review by the offset verification team and prior to completion of an Offset Verification Statement, the Offset Project Operator or Authorized Project Designee must make any possible improvements and fix correctable errors that affect GHG emissions reductions or removal enhancements in the submitted Offset Project Data Report, and a revised Offset Project Data Report must be submitted to CARB or the Offset Project Registry. Correctable errors that, when summed, result in less than a three percent (3.00%) overstatement of the GHG emissions reductions or removal enhancements do not need to be fixed in the reporting period(s) currently undergoing offset verification services but must be fixed in all future reporting periods. Errors subject to the three percent exception still constitute errors for purposes of this Regulation, and the Offset Project Operator and Authorized Project Designee, if applicable, are still subject to the requirements of sections 96013 and 96014(d). The revised Offset Project Data Report must include all components required in section 95976(d). A quantitative difference that, in the professional judgment of the verification team, is the result of reasonable methods for truncation or rounding where a specific procedure is not prescribed by this article, the project certified by the Executive Officer pursuant to section 95705, or the applicable Compliance Offset Protocol, is not considered an error and therefore does not require correction. However, a correctable error resulting from a nonconformance with this article, the project certified by the Executive Officer pursuant to section 95705, or a Compliance Offset Protocol must be corrected before the verification team submits a Positive or Qualified Positive Verification Statement for the reporting period being verified. If the Offset Project Operator or Authorized Project Designee does not make all possible improvements and fix any correctable errors to the Offset Project Data Report, the verification body must issue an Adverse Offset Verification Statement. The offset verification team shall use professional judgment in the determination of correctable errors, including whether differences are not errors but result from truncation or rounding. The offset verification team must document in the issues log the source of any difference identified, including whether the difference results in a correctable error. Documentation for all Offset Project Data Report submittals must be retained by the Offset Project Operator or Authorized Project Designee for the length of time specified in section 95976(e)(2).

(N) To verify that the Offset Project Data Report is free of offset material misstatement, the offset verification team must make its own determination of GHG reductions or GHG removal enhancements relative to the project baseline using the data check conducted pursuant to section 95977.1(b)(3)(L), and must determine whether there is reasonable assurance that the Offset Project Data Report does not contain an offset material misstatement for the Offset Project Operator or Authorized Project Designee, on a CO_2e basis. To assess conformance with this article and either the project certified by the Executive Officer pursuant to section 95705 or the Compliance Offset Protocol, the offset verification team must review the methods and factors used to develop the Offset Project Data Report for adherence to the requirements of this article and either the project certified by the Executive Officer pursuant to section 95705 or the Compliance Offset Protocol and ensure that other requirements of this article are met.

* * *

(O) Issues Log. The offset verification team must keep a log of any issues identified in the course of offset verification services that may affect determinations of offset material misstatement and nonconformance. The issues log must identify the section of this article, the project certified by the Executive Officer pursuant to section 95705, or Compliance Offset Protocol related to the nonconformance, if applicable, and indicate that the issues were corrected by the Offset Project Operator or Authorized Project Designee prior to completing the offset verification services. All correctable errors identified by the offset verification team, regardless of whether the Offset Project Operator or, if applicable, Authorized Project Designee, chooses to correct them in the Offset Project Data Report being verified, must appear in the ~~issues log~~Issues Log. Any other concerns that the offset verification team has with the preparation of the Offset Project Data Report must be documented in the issues log. The issues log must indicate whether the issues could have any bearing on offset material misstatement or conformance.

* * *

(R) Offset Verification Statement Submission. Offset verification services must include:

* * *

4. When the offset verification team completes its findings:

* * *

b. The verification body must provide the Offset Verification Statement to the Offset Project Operator or Authorized Project Designee and ARB or the Offset Project Registry, attesting to ARB whether the verification body has found the submitted Offset Project Data Report to be free of offset material misstatement, and whether the Offset Project Data Report is in conformance with the requirements of this article and either the project certified by the Executive Officer pursuant to section 95705 or the Compliance Offset Protocol.

* * *

f. The lead verifier must attest in the Offset Verification Statement, in writing, to ARB as follows:

"I certify under penalty of perjury under the laws of the State of California that the offset verification team has carried out all offset verification services as required by sections 95977.1, 95977.2, and either the applicable Compliance Offset Protocol or the project certified by the Executive Officer pursuant to section 95705, and the findings are true, accurate, and complete and have been independently reviewed by an independent reviewer as required under sections 95977.1(b)(3)(R)(1). through 95977.1(b)(3)(R)(3).".

* * *

6. If the Offset Project Operator or Authorized Project Designee and the verification body cannot reach agreement on modifications to the Offset Project Data Report that result in a Positive Offset or Qualified Positive Offset Verification Statement due to a disagreement on the requirements of this article, the project certified by the Executive Officer pursuant to section 95705, or Compliance Offset Protocol, the Offset Project Operator or Authorized Project Designee may petition CARB to make a decision as to the verifiability of the submitted Offset Project Data Report. The Offset Project Operator or Authorized Project Designee must petition CARB both prior to the verification deadline, pursuant to section 95977(e) or as otherwise specified in either the project certified by the Executive Officer pursuant to section 95705 or the applicable compliance offset protocol, and prior to the verification body submitting an Adverse Offset Verification Statement either to CARB or to the Offset Project Registry. If the petition is submitted after the applicable verification deadline, then CARB will not consider the petition and registry offset credits or ARB offset credits shall not be issued for the applicable reporting period(s). If the petition is submitted after the verification body submits an Adverse Offset Verification Statement to the Offset Project Registry or CARB, then the Offset Project Registry shall review project and verification documentation, and CARB shall not consider the petition. After the Offset Project Operator or Authorized Project Designee petitions CARB concerning the Offset Project Data Report's verifiability, the verification body may not submit an Offset Verification Statement and verification report to CARB or the Offset Project Registry until after CARB determines the Offset Project Data Report is verifiable.

* * *

(W) Upon written notification by ARB or an Offset Project Registry, the verification body and its staff must be available for an offset verification services audit when providing offset verification services for an offset project listed with ARB or an Offset Project Registry using a Compliance Offset Protocol~~.~~ or for a project certified by the Executive Officer pursuant to section 95705. The Offset Project Operator must allow CARB or Offset Project Registry staff, or both, auditing offset verification services access to visit the project location to witness the verification site visit.

NOTE: Authority cited: Sections 38510, 38560, 38562, 38570, 38571, 38580, 39600 and 39601, Health and Safety Code. Reference: Sections 38530, 38560.5, 38564, 38565, 38570 and 39600, Health and Safety Code.

95977.2. Additional Project Specific Requirements for Offset Verification Services.

In addition to meeting the offset verification requirements in sections 95977 and 95977.1, Offset Project Operators or Authorized Project Designees must ensure the GHG emission reductions and GHG removal enhancements resulting from an offset project meet any additional verification requirements in the Compliance Offset Protocol, if applicable, for an offset project of that type or any additional verification requirements included in the project certified by the Executive Officer pursuant to section 95705, if applicable.

NOTE: Authority cited: Sections 38510, 38560, 38562, 38570, 38571, 38580, 39600 and 39601, Health and Safety Code. Reference: Sections 38530, 38560.5, 38564, 38565, 38570, ~~and~~ 39600, and 39741.1, Health and Safety Code.

* * *

95979. Conflict of Interest Requirements for Verification Bodies and Offset Verifiers for Verification of Offset Project Data Reports.

* * *

(g) Monitoring Conflict of Interest Situations.

(1) After commencement of offset verification services, the verification body must monitor and immediately make full disclosure, in writing, to ARB and the Offset Project Registry regarding any potential for a conflict of interest situation that arises for an offset project using a Compliance Offset Protocol~~.~~ or project certified by the Executive Officer pursuant to section 95705. This disclosure must include a description of actions that the verification body has taken or proposes to take to avoid, neutralize, or mitigate the potential for a conflict of interest.

(2) The verification body must continue to monitor arrangements or relationships that may be present for a period of one year after the completion of offset verification services for an offset project using a Compliance Offset Protocol~~.~~ or project certified by the Executive Officer pursuant to section 95705. During that period, within 30 days of the verification body or any verification team member entering into any contract with the Offset Project Operator, and Authorized Project Designee, if applicable, for which the verification body has provided offset verification services, the verification body must notify ARB and the Offset Project Registry of the contract and the nature of the work to be performed. ARB or the Offset Project Registry, within 30 working days, will determine the level of conflict using the criteria in sections 95979(a) through (d), if the Offset Project Operator, and Authorized Project Designee, if applicable, must re-verify their Offset Project Data Report, and if accreditation revocation is warranted by ARB.

(3) The verification body must notify ARB and the Offset Project Registry within 30 calendar days, of any emerging conflicts of interest during the time offset verification services are being provided for an offset project using a Compliance Offset Protocol or for a project certified by the Executive Officer pursuant to section 95705.

* * *

NOTE: Authority cited: Sections 38510, 38560, 38562, 38570, 38571, 38580, 39600 and 39601, Health and Safety Code. Reference: Sections 38530, 38560.5, 38564, 38565, 38570, ~~and~~ 39600, and 39741.1, Health and Safety Code.

* * *

95981. Issuance of ARB Offset Credits.

* * *

(c) CARB will determine whether the GHG emission reductions and GHG removal enhancements meet the requirements of this article and the applicable Compliance Offset Protocol or project certified by the Executive Officer pursuant to section 95705, the information submitted in sections 95981(b) and (c) is complete, and the Positive or Qualified Positive Offset Verification Statement meets the requirements of sections 95977, 95977.1, and 95977.2 .

(d) Before ARB issues an ARB offset credit pursuant to section 95981.1 for GHG reductions and GHG removal enhancements achieved by an offset project in a Reporting Period, the Primary Account Representative or Alternate Account Representative on the Offset Project Operator's tracking system account must attest, in writing, to ARB as follows:

(1) "I certify under penalty of perjury under the laws of the State of California the GHG reductions or GHG removal enhancements for [project] from [date] to [date] have been measured in accordance with the [appropriate ARB Compliance Offset Protocol or project certified by the Executive Officer pursuant to section 95705] and all information required to be submitted to ARB is true, accurate, and complete.";

* * *

NOTE: Authority cited: Sections 38510, 38560, 38562, 38570, 38571, 38580, 39600 and 39601, Health and Safety Code. Reference: Sections 38530, 38560.5, 38564, 38565, 38570, ~~and~~ 39600, and 39741.1, Health and Safety Code.

* * *

95983.1. Section 95705 Project Offset Reversals

(a) For projects certified by the Executive Officer pursuant to section 95705, a portion of ARB offset credits issued to the project will be placed by CARB into the CCUS Buffer Account identified in Section 95831.

(1) ARB offset credits will be transferred to the CCUS Buffer Account by CARB at the time of ARB offset credit registration pursuant to section 95982.

(2) The ARB offset credits placed into the CCUS Buffer Account must correspond to the Reporting Period for which the ARB offset credits are issued.

(3) CARB will transfer the number of ARB offsets CCUS Buffer Account determined by the following equation:

$$Contribution = Risk\ Rating \times Offset\ Issuance$$

Where:

"*Contribution*" is the number of offsets CARB will place into the CCUS Buffer Account.

"*Risk Rating*" is the reversal risk rating for the project certified by the Executive Officer pursuant to section 95705.

"Offset Issuance*"* are the total ARB offset credits issued for the reporting period pursuant to Section 95981 and 95892.

(b) Unintentional Reversals. If there has been an unintentional reversal, the Offset Project Operator or Authorized Project Designee shall notify CARB and the Offset Project Registry, if applicable, in writing, of the reversal and provide an explanation for the nature of the unintentional reversal within two months of its discovery date.

(c) If an intentional reversal occurs, the Offset Project Operator or Authorized Project Designee must notify CARB and the Offset Project Registry, if applicable, in writing, of the reversal and provide an explanation for the nature of the intentional reversal within two months of the end of the reporting period in which the reversal occurred. Within six months of the end of the reporting period, the Offset Project Operator or Authorized Project Designee shall submit to CARB and the Offset Project Registry, if applicable, an Offset Project Data Report. Within 11 months from the end of the reporting period, a full offset verification must be conducted pursuant to sections 95977 through 95978, including a site visit.

(d) An compliance instrument will be retired from the CCUS Buffer Account for every metric ton of CO_2 that is subject to an unintentional Section 95705 project reversal. The amount of CO_2 shall either be included in an Offset Project Data report that has received a positive or qualified positive Offset Verification Statement or be assigned by the Executive Officer pursuant to Subarticle 13.

(e) If a Section 95705 project reversal occurs, then the amount of CO_2 subject to the reversal shall either be included in an Offset Project Data report that has received a positive or qualified positive Offset Verification Statement or be assigned by the Executive Officer pursuant to Subarticle 13.

(1) For each metric ton of CO_2 that is subject to an unintentional Section 95705 project reversal, CARB will retire a compliance instrument from the CCUS Buffer Account.

(2) For each metric ton of CO_2 that is subject to an intentional Section 95705 project reversal, the Offset Project Operator or Authorized Project Designee shall submit one compliance instrument to CARB for transfer to the Retirement Account within six months of the verification or assignment by the Executive Officer of the amount of CO_2 subject to the reversal.

(f) Assigned Reversal Level. When there is a Reporting Period with a reversal and when an Offset Project Operator and, if applicable, Authorized Project Designee either receives an Adverse Offset Verification Statement for that Reporting Period or fails to receive a Positive Offset Verification Statement for that Reporting Period within eight years from the end of the last Reporting Period with a Positive Offset Verification Statement approved by CARB, the Executive Officer shall develop an assigned reversal level for the Reporting Period and shall

characterize the reversal type as intentional, unintentional, or a combination of intentional and unintentional. For an Adverse Offset Verification Statement submitted to an Offset Project Registry with which the project is listed, the Offset Project Registry shall conduct and complete its review of the verification pursuant to section 95987(f), prior to the Executive Officer assigning the reversal level and type.

(1) The Executive Officer may request information to inform the assigned reversal and type.

(A) Within 15 calendar days of a written request by the Executive Officer, the verification body (if applicable) shall provide any available offset verification services information, such as any preliminary or final detailed verification report or correspondence related to the reversal.

(B) Within 15 calendar days of a request by the Executive Officer, the Offset Project Operator or, if applicable Authorized Project Designee shall provide the data that is required to calculate the reversal and determine the reversal type for the offset project according to the requirements of this article and other information requested by the Executive Officer.

(C) Upon request from the Executive Officer, the Offset Project Operator or, if applicable, Authorized Project Designee shall make available personnel who can assist the Executive Officer's determination of an assigned reversal level and type for the Reporting Period.

(2) The Executive Officer may request information to inform the assigned reversal and type.

(A) Actual carbon stocks at the end of the last Reporting Period for which ARB offset credits were issued or for which a reversal was verified or assigned pursuant to this section;

(B) Any Offset Project Data Reports and Offset Verification Statements for other Reporting Periods for the offset project.

(3) In preparing the assigned reversal level and reversal type for the offset project, the Executive Officer shall use the following methods, as applicable:

(A) The calculation methodologies in the project certified by the Executive Officer pursuant to section 95705;

(B) The definitions of "Section 95705 Project Reversal," "Section 95705 Project Intentional Reversal," and "Section 95705 Project Unintentional Reversal" in section 95802; and

(C) Any information reported under this article for the offset project in a Reporting Period with a reversal as well as for any Reporting Period before or after the reversal.

(4) The Executive Officer shall assign the reversal level and type for the offset project using the best information available.

NOTE: Authority cited: Sections 38510, 38560, 38562, 38570, 38571, 38580, 39600, and 39601, Health and Safety Code. Reference: Sections 38530, 38560.5, 38564, 38565, 38570, ~~and~~ 39600, and 39741.1, Health and Safety Code.

* * *

95985. Invalidation of ARB Offset Credits.

(a) An ARB offset credit issued under this article will remain valid unless invalidated pursuant to this section.

(b) Timeframe for Invalidation. ARB may invalidate an ARB offset credit pursuant to this section within the following timeframe if a determination is made pursuant to section 95985(f):

(1) Within eight years of issuance of an ARB offset credit, unless one of the following requirements is met:

* * *

(B) The Offset Project Operator or Authorized Project Designee for a project certified by the Executive Officer pursuant to section 95705 or an offset project developed under one of the protocols listed in section 95985(b)(1)(B)5. does the following:

* * *

4. If a project certified by the Executive Officer pursuant to section 95705 or an offset project developed under one of the Compliance Offset Protocols listed in section 95985(b)(1)(B)5. is in the last Reporting Period of a crediting period, and will not have a renewed crediting period, the invalidation timeframe for up to the last three Reporting Periods may be reduced from eight years to three years if the following requirements are met for the last Offset Project Data Report of the crediting period:

* * *

(c) Grounds for Initial Determination of Invalidation. ARB may determine that an ARB offset credit is invalid for the following reasons:

(1) The Offset Project Data Report contains errors that overstate the amount of GHG reductions or GHG removal enhancements by more than 5.00 percent;

(A) If ARB finds that there has been an overstatement by more than 5.00 percent, ARB shall determine how many GHG reductions and GHG removal enhancements were achieved by the offset project for the applicable Reporting Period. Within 10 calendar days of this determination, ARB will notify the verification body that performed the offset verification and the Offset Project Operator or Authorized Project Designee. Within 25 calendar days of receiving the written notification by ARB, the verification body shall provide any available offset verification services information or correspondence related to the Offset Project Data Report. Within 25 calendar days of receiving the written notification by ARB, the Offset Project Operator or Authorized Project Designee shall provide data that is required to calculate GHG reductions and GHG removal enhancements for the offset project according to the requirements of this article, the detailed offset verification report prepared by the verification body, and other information requested by ARB. The Offset Project Operator or Authorized Project Designee shall also make available personnel who can assist ARB's determination of how many GHG reductions and GHG removal enhancements were achieved by the offset project for the applicable Reporting Period.

* * *

2. In determining how many GHG reductions and GHG removal enhancements were achieved by the offset project for the applicable Reporting Period, ARB may use the following methods, as applicable:

a. The applicable Compliance Offset Protocol or the project certified by the Executive Officer pursuant to section 95705;

b. In the event of missing data, ARB will rely on the missing data provisions pursuant to section 95976, and, if applicable, the Compliance Offset Protocol or the project certified by the Executive Officer pursuant to section 95705; and

c. Any information reported under this article for this Reporting Period and past Reporting Periods.

* * *

(2) The offset project activity and implementation of the offset project was not in accordance with all local, regional, state, and national environmental and health and safety laws and regulations that apply based on the offset project location and that directly apply to the offset project, including as specified in the applicable Compliance Offset Protocol or in the project certified by the Executive Officer pursuant to section 95705, as determined pursuant to section 95973(b), during the Reporting Period for which the ARB offset credit was issued.

(A) For offset projects using a protocol from sections 95973(a)(2)(C)1., 2., 4., or 5., if ARB finds that the offset project is out of regulatory compliance, then ARB shall determine how many GHG reductions and GHG removal enhancements were achieved by the offset project for the applicable Reporting Period. Within 10 calendar days of this determination, ARB will notify the verification body that performed the offset verification and the Offset Project Operator or Authorized Project Designee. Within 25 calendar days of receiving the written notification by ARB, the verification body shall provide any available offset verification services information or correspondence related to the relevant Offset Project Data Report(s). Within 25 calendar days of receiving the written notification by ARB, the Offset Project Operator or Authorized Project Designee shall provide data that is required to calculate GHG reductions and GHG removal enhancements for the offset project according to the requirements of this article, the detailed offset verification report prepared by the verification body, and other information requested by ARB. The Offset Project Operator or Authorized Project Designee shall also make available personnel who can assist ARB's determination of how many GHG reductions and GHG removal enhancements were achieved by the offset project for the applicable Reporting Period.

* * *

2. In determining how many GHG reductions and GHG removal enhancements were achieved by the offset project for the applicable Reporting Period, ARB may use the following methods, as applicable:

   a. The applicable Compliance Offset Protocol <u>the project certified by the Executive Officer pursuant to section 95705</u>;

   b. In the event of missing data, ARB will rely on the missing data provisions pursuant to section 95976, and, if applicable, the Compliance Offset Protocol <u>or the project certified by the Executive Officer pursuant to section 95705</u>; and

   c. Any information reported under this article for this Reporting Period and past Reporting Periods.

* * *

NOTE: Authority cited: Sections 38510, 38560, 38562, 38570, 38571, 38580, 39600 and 39601, Health and Safety Code. Reference: Sections 38530, 38560.5, 38564, 38565, 38570, ~~and~~ 39600, and 39741.1, Health and Safety Code.

95986. Executive Officer Approval Requirements for Offset Project Registries.

* * *

(c) The applicant's primary business must be operating an Offset Project Registry for voluntary or regulatory purposes and meet the following business requirements:

(1) The applicant, once approved as an Offset Project Registry, may not act as an Offset Project Operator, Authorized Project Designee, or offset project consultant for offset projects registered or listed on its own Offset Project Registry and developed using a Compliance Offset Protocol ~~once approved as an Offset Project Registry.~~ or for a project certified by the Executive Officer pursuant to section 95705. The applicant must annually disclose to ARB any non-offset project related consulting services it provides to an Offset Project Operator or Authorized Project Designee who lists a project using a Compliance Offset Project with the applicant as part of the information included in the annual report required in section 95987(j);

* * *

(d) The Offset Project Registry must continue to maintain the professional liability insurance required in section 95986(b) while it provides registry services to Offset Project Operators or Authorized Project Designees who are implementing offset projects using Compliance Offset Protocols or a project certified by the Executive Officer pursuant to section 95705.

* * *

(f) The Offset Project Registry must attest, in writing, to ARB as follows:

* * *

(2) “All information generated and submitted to ARB by the Offset Project Registry related to an offset project that either uses a Compliance Offset Protocol or is a project certified by the Executive Officer pursuant to section 95705 will be true, accurate, and complete.”;

* * *

~~(5)~~(3) "The Offset Project Registry is committed to participating in all ARB training related to ARB's compliance offset program ~~or,~~ Compliance Offset Protocols, or section 95705."; and

* * *

NOTE: Authority cited: Sections 38510, 38560, 38562, 38570, 38571, 38580, 39600 and 39601, Health and Safety Code. Reference: Sections 38530, 38560.5, 38564, 38565, 38570, ~~and~~ 39600, and 39741.1, Health and Safety Code.

95987. Offset Project Registry Requirements.

(a) The Offset Project Registry shall use Compliance Offset Protocols approved pursuant to section 95971 or projects certified pursuant to section 95705 to determine whether an offset project may be listed with the Offset Project Registry for issuance of registry offset credits. The Offset Project Registry may list projects under non-Compliance Offset Protocols, but must make it clear any GHG emission reductions and GHG removal enhancements achieved under those protocols are not eligible to be issued registry offset credits or ARB offset credits, unless a project is certified by the Executive Officer pursuant to section 95705.

(b) The Offset Project Registry must make the following information publicly available for each offset project certified by the Executive Officer pursuant to section 95705 or developed under a Compliance Offset Protocol:

* * *

(1) Within 10 working days of the offset project listing requirements being deemed complete in section 95975(f):

* * *

(F) Name and date of the Compliance Offset Protocol used by the offset project or the date of certification for a project certified by the Executive Officer pursuant to section 95705;

* * *

(3) Clear identification of which offset projects are listed and submitting Offset Project Data Reports using Compliance Offset Protocols~~.~~ or as a project certified by the Executive Officer pursuant to section 95705. Once an Offset Project Registry has approved a project listing, the Offset Project Registry must continue to list the project but may update the project listing status to "Inactive" if the project has not been issued any registry offset

credits or ARB offset credits or update the listing status to “Terminated” if the project has been issued any registry offset credits or ARB offset credits. The Offset Project Registry may update the listing status to “Inactive” or “Terminated” if any of the following circumstances exist:

* * *

(D) The offset project terminates, as specified by the Compliance Offset Protocols in section 95973(a)(2)(C)4.~~:~~. or in the the project certified by the Executive Officer pursuant to section 95705; or

(E) The Offset Project Operator submits a letter to the Offset Project Registry stating that it no longer intends to pursue registry offset credit issuance for this project. The letter must be signed by the Offset Project Operator's Primary or Alternate Account Representative and must include the following:

* * *

3. Name and date of the Compliance Offset Protocol used by the offset project or the date the project was certified by the Executive Officer pursuant to section 95705;

* * *

(4) When an Offset Project Registry updates the listing status to “Inactive” or “Terminated,” the Offset Project Registry must make publicly available a copy of the letter submitted under section 95987(b)(3)(E) or must make publicly available a memo authored by the Offset Project Registry explaining the change of status. The memo must include the following:

* * *

(C) Name and date of the Compliance Offset Protocol used by the offset project or the date of certification for a project certified by the Executive Officer pursuant to section 95705;

* * *

(5) An Offset Project Registry may update an offset project's listing status to “Completed” if (1) ARB offset credits have been issued for the offset project, (2) no further ARB offset credits will be issued to the project, (3) the project may no longer undergo offset verification services that could reduce the invalidation period for any ARB offset credits from eight years to three years pursuant to section 95985(b), (4) the project is no longer required to monitor, report, and verify the permanence of its GHG

emission reductions or GHG removal enhancements, and (5) the end of the project life has been reached as defined in the Compliance Offset Protocols in section 95973(a)(2)(C)4. or in the project certified by the Executive Officer pursuant to section 95705 (if applicable).

* * *

(d) The Offset Project Registry may provide guidance to Offset Project Operators, Authorized Project Designees, or offset verifiers for offset projects using a Compliance Offset Protocol or for a project certified by the Executive Officer pursuant to section 95705, if there is no clear requirement for the topic in a Compliance Offset Protocol or the project certified by the Executive Officer pursuant to section 95705, this article, or an ARB guidance document, after consulting and coordinating with ARB.

(1) An Offset Project Registry must maintain all correspondence and records of communication with an Offset Project Operator, Authorized Project Designee, or offset verifier when providing clarifications or guidance for an offset project using a Compliance Offset Protocol or for a project certified by the Executive Officer pursuant to section 95705.

* * *

(f) The Offset Project Registry must review each detailed verification report provided in section 95977.1(b)(3)(R)4.a. for completeness and accuracy and to ensure it meets the requirements of section 95977.1(b)(3)(R)4.a. before accepting the associated Offset Verification Statement for the Offset Project Data Report and, as applicable, issuing registry offset credits. The Offset Project Registry may make requests for additional information and deny verification approval as prescribed in section 95980.1(d) regardless of whether the offset verification services would result in registry offset credit issuance. The Offset Project Registry must maintain a log of all issues raised during its review of a detailed verification report and the corresponding Offset Project Data Report and Offset Verification Statement and how the issues are resolved. Within three working days of issuing registry offset credits or otherwise concluding its review of a detailed verification report for offset verification services that do not result in issuing registry offset credits, the Offset Project Registry must provide the following to CARB:

(1) The attestations required in sections 95976(d)(1), 95977.1(b)(3)(R)4.b., 95977.1(b)(3)(R)4.e., 95977.1(b)(3)(R)4.f., and any in the applicable Compliance Offset Protocol or in the project certified by the Executive Officer pursuant to section 95705;

* * *

(g) The Offset Project Registry must provide all information in its possession, custody, or control related to a listed offset project certified by the Executive Officer pursuant to section 95705 or an offset project under a Compliance Offset Protocol within 10 calendar days of request by ARB.

(h) The Offset Project Registry must make its staff and all information related to listed offset projects certified by the Executive Officer pursuant to section 95705 or listed offset projects under Compliance Offset Protocols by the Offset Project Registry available to ARB during any audits or oversight activities initiated by ARB to ensure the requirements in section 95987 are being carried out as required by this article.

(i) The Offset Project Registry must remove or cancel any registry offset credits issued for an offset project certified by the Executive Officer pursuant to section 95705 or for an offset project using a Compliance Offset Protocol, such that the registry offset credits are no longer available for transaction on the Offset Project Registry system, once notified by ARB that the offset project is eligible to be issued ARB offset credits.

(j) The Offset Project Registry must provide an annual report by January 31 of the previous year's offset projects that are listed and certified by the Executive Officer pursuant to section 95705 or listed using a Compliance Offset Protocol. The report must contain the name of the offset project, type of offset project and applicable Compliance Offset Protocol or date certified by the Executive Officer pursuant to section 95705, name of Offset Project Operator or Authorized Project Designee, location of offset project, status of offset project, associated verification body, crediting period, amount of any registry offset credits issued to date, amount of any registry offset credits retired or cancelled for the offset project by the Offset Project Registry to date.

* * *

NOTE: Authority cited: Sections 38510, 38560, 38562, 38570, 38571, 38580, 39600 and 39601, Health and Safety Code. Reference: Sections 38530, 38560.5, 38564, 38565, 38570, ~~and~~ 39600, and 39741.1, Health and Safety Code.

95988. Record Retention Requirements for Offset Project Registries.

All information submitted, and correspondence related to, listed offset projects certified by the Executive Officer pursuant to section 95705 or listed offset projects under Compliance Offset Protocols by the Offset Project Registry must be maintained by the Offset Project Registry for a minimum of 15 years.

NOTE: Authority cited: Sections 38510, 38560, 38562, 38570, 38571, 38580, 39600 and 39601, Health and Safety Code. Reference: Sections 38530, 38560.5, 38564, 38565, 38570, ~~and~~ 39600, and 39741.1, Health and Safety Code.

95989. Direct Environmental Benefits in the State.

(a) Offset projects certified by the Executive Officer pursuant to section 95705 or using a protocol listed in section 95973(a)(2)(C) that are located within, or that avoid GHG emissions within, the State of California are considered to provide direct environmental benefits in the State.

(b) Any project located outside the State of California may submit the following information to ARB to enable a determination of whether the project provides direct environmental benefits in the State. Such determination must be based on a showing that the offset project or offset project type provides for the reduction or avoidance of emissions of any air pollutant that is not credited pursuant to the applicable project certified by the Executive Officer pursuant to section 95705 or Compliance Offset Protocol in the State or a reduction or avoidance of any pollutant that is not credited pursuant to the applicable project certified by the Executive Officer pursuant to section 95705 or Compliance Offset Protocol that could have an adverse impact on waters of the State.

* * *

NOTE: Authority cited: Sections 38510, 38560, 38562, 38570, 38571, 38580, 39600 and 39601, Health and Safety Code. Reference: Sections 38530, 38560.5, 38564, 38565, 38570, ~~and~~ 39600, and 39741.1, Health and Safety Code.