Guidance on Electrical Distribution Utilities and Natural Gas Suppliers Use and Reporting of Allocated Allowance Auction Proceeds

(Cap-and-Trade Regulation sections 95892 and 95893)

Note: This document is provided to describe regulatory requirements in a user-friendly format. It does not have the force of law, does not establish new requirements, and in no way supplants, replaces, or amends any of the legal requirements of the Cap-and Trade Regulation (Regulation). Any omission or truncation of regulatory requirements in this guidance does not relieve entities of their legal obligation to fully comply with all requirements of the Regulation.

Introduction

This document provides guidance for electrical distribution utilities (EDUs) and natural gas suppliers (NG suppliers) on sections 95892 and 95893 of the Cap-and-Trade Regulation (Regulation).[1] Sections 95892(a) and 95893(a) of the Regulation state that, "[a]llowance value, including any allocated allowance auction proceeds, obtained by an [EDU or NG supplier] must be used for the primary benefit of retail [electricity or natural gas] ratepayers of each [EDU or NG supplier], consistent with the goals of AB 32 and must not be used for the primary benefit of entities or persons other than such ratepayers."

This document provides responses to frequently asked questions regarding the Regulation that became effective April 1, 2019.

The Regulation requires that expenditures of EDU allocated allowance auction proceeds (auction proceeds) must fall into one of four general categories that benefit ratepayers and are consistent with the goals of AB 32: renewable energy, energy efficiency and fuel switching, other GHG reducing activities, and non-volumetric return of proceeds to ratepayers. Similarly, NG suppliers must use auction proceeds for energy efficiency, other GHG reducing activities, or for non-volumetric return of proceeds to ratepayers.

Among the allowed uses of allocated allowance auction proceeds, the Regulation allows limited use of auction proceeds on certain educational programs and provides a potential path for the use of auction proceeds for wildfire risk reduction. The Regulation allows using

[1] *Unofficial Version of the Cap-and-Trade Regulation*

allowance value for reasonable administrative and outreach costs and specifies particular activities that are prohibited uses of allowance value, including compliance activities, lobbying, and benefitting employees or shareholders. The Regulation requires the reporting of estimated GHG reductions for uses of auction proceeds other than non-volumetric returns and certain educational programs.

Frequently Asked Questions

Question 1: *How do the requirements for the use of allocated allowance value in sections 95892(d) and 95893(d) of the Regulation apply to EDU and NG supplier allocated allowance auction proceeds already received prior to the effective date of the Regulation (April 1, 2019) but not yet spent?*

Answer: The Regulation applies to all uses of allocated allowance auction proceeds after the effective date, including all uses of auction proceeds received prior to the effective date that remain unspent by the effective date (i.e., auction proceeds that have not been either disbursed or specifically obligated pursuant to a contract for a specified use where the contract is executed prior to the effective date of the Regulation).

Auction proceeds spent *prior* to the effective date of the current Regulation and proceeds that were specifically obligated pursuant to a contract for a specified use where the contract was executed prior to April 1, 2019 are subject to the use requirements of section 95892 or 95893 of the Cap-and-Trade Regulation effective October 1, 2017.

Question 2: *How do the requirements for reporting on the use of allocated allowance value in sections 95892(e) and 95893(e) of the Regulation apply to EDU and NG supplier allocated allowance value use that has not yet been reported to CARB?*

Answer: Uses of allocated allowance value that have not yet been reported to CARB are subject to the Regulation, effective April 1, 2019 with regard to the reporting requirements of section 95892(e) or 95893(e). Use of Allocated Allowance Value Reporting Forms with detailed instructions and GHG Benefits Estimation Tools are available at the *EDU and NG Supplier Use of Allocated Allowance Value* web page to facilitate reporting on the use of allowance value in the 2019 data year. Use of such forms is optional.

Question 3: *In earlier years of the Cap-and-Trade Program, my utility reported only on the use of auction proceeds received from the sale of allowances with a specific vintage year, and sometimes the reporting period spanned 18 months. Should I continue to report use of auction proceeds in this way?*

Answer: No. Based on amendments effective October 1, 2017, all use of allowance value reporting is on a calendar year basis. Reporting should cover all expenditures that took place during the applicable data year and all proceeds remaining unspent at the end of that data year. By June 30 of each year (or the first business day thereafter if June 30 is not a business day) EDUs and NG suppliers must report on all proceeds spent during the previous calendar year, regardless of the vintage year of allowances sold to generate those proceeds.

For investor-owned utilities, use of allocated allowance value reporting should conform to the requirements of the Regulation and the expenditures of auction proceeds reported to and approved by the California Public Utilities Commission.

Question 4: *My utility used allocated allowance auction proceeds for a use that is not addressed by the GHG Benefits Estimation Tool provided by CARB, and I am not sure how to estimate its benefits. What should I do?*

Answer: CARB staff is available to assist with estimating GHG emissions reductions for all allowable uses of auction proceeds in conformance with the requirements of the Regulation. CARB provides a GHG Benefits Estimation Tool to support EDU and NG supplier compliance with the reporting requirements in the Regulation. The tool contains calculators to estimate GHG emissions reductions for the most common uses of auction proceeds that are reported to CARB. Using this tool is optional, and CARB staff is available to assist EDUs and NG suppliers with using the GHG Benefits Estimation Tool if needed.

For allowable uses of auction proceeds not included in the GHG Benefits Estimation Tool, CARB staff is available to discuss approaches to estimate GHG reductions from those uses that are consistent with the requirements of the Regulation. Please contact CARB staff at *edu-allocation@arb.ca.gov* (for EDUs) or *ngs-allocation@arb.ca.gov* (for NG suppliers) as soon as possible so that we may assist you in a timely manner.

Consistent with the requirements of sections 95892(d)(5) and 95892(e)(4)(B) for EDUs and sections 95893(d)(5) and 95893(e)(4)(B) for NG suppliers, the GHG Benefits Estimation Tool uses the following framework:

- GHG benefits are estimated by comparing the anticipated emissions with the use of auction proceeds in the data year to the anticipated emissions in the absence of the use of auction proceeds.
- The benefits are estimated for the entire expected project lifetime.
- The emissions factors in the "Emission Factors" tab of the GHG Benefits Estimation Tool are consistent with the emission factor requirements of the Regulation.
- The GHG benefits of auction proceeds use are prorated to the percentage of total expected lifetime project costs that are covered by auction proceeds in the data year, including auction proceeds used in the data year for administration and outreach of the project.

For example, if the projected total lifetime cost of a project were $10,000 and $5,000 of auction proceeds were spent on the project during the data year, then 50 percent of the total estimated GHG benefits of the project would be attributable to the use of proceeds on that project in that data year.

Question 5: *My utility is using allocated allowance auction proceeds for a single project that will be funded with auction proceeds from multiple years. How should I estimate the GHG benefits for a single year?*

Answer: First, estimate both the total GHG benefits and total project costs over the expected project lifetime. Then calculate the auction proceeds spent in the data year, including administrative and outreach expenditures, as a percentage of the total project costs over the expected lifetime. Multiply the total GHG benefits over the expected lifetime by the percentage of total expected project costs funded with auction proceeds in the data year to estimate the GHG benefits attributable to the use of proceeds during the data year.

For example, if the total cost of a project over its lifetime is expected to be $10,000 and $5,000 of auction proceeds were spent on the project during the first data year, then 50 percent of the total estimated GHG benefits of the project would be attributable to the use of auction proceeds in the first data year. If in the second data year, $2,000 of auction proceeds are spent on the project, then 20 percent of the total GHG benefits should be reported for the second data year.

This calculation method is built into the GHG Benefit Estimation tools. If total expected project costs or estimated GHG benefits change, report using the best available information at the time of reporting. GHG estimates from prior years may be updated by using the 'Revisions to Prior Reporting' tab of the Use of Allocated Allowance Value Form. See the 'Revising Prior Reports' section of the *Instructions for Use of Allocated Allowance Value Reporting Forms* for more information**.**

Question 6: *How do I report itemized administrative and outreach costs?*

Answer: EDUs and NG suppliers may report itemized administrative and outreach costs using Use of Allocated Allowance Value Forms. These forms are available on the *EDU and NG Supplier Use of Allocated Allowance Value web page* and contain specific instructions on how to report administrative and outreach costs. For expenditures on April 1, 2019 and later, pursuant to section 95892(d)(4) or 95893(d)(4), spending on administrative and outreach costs must be limited to (1) necessary costs to administer the projects and activities undertaken using allocated allowance auction proceeds, and (2) outreach costs that directly support the implementation of allowable projects or activities under the Regulation.

For non-volumetric return of auction proceeds to ratepayers, acceptable administrative and outreach costs may include changes to billing systems and bill inserts necessary to provide and explain the returns to ratepayers. For expenditures on GHG reducing activities, acceptable administrative and outreach costs may include utility personnel costs to oversee the GHG reducing activity and to conduct outreach necessary to recruit program participants. Any use of auction proceeds on administrative and outreach costs must be itemized in a manner that enables CARB to assess its relationship to the implementation of the reported project or activity.

CARB expects that GHG reducing activities, such as energy efficiency programs and development of renewable energy projects, will generally require small amounts of administration and outreach costs and that the administrative and outreach costs necessary for the non-volumetric return of proceeds will be a very small percentage of the proceeds returned. CARB will assess the necessity of administrative costs and whether outreach expenditures directly support allowable uses of proceeds based on any applicable legislative requirements and comparable uses.

The administrative and outreach costs reported to CARB by investor-owned utilities should conform to the requirements of the Regulation and to the administrative and outreach costs reported to and approved by the California Public Utilities Commission.

Question 7: *When can EDUs use auction proceeds for wildfire risk reduction?*

Answer: As described below, CARB will issue guidance to indicate when and how auction proceeds may be used for wildfire risk reduction. Until that time, EDU's are not yet able to use auction proceeds for wildfire risk reduction.

CARB recognizes that using allocated allowance auction proceeds to fund wildfire risk reduction activities differs from most allowed use types insofar as its intended impact on GHG emissions is to reduce the risk of wildfires, and thereby reduce the risk of increased GHG emissions from wildfires. Wildfires are a significant source of GHG emissions in California and reducing wildfire risk may constitute reducing *expected* emissions.

Any use of auction proceeds for these purposes must be aligned with statewide efforts to appropriately manage wildfire risks in a manner that benefits and protects ratepayers and the climate. Use of auction proceeds for wildfire risk reduction must also demonstrate expected GHG emission reductions, consistent with the requirements of the amended Regulation.

An EDU will be able to use auction proceeds to fund wildfire mitigation and forest carbon sequestration activities only after both the development of a standardized system for quantifying GHG emissions reductions pursuant to Health and Safety Code section 38535(a) and the approval of the utility's wildfire mitigation plan as required by statute. CARB is currently working with CAL FIRE to develop a standardized methodology for quantifying GHG reductions from fuel reduction activities that is consistent with Health and Safety Code section 38535(a). After that effort is complete, CARB plans to issue guidance to indicate when and how auction proceeds may be used for wildfire risk reduction.

Question 8: *Can my utility use auction proceeds for research and development?*

Answer: All uses of allocated allowance auction proceeds must conform to the requirements of the Regulation. To the extent that research, development, and demonstration projects have quantifiable GHG emissions reductions, such activities may be permissible uses of auction proceeds pursuant to the sections 95892(d)(3)(C) and 95893(d)(3)(B) of the Regulation ("Other GHG Emission Reduction Activities"). Allocated allowances are provided to the EDUs and NG supplier to benefit ratepayers and reduce GHG emissions, and any expenditures of auction proceeds must meet these requirements. Generally, research and development efforts with uncertain outcomes do not meet these requirements.

Question 9: *How can my utility use auction proceeds for educational programs?*

Answer: Effective April 1, 2019, EDUs and NG suppliers may use up to $100,000 or one percent of the total allocated allowance auction proceeds expended by the utility in that data year, whichever is larger, for educational programs that cannot demonstrate expected GHG emissions reductions benefits. Generally, educational programs are activities or courses that have specific educational objectives. These educational programs must have the primary purpose of reducing the GHG emissions of the EDU's or NG supplier's ratepayers.

For example, if a utility spends $20 million of allocated allowance auction proceeds in the data year, they may spend up to one percent of that amount ($200,000) in that data year on educational programs that cannot demonstrate GHG emissions reduction benefits. If a utility spends $400,000 of auction proceeds in a data year, then it may spend up to $100,000 on educational programs that cannot demonstrate GHG emissions reduction benefits.

Educational programs for which GHG emission reduction benefits can be demonstrated pursuant to the reporting requirements of the Regulation may also be allowable under the "Other GHG Reduction Activities" category (95892(d)(3)(C) or 95893(d)(3)(B)), which does not have a spending cap. In addition, auction proceeds may be used to fund outreach activities that directly support the implementation of the projects or activities funded pursuant to sections 95892(d)(3)(A)-(D) or 95893(d)(3)(A)-(C).

EDU and NG supplier annual reporting on the use of any auction proceeds on educational programs must include a description of the GHG reduction purpose of the educational program and itemized reporting of expenditures pursuant to the requirements of 95892(e)(4)(A) & (C) and 95893(e)(4)(A) & (C).

Question 10: *Does the Regulation require that the use of allocated allowance auction proceeds result in GHG emissions reductions beyond what is required by law? For example, to use auction proceeds for renewable energy procurement, does the procurement need to be in excess of the Renewable Portfolio Standard (RPS) requirements?*

Answer: The Regulation does not contain an additionality requirement for uses of auction proceeds for EDUs. Uses of allocated proceeds by EDUs must conform to the requirements of section 95892 of the Regulation, which specifies allowable uses. Expenditures by EDUs on renewables must be for renewable energy projects or renewable electricity that is either

(1) directly delivered to California in conformance with RPS portfolio content category one or zero, as specified by Public Utilities Code Section 399.16, or (2) from or for a ratepayer-owned renewable generator or a renewable generator in the EDU's service territory. Renewable electricity purchased with auction proceeds must meet these requirements, but it does not need to be in excess of the RPS requirements. EDUs may use the GHG Benefits Estimation Tools available on the *EDU and NG supplier Use of Allocated Allowance Value* web page to estimate GHG emissions reductions for renewable energy purchases.

NG Suppliers using auction proceeds pursuant to section 95893(d)(3)(B), must ensure that projects or activities that reduce emissions of uncombusted natural gas are not mandated by any federal, state, or local health and safety requirements, Senate Bill 1371 (Morrell, 2014), or the Greenhouse Gas Emission Standards for Crude Oil and Natural Gas Facilities (California Code of Regulations, sections 95665-95677).

Question 11: *Can a publicly owned electric utility (POU) deposit its allocated allowances for compliance with the Cap-and-Trade Program? Can an EDU or NG supplier use auction proceeds to purchase allowances to satisfy compliance obligations? What about compliance obligations associated with electricity sold into CAISO markets?*

Answer: POUs and electrical cooperatives (COOPs) may request to have allocated allowances deposited directly into compliance accounts to fulfill their own compliance obligations or the compliance obligations of related entities, as allowed by sections 95892(b)(2) and 95892(b)(3). However, sections 95892(d)(7)(B) and 95893(d)(7)(A) of the Regulation explicitly prohibit any EDU or NG supplier from using *auction proceeds* to purchase allowances in order to satisfy compliance obligations.

Pursuant to section 95892(d)(7)(A) of the Regulation, allocated allowances may not be used to fulfill a compliance obligation associated with electricity sold into the California Independent System Operator (CAISO) markets. In order to assess compliance with this prohibition, POUs and COOPs that deposit allocated allowances directly into compliance accounts are required, pursuant to section 95111(a)(12) of the Mandatory Reporting Regulation (MRR), to report the amount of electricity sold into CAISO markets (MWh) for which they have a compliance obligation under the Cap-and-Trade Regulation. Utilities must satisfy compliance obligations associated with electricity sold into CAISO markets using compliance instruments other than allocated allowances. CARB assesses compliance with this prohibition on using allocated allowances for compliance obligations associated with electricity sold into CAISO markets at the end of each multi-year compliance period.

If a POU or COOP purchased allowances with allocated allowance auction proceeds prior to April 1, 2019—an activity that is explicitly prohibited after April 1, 2019—then the POU or COOP must ensure they are in compliance with the provision that prohibits using these allowances to satisfy any compliance obligation associated with any sales into CAISO markets. CARB may request that POUs and COOPs provide information demonstrating compliance with section 95892(d)(7)(A) for allowances purchased with auction proceeds pursuant to Health & Safety Code section 38580 and Government Code sections 11180 and 11181.

Question 12: *Do utilities need to report on the use of interest earned on auction proceeds?*

Answer: Yes. Interest earned on allocated allowance auction proceeds is value resulting from the allocation of allowances and is therefore subject to the requirements of the Regulation. Interest accrued on auction proceeds during the data year should be reported as such. Interest spent during the data year should be included in reported auction proceeds expenditures during the data year. Interest accrued prior to the data year that remained unspent at the end of the data year should be included when reporting unspent auction proceeds. If interest on auction proceeds accrued and was spent prior to the data year, and if the expenditure was not previously reported to CARB, past use of allocated allowance value reports can be updated by using the 'Revisions to Prior Reporting' tab of the Use of Allocated Allowance Value Form. See the 'Revising Prior Reports' section of the *Instructions for Use of Allocated Allowance Value Reporting Forms* for more information**.**

Question 13: How should investor-owned utilities (IOUs) report on the use of auction proceeds by Program Administrators for clean energy and building decarbonization programs?

Answer: The California Public Utilities Commission (CPUC) has authorized various clean energy and building decarbonization programs to be funded by IOU auction proceeds. The Cap-and-Trade Regulation requires reporting to CARB on how auction proceeds are spent in the data year, including for the CPUC authorized programs. This guidance addresses how to report the use of auction proceeds when an IOU designates, sets aside, or transfers proceeds for such a program during a data year, but the proceeds remain upsent at the end of that data year. Further, this guidance addresses how to report the use of auction proceeds when a program operated by a single Program Administrator (PA) is funded by auction proceeds from multiple IOUs. These programs are expected to have some utility-specific expenditures and also have some pooled administrative and outreach expenditures that are funded proportionally per the contribution of auction proceeds from each IOU. Part A below provides guidance on reporting to CARB actual program expenditures—not the designation or setting aside of funds for a program, and Part B below provides guidance on how an IOU should report to CARB on administrative and outreach spending for programs that are funded by auction proceeds from multiple IOUs.

A. Prefunding versus Actual Expenditures

IOUs may prefund PA costs for a program during a given year, and this prefunding will not necessarily match the PA's expenditures during that year. To comply with the Regulation's reporting requirements, ensure consistent reporting across all IOUs, and accurately reflect what occurred at a programmatic level, staff recommend that IOUs report PA expenditures of auction proceeds based on actual PA expenditures during the data year, not based on the amount of auction proceeds designated or set aside for a program during the year.

Each IOU should communicate with PA(s) throughout the year as needed to ensure that the applicable summary reports and documentation from PAs contain all the information needed for the IOU to report actual spending during the data year to CARB.

For the Solar on Multifamily Affordable Housing (SOMAH) program, Table 1 of the *SOMAH Semiannual Expense Report*, which includes all expenditures of auction proceeds during the data year, is a good source of summary information to aid in reporting actual expenditures by the PA. See the table below for an example of how to translate the expenditure categories from the reporting by the SOMAH PA to CPUC into categories for reporting to CARB on the use of auction proceeds.

See Question 6 for guidance on itemized reporting on administrative and outreach expenditures.

Example Reporting Categories from Table 1 of the SOMAH Semiannual Expense Report and CARB Reporting Categories

CPUC Category	Recommended CARB Reporting Category
Program Administration	Administrative
Marketing, Education, and Outreach (ME&O)	Outreach
Workforce Development	Administrative
Technical Assistance	Administrative
IOU Expenses	Administrative

B. Proportionality

To report actual expenditures by PAs during the data year, each IOU should report to CARB based on its share of pooled administrative and outreach expenditures.

- For all PA administrative and outreach expenditures for a given program that cannot be attributed to a specific IOU service territory, CARB staff recommends that each IOU report costs in proportion to its contribution to the collective funding pool for that program.

- Incentives and other activities provided by a clean energy or building decarbonization program that are specifically attributed to a given IOU's service territory should continue to be reported to CARB based on the actual program expenditures in that IOU's service territory during the data year.

To report in this manner, each IOU will need to know its share of the total funding for each program. Table 1 of the *SOMAH Semiannual Expense Report* provides each IOU's share of the total funding. For the BUILD and TECH Programs, the table below lists each IOU's contribution to the total program funding pools, as established in CPUC Decision *(D.) 20-03-027*. For a given program that is funded by auction proceeds from multiple IOUs, an IOU's share of those administrative and outreach costs that cannot be attributed to a specific IOU service territory should be equal to its share of that program's total funding. CARB recommends that each IOU confirm its share of total funding for each program with the PA and CPUC prior to reporting to CARB.

Share of Total Funding for BUILD and TECH

Utility	Share of BUILD and TECH Program Costs
Southern California Gas Company	49.26%
Pacific Gas and Electric Company	42.34%
San Diego Gas & Electric Company	6.77%
Southwest Gas Company	1.63%