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→ "Title 17. Public Health"

→ "Division 3. Air Resources"

→ "Chapter 1. Air Resources Board"

→ "Subchapter 10. Climate Change"

→ "Article 5. California Cap on Greenhouse Gas Emissions and Market-Based Compliance Mechanisms"

→ then choose the relevant subarticle(s) and section(s).

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FINAL REGULATION ORDER

ARTICLE 5: CALIFORNIA CAP ON GREENHOUSE GAS EMISSIONS AND MARKET-BASED COMPLIANCE MECHANISMS

§ 95800. Table of Contents.

§ 95800. Table of Contents. i

Subarticle 2. Purpose and Definitions 1

§ 95801. Purpose. 1

§ 95802. Definitions. 1

§ 95803. Submittal of Required Information. 50

Subarticle 3. Applicability 52

§ 95811. Covered Entities. 52

§ 95812. Inclusion Thresholds for Covered Entities. 54

§ 95813. Opt-In Covered Entities. 56

§ 95814. Voluntarily Associated Entities and Other Registered Participants. 58

Subarticle 4. Compliance Instruments 61

§ 95820. Compliance Instruments Issued by the Air Resources Board. 61

§ 95821. Compliance Instruments Issued by Approved Programs. 62

Subarticle 5. Registration and Accounts 63

§ 95830. Registration with ARB. 63

§ 95831. Account Types. 72

§ 95832. Designation of Representatives and Agents. 77

§ 95833. Disclosure of Corporate Associations. 82

§ 95834. Know-Your-Customer Requirements. 90

§ 95835. Changes to Entity Type and Reassignment of Facilities Already Registered to Different Entity Accounts. 94

Subarticle 6. California Greenhouse Gas Allowance Budgets 102

§ 95840. Compliance Periods. 102

§ 95841. Annual Allowance Budgets for Calendar Years 2013-2045. 102

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Table 6-1: 2013-2020 California GHG Allowance Budgets 103

Table 6-2: 2021-2045 California GHG Allowance Budgets 104

§ 95841.1. Voluntary Renewable Electricity. 105

Subarticle 7. Compliance Requirements for Covered Entities 108

§ 95850. General Requirements. 108

§ 95851. Phase-in of Compliance Obligation for Covered Entities. 108

§ 95852. Emission Categories Used to Calculate Compliance Obligations. 109

§ 95852.1. Compliance Obligations for Biomass-Derived Fuels. 120

§ 95852.1.1. Eligibility Requirements for Exempt Biomass-Derived Fuels. 121

§ 95852.2. Emissions Without a Compliance Obligation. 122

§ 95852.3. Compliance Obligations for Sequestered or Utilized Captured Carbon Dioxide. 125

§ 95853. Calculation of Covered Entity's Full Compliance Period Compliance Obligation. 125

§ 95854. Quantitative Usage Limit on Designated Compliance Instruments--Including Offset Credits. 126

§ 95855. Annual Compliance Obligation. 127

§ 95856. Timely Surrender of Compliance Instruments by a Covered Entity. 127

§ 95857. Untimely Surrender of Compliance Instruments by a Covered Entity. 132

§ 95858. Compliance Obligation for Under-Reporting in a Previous Compliance Period. 134

Subarticle 8. Disposition of Allowances 136

§ 95870. Disposition of Vintage 2013-2020 Allowances. 136

§ 95871. Disposition of Allowances from Vintage Year 2021 and Beyond. 139

Table 8-1: Assistance Factors and Covered Industrial Sectors 145

Table 8-2: Number of California GHG Allowances Allocated to the APCR for Budget Years 2021 to 2030 154

Table 8-3: Number of California GHG Allowances Allocated to the APCR for Budget Years 2031 to 2045 154

Subarticle 9. Direct Allocations of California GHG Allowances 155

§ 95890. General Provisions for Direct Allocations. 155

§ 95891. Allocation for Transition Assistance and Leakage Minimization. 157

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Table 9-1: Product-Based Efficiency Benchmarks 164

Table 9-1a: NAICS Codes Ineligible for Manufacturing Decarbonization Incentive Allocation, Except for Eligible GHG Emissions Reduction Activities Pursuant to Section 95891(g)(2)(H). 200

Table 9-2: Cap Adjustment Factors for Allowance Allocation 201

§ 95892. Allocation to Electrical Distribution Utilities for Protection of Electricity Ratepayers. 202

Table 9-3: Annual Allowances Allocated to Each Electrical Distribution Utility from 2021 through 2030 210

§ 95893. Allocation to Natural Gas Suppliers for Protection of Natural Gas Ratepayers. 214

Table 9-5: Minimum Annual Percentage Consignment Requirements for Natural Gas Utilities for 2015-2020 221

Table 9-6: Minimum Annual Percentage Consignment Requirements for Natural Gas Suppliers for 2021 and Subsequent Years 221

Table 9-6A: Annual Percentage of Public Utility Gas Corporation Allocation Transitioned to Electrical Distribution Utilities for 2028 and Subsequent Years 221

§ 95894. Allocation to Legacy Contract Generators for Transition Assistance. 221

§ 95895. Allocation to Public Wholesale Water Agencies for Protection of Water Ratepayers. 228

Table 9-7: Allocation to Each Public Wholesale Water Agency *229*

Subarticle 10. Auction and Sale of California Greenhouse Gas Allowances 230

§ 95910. Auction of California GHG Allowances. 230

§ 95911. Format for Auction of California GHG Allowances. 232

§ 95912. Auction Administration and Participant Application. 238

§ 95913. Sale of Allowances from the Allowance Price Containment Reserve. 244

§ 95914. Auction Participation and Limitations. 252

§ 95915. Price Ceiling Sales. 254

Subarticle 11. Trading and Banking 258

§ 95920. Trading. 258

§ 95921. Conduct of Trade. 264

§ 95922. Banking, Expiration, and Voluntary Retirement. 274

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§ 95923. Disclosure of Cap-and-Invest Consultants and Advisors. 275

Subarticle 12. Linkage to External Greenhouse Gas Emissions Trading Systems 277

§ 95940. General Requirements. 277

§ 95941. Procedures for Approval of External GHG ETS. 277

§ 95942. Interchange of Compliance Instruments with Linked External Greenhouse Gas Emissions Trading Systems. 277

§ 95943. Linked External GHG ETS or External GHG Program. 279

§ 95944. Retirement-Only Limited Linkage. 279

§ 95945. Retirement-Only Agreements with External GHG Program. 280

Subarticle 13. ARB Offset Credits and Registry Offset Credits 282

§ 95970. General Requirements for ARB Offset Credits and Registry Offset Credits. 282

§ 95971. Procedures for Approval of Compliance Offset Protocols. 283

§ 95972. Requirements for Compliance Offset Protocols. 283

§ 95973. Requirements for Offset Projects Using ARB Compliance Offset Protocols. 284

§ 95974. Authorized Project Designee. 291

§ 95975. Listing of Offset Projects Using ARB Compliance Offset Protocols. 293

§ 95975.1. Notice and Disclosures for Sequestration Offset Project Ownership Transfer. 300

§ 95976. Monitoring, Reporting, and Record Retention Requirements for Offset Projects. 303

§ 95977. Verification of GHG Emission Reductions and GHG Removal Enhancements from Offset Projects. 311

§ 95977.1. Requirements for Offset Verification Services. 313

§ 95977.2. Additional Project Specific Requirements for Offset Verification Services. 336

§ 95978. Offset Verifier and Verification Body Accreditation. 336

§ 95979. Conflict of Interest Requirements for Verification Bodies and Offset Verifiers for Verification of Offset Project Data Reports. 337

§ 95979.1. Additional Requirements for Air Quality Management Districts and Air Pollution Control Districts. 347

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§ 95980. Issuance of Registry Offset Credits. 348
§ 95980.1. Process for Issuance of Registry Offset Credits. 349
§ 95981. Issuance of ARB Offset Credits. 351
§ 95981.1. Process for Issuance of ARB Offset Credits. 353
§ 95982. Registration of ARB Offset Credits. 355
§ 95983. Forestry Offset Reversals. 355
§ 95984. Ownership and Transferability of ARB Offset Credits. 364
§ 95985. Invalidation of ARB Offset Credits. 364
§ 95986. Executive Officer Approval Requirements for Offset Project Registries. 383
§ 95987. Offset Project Registry Requirements. 389
§ 95988. Record Retention Requirements for Offset Project Registries. 396
§ 95989. Direct Environmental Benefits in the State. 396
Subarticle 14: Recognition of Compliance Instruments from Other Programs 399
§ 95991. Sector-Based Offset Credits. 399
§ 95992. Procedures for Approval of Sector-Based Crediting Programs. 399
§ 95993. Sources for Sector-Based Offset Credits. 399
§ 95994. Requirements for Sector-Based Offset Crediting Programs. 399
§ 95995. Quantitative Usage Limit. 400
Subarticle 15. Enforcement and Penalties 401
§ 96010. Jurisdiction. 401
§ 96011. Authority to Suspend, Revoke, or Modify. 401
§ 96012. Injunctions. 402
§ 96013. Penalties. 402
§ 96014. Violations 402
Subarticle 16. Other Provisions 404
§ 96020. Severability, Effect of Judicial Order. 404
§ 96021. Confidentiality. 404
§ 96022. Jurisdiction of California. 404
Appendix A 406

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Appendix B CITSS User Terms and Conditions 407

Appendix C Quarterly Auction and Reserve Sale Dates 412

Appendix D Tracking and Auction System User Terms and Conditions 418

Appendix E Offset Project Activities Within the Scope of Regulatory Compliance Evaluation. 423

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Subarticle 2. Purpose and Definitions

§ 95801. Purpose.

The purpose of this article is to reduce emissions of greenhouse gases associated with entities identified in this article through the establishment, administration, and enforcement of the California Greenhouse Gas Cap-and-Invest Program by applying an aggregate greenhouse gas allowance budget on covered entities and providing a trading mechanism for compliance instruments.

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.

§ 95802. Definitions.

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

“Account Viewing Agent” means an individual authorized by a registered entity to view all the information on the entity's accounts contained in the tracking system.

“Accounts Administrator” means the entity acting in the capacity to administer the accounts identified in this regulation. This may be ARB, or could be an entity ARB enters into a contract with.

“Activity-Shifting Leakage” means increased GHG emissions or decreased GHG removals that result from the displacement of activities or resources from inside the offset project's boundary to locations outside the offset project's boundary as a result of the offset project activity.

“Additional” means, in the context of offset credits, greenhouse gas emission reductions or removals that exceed any greenhouse gas reduction or removals otherwise required by law, regulation or legally binding mandate, and that exceed any greenhouse gas reductions or removals that would otherwise occur in a conservative business-as-usual scenario.

“Adjusted Clinker and Mineral Additives Produced” means annual amount of clinker and mineral additives (limestone, gypsum, cement kiln dust, and grind aids) derived by using the following metric: Adjusted clinker and mineral additives produced = clinker produced x (1 + (limestone, gypsum, cement kiln dust, and grind aids consumed)/clinker consumed)).

“Adjusted Hulled and Dried Pistachios” means the raw pistachios that have been received and subjected to a hulling and drying process. Hulling is the process of removing pistachio hulls that cover pistachio shells and kernels. Drying is the process of reducing the moisture content of hulled pistachios. Adjusted hulled and dried pistachios

shall conform to the sampling methodology specified in the "Representative Sampling" section of "Agriculture Shipping Point and Market Inspection Instructions for Pistachios in the Shell" (U.S. Department of Agriculture 2005), which is hereby incorporated by reference, and the weight shall be corrected to five percent moisture.

"Adverse Offset Verification Statement" means an Offset Verification Statement rendered by a verification body attesting that the verification body cannot say with reasonable assurance that the submitted Offset Project Data Report is free of an offset material misstatement, or that it cannot attest that the Offset Project Data Report conforms to the requirements of this article or applicable Compliance Offset Protocol.

"Air Dried Ton of Paper" means paper with 6 percent moisture content.

"Air Pollution Control District" or "Air Quality Management District" or "Air District" means any district created or continued in existence pursuant to the provisions of Part 3 (commencing with Section 40000) of Division 26 of the Health and Safety Code.

"Allocated allowance value," "allowance value" or "value," for the purposes of the requirements in sections 95892 and 95893 for allowances allocated to an electrical distribution utility or a natural gas supplier, means the value of allocated allowances deposited for compliance, the proceeds obtained from the monetization of allowances directly allocated to the electrical distribution utility or natural gas supplier and any interest accrued on those proceeds. For publicly owned electric utilities and electrical cooperatives, this includes the value of allowances deposited for compliance. For the purposes of the requirements in section 95891(d) for allowances allocated to a university or public service facility, "allocated allowance value" or "allowance value" means the monetary value of allowances received by the university or public service facility as calculated pursuant to section 95891(d)(3)(A).

"Allowance" means a limited tradable authorization to emit up to one metric ton of carbon dioxide equivalent.

"Almond" means the edible seed of the almond (*Prunus amygdalus*).

"Alternate Account Representative" means an individual designated pursuant to section 95832 to take actions on an entity's accounts.

"Aluminum and aluminum alloy billet" is a solid bar of nonferrous metal, produced by casting molten aluminum alloys, that is suitable for subsequent rolling, casting, or extrusion. Aluminum alloy is an alloy in which aluminum is the predominant metal and the alloying elements may typically be copper, magnesium, manganese, zinc, or other elemental additives or any combination of elements added.

"Anhydrous Milkfat" means fatty products derived exclusively from milk and/or products obtained from milk by means of processes which result in almost total removal of water and non-fat solids.

"Annual Allowance Budget" means the number of California Greenhouse Gas Allowances associated with one year of the Cap-and-Invest Program in subarticle 6.

"ARB ID" means, for the purposes of this article, the unique identification number assigned to each facility, supplier, and electric power entity that reports GHG emissions to the ARB pursuant to MRR.

"ARB Offset Credit" means a tradable compliance instrument issued by ARB that represents a GHG reduction or GHG removal enhancement of one metric ton of CO_2e. The GHG reduction or GHG removal enhancement must be real, additional, quantifiable, permanent, verifiable, and enforceable. ARB offset credits may only be issued for GHG emission reductions or GHG removal enhancements that occur during a "Reporting Period," as defined in this section.

"Aseptic Preparation" is a system in which a product is sterilized before filling into pre-sterilized packs under sterile conditions.

"Aseptic tomato paste" means tomato paste and tomato puree packaged using aseptic preparation. Aseptic paste is normalized to 31% tomato soluble solids (TSS). Aseptic paste normalized to 31% TSS = (%TSS - raw TSS)/(31 - raw TSS).

"Aseptic whole and diced tomatoes" means whole and diced tomatoes packaged using aseptic preparation. Sum of Aseptic Whole and Diced Tomatoes = Whole Tomatoes + (Diced Tomatoes x 1.05).

"Asphalt" means a dark brown-to-black, cement-like material obtained by petroleum processing and containing bitumens as the predominant component. It includes crude asphalt as well as the following finished products: cements, fluxes, the asphalt content of emulsions (exclusive of water), and petroleum distillates blended with asphalt to make cutback asphalts.

"Asphalt Production" means, for the purposes of non-complexity weighted barrel product data reporting, the processing required to produce asphalt and road oils through distillation of petroleum or through re-distillation, cracking, or reforming of unfinished petroleum derivatives. The modification of asphalt produced from offsite petroleum refining, such as by blending or asphalt blowing, is not considered asphalt production.

"Asset Controlling Supplier" means any entity that owns or operates inter-connected electricity generating facilities or serves as an exclusive marketer for these facilities even though it does not own them, and is assigned a supplier-specific identification number and system emission factor by ARB for the wholesale electricity procured from its system and imported into California. Asset Controlling Suppliers are considered specified sources.

"Assigned Emissions" or "Assigned Emissions Level" means an amount of emissions, in CO_2e, assigned to the reporting entity by the Executive Officer under the requirements of section 95103(g) of MRR.

“Associated Gas” or “Produced Gas” means a natural gas that is produced in association with the production of crude oil.

“Auction” means the process of selling California Greenhouse Gas Allowances, along with allowances from External Greenhouse Gas Emissions Trading Systems with which California has linked its Cap-and-Invest Program pursuant to subarticle 12, by offering them up for bid, taking bids, and then distributing the allowances to winning bidders.

“Auction Purchase Limit” means the limit on the number of allowances one entity or a group of affiliated entities may purchase from the share of allowances sold at a quarterly auction.

“Auction Reserve Price” means a price for allowances below which bids at auction would not be accepted.

“Auction Settlement Price” means the price announced by the auction administrator at the conclusion of each quarterly auction. It is the price which all successful bidders will pay for their allowances and also the price to be paid to those entities which consigned allowances to the auction.

“Auction System” means the registry or application that facilitates the auctioning and sale of compliance instruments from CARB.

“Authorized Project Designee” means an entity authorized by an Offset Project Operator to act on behalf of the Offset Project Operator. The Authorized Project Designee must be a Primary Account Representative or Alternate Account Representative on the Offset Project Operator's Holding Account.

“Aviation Gasoline” means a complex mixture of volatile hydrocarbons, with or without additives, suitably blended to be used in aviation reciprocating engines. Specifications are as stated in MRR, section 95102(a).

“Baked potato chips” means a potato chip made from a potato dough that is rolled to a specified thickness, cut into a chip shape and then toasted in an oven.

“Balancing Authority” means the responsible entity that integrates resource plans ahead of time, maintains load-interchange-generation balance within a balancing authority area, and supports interconnection frequency in real time.

“Balancing Authority Area” means the collection of generation, transmission, and loads within the metered boundaries of a balancing authority.

A balancing authority maintains load-resource balance within this area.

“Banking” means the holding of compliance instruments from one compliance period for the purpose of sale or surrender in a future compliance period.

"Barrel of Gas Processed Equivalent," with respect to reporting of onshore natural gas processing as defined in MRR 95150(a)(3), means the volume of associated gas, waste gas, and natural gas processed converted to barrels at 5.8 MMBtu per barrel.

"Barrel of Oil Equivalent," with respect to reporting of oil and gas production, means barrels of crude oil produced, plus associated gas and dry gas produced, converted to barrels at 5.8 MMBtu per barrel.

"Biodiesel" means a diesel fuel substitute produced from nonpetroleum renewable resources that meet the registration requirements for fuels and fuel additives established by the U.S. Environmental Protection Agency under section 211 of the Clean Air Act. It includes biodiesel that is all of the following: registered as a motor vehicle fuel or fuel additive under 40 CFR Part 79 (June 27, 1994); a mono-alkyl ester; meets American Society for Testing and Material designation ASTM D 6751-08 (*Standard Specification for Biodiesel Fuel Blendstock (B100) for Middle Distillate Fuels, 2008*); intended for use in engines that are designated to run on conventional diesel fuel; and derived from nonpetroleum renewable resources.

"Biogas" means gas that is produced from the breakdown of organic material in the absence of oxygen. Biogas is produced in processes including anaerobic digestion, anaerobic decomposition, and thermochemical decomposition. These processes are applied to biodegradable biomass materials, such as manure, sewage, municipal solid waste, green waste, and waste from energy crops, to produce landfill gas, digester gas, and other forms of biogas.

"Biomass" means non-fossilized and biodegradable organic material originating from plants, animals, and microorganisms, including products, by-products, residues, and waste from agriculture, forestry, and related industries as well as the non-fossilized and biodegradable organic fractions of industrial and municipal wastes, including gases and liquids recovered from the decomposition of non-fossilized and biodegradable organic material. For the purpose of this article, biomass includes both California Renewable Portfolio Standard (RPS) eligible and non-eligible biomass as defined by the California Energy Commission.

"Biomass-Derived Fuels" or "Biomass Fuels" or "Biofuels" means fuels derived from biomass.

"Biomethane" means biogas that meets pipeline quality natural gas standards.

"Biorefinery" means an industrial facility that converts biomass feedstocks into commercially saleable hydrocarbon transportation biofuels using hydrocracking, or hydrotreating, or both processes.

"Blanched Almonds" means raw almond meats that are introduced to the blanching process. Blanching is the process through which skins are detached from almond meats.

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"Boiler" means a closed vessel or arrangement of vessels and tubes, together with a furnace or other heat source, in which water is heated to produce hot water or steam.

"Boric Oxide Equivalent" means the theoretical equivalent mass of boric oxide (B_2O_3) in all produced borate products, which is not necessarily equal to the mass of the physical substance boric oxide. This theoretical chemically equivalent mass of B_2O_3 in produced borate product is measured either (1) by using the methods described in "Method to Determine the Boric Oxide Equivalent in Borate Products" (ARB 2017), which is hereby incorporated by reference, or (2) by multiplying the mass of borates by the default boric oxide equivalency factors and summing the products. The default boric oxide equivalency factors are as follows: 38 percent for borax decahydrate ($Na_2B_4O_7*10H_2O$), 49 percent for borax pentahydrate ($Na_2B_4O_7*5H_2O$), 69 percent for anhydrous borax ($Na_2B_4O_7$), 56 percent for boric acid (H_3BO_3), and 99 percent for anhydrous boric acid (B_2O_3).

"Budget Year" means the calendar year to which an annual allowance budget is assigned pursuant to subarticle 6.

"Business-as-Usual Scenario" means the set of conditions reasonably expected to occur within the offset project boundary in the absence of the financial incentives provided by offset credits, taking into account all current laws and regulations, as well as current economic and technological trends.

"Butter" means the product made by gathering the fat of fresh or ripened milk or cream into a mass that also contains a small portion of other milk constituents such as nonfat solids. Moisture and nonfat solids are essential constituents of butter.

"Buttermilk" means the low-fat portion of milk or cream remaining after the milk or cream has been churned to make butter.

"Buttermilk powder" means milk powder obtained by drying liquid buttermilk that was derived from the churning of butter and pasteurized prior to condensing. Buttermilk powder has a protein content of no less than 30%. It may not contain, or be derived from, nonfat dry milk, dry whey, or products other than buttermilk, and contains no added preservatives, neutralizing agents, or other chemicals.

"CAISO Markets" shall have the same meaning as defined in MRR section 95102(a).

"CAISO Markets Outstanding Emissions" shall represent the same number as calculated per MRR section 95111(h)(1).

"CAISO Markets Purchaser" or "CAISO Purchaser" shall have the same meaning as defined in MRR section 95102(a).

"CAISO Markets Purchaser Emissions" shall have the same meaning as defined in MRR section 95111(h)(2).

"CAISO Scheduling Coordinator" shall have the same meaning as defined in MRR section 95102(a).

"Calcined coke" means petroleum coke purified to a dry, pure form of carbon suitable for use as anode and other non-fuel applications.

"Calcium Ammonium Nitrate Solution" means calcium nitrate that contains ammonium nitrate and water. Calcium ammonium nitrate solution is generally used as agricultural fertilizer.

"Calendar Year" means the time period from January 1 through December 31.

"California Balancing Authority" shall have the same meaning ascribed in section 95102(a) of MRR.

"California Electricity Transmission and Distribution System" means the combination of the entire infrastructure within California that delivers electric power from electric generating facilities to end users over single or multiple paths.

"California Greenhouse Gas Emissions Allowance" or "CA GHG Allowance" means an allowance issued by ARB and equal to up to one metric ton of CO_2 equivalent.

"Calyx" or "Calyces" means the leaf-like structure composing the outermost part of a flower. This structure often encloses and protects a bud and may remain after a fruit forms.

"Cap" means the total number of California GHG Allowances that the Executive Officer issues over a given period of time.

"Cap-and-Invest Program" means the requirements of this article.

"Carbon Dioxide" or "CO_2" means the most common of the primary greenhouse gases, consisting on a molecular level of a single carbon atom and two oxygen atoms.

"Carbon Dioxide Equivalent" or "CO_2 equivalent" or "CO_2e" means the number of metric tons of CO_2 emissions with the same global warming potential as one metric ton of another greenhouse gas. Global warming potential values shall be determined consistent with the definition of Carbon Dioxide Equivalent in MRR section 95102(a).

"Carbon Dioxide Supplier" or "CO_2 Supplier" means (a) facilities with production process units located in the State of California that capture a CO_2 stream for purposes of supplying CO_2 to another entity or facility or that capture the CO_2 stream in order to utilize it for geologic sequestration where capture refers to the initial separation and removal of CO_2 from a manufacturing process or any other process, (b) facilities with CO_2 production wells located in the State of California that extract or produce a CO_2 stream for purposes of supplying CO_2 for commercial applications or that extract a CO_2 stream in order to utilize it for geologic sequestration, (c) exporters (out of the State of California) of bulk CO_2 that export CO_2 for the purpose of geologic sequestration, (d)

exporters (out of the State of California) of bulk CO_2 that export for purposes other than geologic sequestration, and (e) importers (into the State of California) of bulk CO_2. This source category is focused on upstream supply and is not intended to place duplicative compliance obligations on CO_2 already covered upstream. The source category does not include transportation or distribution of CO_2; purification, compression, or processing of CO_2; or on-site use of CO_2 captured on-site.

“Carbon Stock” means the quantity of carbon contained in an identified GHG reservoir.

“Carbonation” means the process of dissolving carbon dioxide in water.

“Casein” means a group of proteins found in milk which is coagulated by enzymes and acid to form cheese.

“Cement” means a manufactured material that meets the specification standards for portland cement (such as ASTM C150 (2022), which is incorporated by reference herein) or hydraulic blended cements (such as ASTM C595 (2023), which is incorporated by reference herein), or that meets performance-based standards for functional equivalents of portland or hydraulic blended cements (such as ASTM C1157 (2023), which is incorporated by reference herein). Cement is used to make concrete, masonry cement, plastic (stucco) cement, and mortar cement.

“Cheese” means a food product derived from milk that is produced in a wide range of flavors, textures, and forms by coagulation of the milk protein casein.

“Cogeneration” means an integrated system that produces electric energy and useful thermal energy for industrial, commercial, or heating and cooling purposes, through the sequential or simultaneous use of the original fuel energy. Cogeneration must involve onsite generation of electricity and useful thermal energy and some form of waste heat recovery. Some examples of cogeneration include: (a) a gas turbine or reciprocating engine generating electricity by combusting fuel, which then uses a heat recovery unit to capture useful heat from the exhaust stream of the turbine or engine; (b) steam turbines generating electricity as a byproduct of steam generation through a fired boiler; and (c) cogeneration systems in which the fuel input is first applied to a thermal process such as a furnace and at least some of the heat rejected from the process is then used for power production. For the purposes of this article, a combined-cycle power generation unit, where none of the generated thermal energy is used for industrial, commercial, or heating and cooling purposes (these purposes exclude any thermal energy utilization that is either in support of or a part of the electricity generation system), is not considered a cogeneration unit.

“Cold Rolled and Annealed Steel Sheet” means steel that is cold rolled and then annealed. Cold rolling means the changes in the structure and shape of steel through rolling, hammering or stretching the steel at a low temperature. Annealing is a heat or thermal treatment process by which a previously cold-rolled steel coil is made more

suitable for forming and bending. The steel sheet is heated to a designated temperature for a sufficient amount of time and then cooled.

“Cold Rolling of Steel” means the changes in the structure and shape of steel through rolling, hammering or stretching the steel at a low temperature.

“Combustion Emissions” means greenhouse gas emissions occurring during the exothermic reaction of a fuel with oxygen.

“Complexity weighted barrel” or “CWB” means a metric created to evaluate the greenhouse gas efficiency of petroleum refineries and related processes. The CWB value for an individual refinery is calculated using actual refinery throughput to specified process units and emission factors for these process units. The emission factor is denoted as the CWB factor and is representative of the greenhouse gas emission intensity at an average level of energy efficiency, for the same standard fuel type for each process unit for production, and for average process emissions of the process units across a sample of refineries. Each CWB factor is expressed as a value weighted relative to atmospheric crude distillation.

“Compliance Account” means an account created by the accounts administrator for a covered entity or opt-in covered entity with a compliance obligation, to which the entity transfers compliance instruments to meet its annual and full compliance period compliance obligations.

“Compliance Instrument” means an allowance or offset, issued by ARB or by an External Greenhouse Gas Emissions Trading System to which California has linked its Cap-and-Invest Program pursuant to subarticle 12, or sector-based offset credit. Each compliance instrument can be used to fulfill a compliance obligation equivalent to up to one metric ton of CO_2e.

“Compliance Obligation” means the quantity of verified reported emissions or assigned emissions for which an entity must submit compliance instruments to ARB.

“Compliance Offset Protocol” means an offset protocol adopted by the Board.

“Compliance Period” means the multi-year period for which the compliance obligation is calculated for covered entities.

“Compressed natural gas” or “CNG” means natural gas in high-pressure containers that is highly compressed (though not to the point of liquefaction), typically to pressures ranging from 2900 to 3600 psi.

“Condensed milk” means the food obtained by partial removal of water only from a milk product. The finished food contains not less than 28 percent by weight of total milk solids. The composition of the milk solid components and nutritional content in condensed milk retains the same relative ratios as the parent fluid product except for minor composition changes due to processing.

“Conflict of Interest” means, for purposes of this article, a situation in which, because of financial or other activities or relationships with other persons or organizations, a person or body is unable or potentially unable to render an impartial Offset Verification Statement of a potential client's Offset Project Data Report, or the person or body's objectivity in performing offset verification services is or might be otherwise compromised.

“Conservative” means, in the context of offset crediting, that offset projects must utilize assumptions, emission or removal factors, and methodologies that are more likely than not to understate the calculation or measurement of net GHG emission reductions or GHG removal enhancements, and means, in the context of unintentional reversals and project termination determinations, that offset projects must utilize assumptions, emission or removal factors, and methodologies that are more likely than not to overstate the calculation of actual onsite carbon stocks.

“Consumer Price Index for All Urban Consumers” means a measure that examines the changes in the price of a basket of goods and services purchased by urban consumers, and is published by the U.S. Bureau of Labor Statistics.

“Container Glass Pulled” means the quantity of glass removed from the melting furnace in the container glass manufacturing process where “container glass” is defined as glass products used for packaging.

“Contract Description Code” means the alphanumeric code assigned by an exchange to a particular exchange product that differentiates the product from others traded on the exchange.

“Corn chip” is a food product made from masa (ground corn dough) that is rolled to a specific thickness, cut into a chip shape, lightly toasted in an oven, and then deep fried.

“Corn curl” is a food product made from a deep-fried extrusion of masa (ground corn dough).

“Correctable error” means, in the context of offset projects, an error or omission identified by the verification team in the offset project data report and its supporting files being verified by the verification team that contributes to a non-conservative estimate of GHG emissions reductions or GHG removal enhancements. A correctable error resulting from a nonconformance with this article, a Compliance Offset Protocol, or any underlying documented technical procedure(s), such as inventory, modeling, or calculation methods, relevant to the given quantification method must be corrected, except as allowed for in section 95977.1(b)(3)(M), before the verification team submits an Offset Verification Statement.

“Counterparty” means the opposite party in a bilateral agreement, contract, or transaction.

"Covered Entity" means an entity within California that has one or more of the processes or operations and has a compliance obligation as specified in subarticle 7 of this regulation; and that has emitted, produced, imported, manufactured, or delivered in 2009 or any subsequent year more than the applicable threshold level specified in section 95812(a) of this rule.

"Cream" means that portion of milk, rich in milk fat, which rises to the surface of milk that is left standing or which is separated from milk by centrifugal force.

"Crediting Baseline" refers to the reduction of absolute GHG emissions below the business-as-usual scenario or reference level across a jurisdiction's entire sector in a sector-based crediting program after the imposition of greenhouse gas emission reduction requirements or incentives.

"Crediting Period" means the pre-determined period for which an offset project will remain eligible to be issued ARB offset credits or registry offset credits for verified GHG emission reductions or GHG removal enhancements.

"Crude Oil Extraction" means the process of drilling into underground reservoirs to retrieve unrefined petroleum, often utilizing thermal or non-thermal enhanced oil recovery methods.

"Data Year" means the calendar year in which emissions occurred.

"Deforestation" means direct human-induced conversion of forested land to non-forested land.

"Dehydrated chili pepper" means chili pepper that has been dehydrated to no more than 12 percent water by mass in order to extend the shelf life and to concentrate the flavor. Chili peppers are the fruit of plants from the genus *Capsicum*, and are members of the nightshade family *Solanaceae*.

"Dehydrated garlic" means garlic that has been dehydrated to no more than 6.8 percent water by mass in order to extend the shelf life and to concentrate the flavor. Garlic is an onion-like plant (*Allium sativum*) having a bulb that breaks up into separable cloves with a strong distinctive odor and flavor.

"Dehydrated onion" means onion that has been dehydrated to no more than 5.5 percent water by mass in order to extend the shelf life and to concentrate the flavor. Onion (*Allium cepa*) is a plant that has a fan of hollow, bluish-green leaves and the bulb at the base of the plant begins to swell when a certain day-length is reached.

"Dehydrated parsley" means parsley that has been dehydrated to no more than 5 percent water by mass in order to extend the shelf life and to concentrate the flavor. Parsley (*Petroselinum crispum*) is a species of *Petroselinum* in the family *Apiaceae*.

"Dehydrated spinach" means spinach that has been dehydrated to no more than 7 percent water by mass in order to extend the shelf life and to concentrate the flavor. Spinach (*Spinacia oleracea*) is an edible flowering plant in the family of *Amaranthaceae*.

"Delivered Electricity" means electricity that was distributed from a PSE and received by a PSE or electricity that was generated, transmitted, and consumed.

"Deproteinized whey" means products manufactured through the cold ultrafiltration of sweet dairy whey, removing a portion of the protein from sweet whey to result in a non-hygroscopic, free-flowing and clean flavored powder containing greater than 80% carbohydrate (lactose) levels.

"Diced Tomatoes" is the food prepared from mature tomatoes conforming to the characteristics of the fruit *Lycopersicum esculentum* P. Mill, of red or reddish varieties. The tomatoes are diced or crushed, and shall have had the stems and calyces removed.

"Diesel Fuel" means Distillate Fuel No. 1 and Distillate Fuel No. 2, including dyed and non-taxed fuels.

"Direct Delivery of Electricity" or "directly delivered" has the same meaning as ascribed to MRR section 95102(a).

"Direct environmental benefits in the State" refers to the reduction or avoidance of emissions of any air pollutant in the state or the reduction or avoidance of any pollutant that could have an adverse impact on waters of the state.

"Direct GHG Emission Reduction" means a GHG emission reduction from applicable GHG emission sources, GHG sinks, or GHG reservoirs that are under control of the Offset Project Operator or Authorized Project Designee.

"Direct GHG Removal Enhancement" means a GHG removal enhancement from applicable GHG emission sources, GHG sinks, or GHG reservoirs under control of the Offset Project Operator or Authorized Project Designee.

"Distillate Fuel No. 1" has a maximum distillation temperature of 550°F at the 90 percent recovery point and a minimum flash point of 100°F and includes fuels commonly known as Diesel Fuel No. 1 and Fuel Oil No. 1, but excludes kerosene. This fuel is further subdivided into categories of sulfur content: High Sulfur (greater than 500 ppm), Low Sulfur (less than or equal to 500 ppm and greater than 15 ppm), and Ultra Low Sulfur (less than or equal to 15 ppm).

"Distillate Fuel No. 2" has a minimum and maximum distillation temperature of 540 °F and 640 °F at the 90 percent recovery point, respectively, and includes fuels commonly known as Diesel Fuel No. 2 and Fuel Oil No. 2. This fuel is further subdivided into categories of sulfur content: High Sulfur (greater than 500 ppm), Low Sulfur (less than

or equal to 500 ppm and greater than 15 ppm), and Ultra Low Sulfur (less than or equal to 15 ppm).

“Distillate Fuel No. 4” means a distillate fuel oil with a minimum flash point of 131 °F made by blending distillate fuel oil and residual fuel oil.

“Distillate Fuel Oil” means a classification for one of the petroleum fractions produced in conventional distillation operations and from crackers and hydrotreating process units. The generic term “distillate fuel oil” includes kerosene, kerosene-type jet fuel, diesel fuels (Diesel Fuels No. 1, No. 2, and No. 4), and fuel oils (Fuel Oils No. 1, No. 2, and No. 4).

“Distilled spirit” means a spirit made from the separation of alcohol and a fermented product.

“District Heating Facility” means a facility that, at a central plant, produces hot water, steam, and/or chilled water that is distributed through underground pipes to buildings and facilities connected to the system that are not part of the same facility. District Heating Facility does not include a facility that produces electricity.

“Dolime” is calcined dolomite.

“Dry Gas” means a natural gas that is produced from gas wells not associated with the production of crude oil.

“Dry color concentrate” means precipitated solids extract from fruits and vegetables whose uses are for altering the color of materials and/or food.

“Ductile iron pipe” means pipe made of cast ferrous material in which a major part of the carbon content occurs as free graphite in a substantially nodular or spheroidal form. Pipes are used mainly to convey substances which can flow.

“Early Action Offset Credit” means a tradable credit issued by an Early Action Offset Program that represents a GHG reduction or GHG removal enhancement equivalent to one metric ton of CO_2e and meets the requirements of the Program for Recognition of Early Action Offset Credits.

“Early Action Offset Program” means a program that meets the requirements of the Program for Recognition of Early Action Offset Credits and is approved by ARB.

“Early Action Offset Project” means an offset project that is registered with an Early Action Offset Program, has been issued early action offset credits, with the exception of reforestation offset projects, which must be registered with an Early Action Offset Program but might not have been issued early action offset credits, and is in good standing with the Early Action Offset Program.

“Early Action Reporting Period” means a reporting period in which GHG reductions and/or GHG removal enhancements are reported under an Early Action Offset Program.

"Electric Arc Furnace" or "EAF" means a furnace that produces molten steel and heats the charge materials with electric arcs from carbon electrodes. Furnaces that continuously feed direct-reduced iron ore pellets as the primary source of iron are not affected facilities within the scope of this definition.

"Electrical Distribution Utility(ies)" or "EDU" means an entity that owns and/or operates an electrical distribution system, including: 1) a public utility as defined in the Public Utilities Code section 216 (referred to as an Investor Owned Utility or IOU); or 2) a local publicly owned electric utility (POU) as defined in Public Utilities Code section 224.3 or 3) an Electrical Cooperative (COOP) as defined in Public Utilities Code section 2776, that provides electricity to retail end users in California.

"Electricity Generating Facility" means a facility that generates electricity and includes one or more generating units at the same location.

"Electricity Importers" deliver imported electricity. For electricity that is scheduled with a NERC e-Tag to a final point of delivery inside the state of California, the electricity importer is identified on the NERC e-Tag as the purchasing-selling entity (PSE) on the last segment of the tag's physical path with the point of receipt located outside the state of California and the point of delivery located inside the state of California. For facilities physically located outside the state of California with the first point of interconnection to a California balancing authority's transmission and distribution system when the electricity is not scheduled on a NERC e-Tag, the importer is the facility operator or scheduling coordinator. Federal and state agencies are subject to the regulatory authority of ARB under this article, and include Western Area Power Administration (WAPA), Bonneville Power Administration (BPA) and California Department of Water Resources (DWR). For electricity that is imported into California through the CAISO Markets, the electricity importer is identified as the CAISO Scheduling Coordinator whose transactions result in electricity imports into California.

"Electric Power Entity" shall have the same meaning ascribed in section 95102(a) of MRR.

"Eligible Renewable Energy Resource" has the same meaning as defined in Section 399.12 of the Public Utilities Code.

"Emissions" means the release of greenhouse gases into the atmosphere from sources and processes in a facility, including from the combustion of transportation fuels such as natural gas, petroleum products, and natural gas liquids. In the context of offsets, "emissions" means the release of greenhouse gases into the atmosphere from sources and processes within an offset project boundary.

"Emissions Data Report" or "greenhouse gas emissions data report" or "report" means the report prepared by an operator or supplier each year and submitted by electronic means to ARB that provides the information required by MRR. The emissions data report is for the submission of required data for the calendar year prior to the year in

which the report is due. For example, a 2013 emissions data report would cover emissions and product data for the 2013 calendar year and would be reported in 2014.

“Emissions Efficiency Benchmark” or “GHG emissions efficiency benchmark” means a performance standard used to evaluate GHG emissions efficiency between and amongst similar facilities or operations in the same industrial sector.

“Emulsion” means a mixture of water, crude oil, associated gas, and other components from the oil extraction process that is transferred from an existing platform that is permanently affixed to the ocean floor and that is located outside the distance specified in the “offshore” definition in section 95102 of MRR, to an onshore petroleum and natural gas production facility.

“End User” means a final purchaser of an energy product, such as electricity, thermal energy, or natural gas not for the purposes of retransmission or resale. In the context of natural gas consumption, an “end user” is the point to which natural gas is delivered for consumption.

“Enforceable” means the authority for ARB to hold a particular party liable and to take appropriate action if any of the provisions of this article are violated.

“Enhanced Oil Recovery” or “EOR” means the use of certain methods such as steam (thermal EOR), water flooding or gas injection into existing wells to increase the recovery of crude oil from a reservoir. In the context of this rule, EOR also applies to injection of critical phase carbon dioxide into a crude oil reservoir to enhance the recovery of oil.

“Enterer” means an entity that imports into California a transportation fuel regulated under section 95121 of MRR other than LPG or biomass-derived LPG, and who is the importer of record under federal customs law or the owner of fuel upon import into California if the fuel is not subject to federal customs law. Only enterers that import the fuels specified in this definition outside the bulk transfer/terminal system are subject to reporting under MRR.

“Entity” means a person, firm, association, organization, partnership, business trust, corporation, limited liability company, company, or government agency.

“Entity type” means the type of entity based on the qualification to register in the tracking system as a covered entity (pursuant to section 95811), an opt-in covered entity (pursuant to section 95813), or a voluntarily associated entity (pursuant to section 95814).

“Environmental Impact Assessment” means a detailed public disclosure statement of potential environmental and socioeconomic impacts associated with a proposed project. Such disclosure is a matter of public record and provides detailed information to public agencies and the general public about the effect that a proposed project is likely to have

on the environment and ways in which the significant effects of such a project might be minimized, and to indicate alternatives to such a project.

“Environmental Stringency” means, for purposes of this article, the ability of the California Cap-and-Invest Program to deliver the GHG emission reductions contemplated by this article, including the allowance budgets established in this article.

“Exchange” means a central marketplace with established rules and regulations where buyers and sellers meet to conduct trades.

“Executive Officer” means the Executive Officer of the California Air Resources Board, or his or her delegate.

“Expected Settlement Date” is a date specified in a transaction agreement on which all requirements in the transaction agreement are expected to be settled, exclusive of any contingencies specified in the agreement.

“Expected Termination Date” is a date specified in a transaction agreement on which all requirements in the transaction agreement are expected to be completed, exclusive of any contingencies specified in the agreement.

“Exported Electricity” shall have the same meaning ascribed in section 95102(a) of MRR.

“Extended Day-Ahead Market” or “EDAM” shall have the same meaning as defined in MRR section 95102(a).

“External Greenhouse Gas Emissions Trading System” or “External GHG ETS” means an administrative system, other than the California Cap-and-Invest Program, that controls greenhouse gas emissions from sources in its program.

“Facility,” unless otherwise specified in relation to natural gas distribution facilities and onshore petroleum and natural gas production facilities as defined in section 95802(a), means:

Any physical property, plant, building, structure, source, or stationary equipment located on one or more contiguous or adjacent properties in actual physical contact or separated solely by a public roadway or other public right-of-way and under common ownership or common control, that emits or may emit any greenhouse gas. Operators of military installations may classify such installations as more than a single facility based on distinct and independent functional groupings within contiguous military properties.

With respect to natural gas distribution for the purposes of sections 95150 through 95158 of MRR, “Facility” means the collection of all distribution pipelines and metering-regulating stations that are operated by a Local Distribution Company (LDC) within the State of California that is regulated as a separate operating company by a public utility commission or that are operated as an independent municipally-owned distribution system.

With respect to onshore petroleum and natural gas production for the purposes of sections 95150 through 95158 of MRR, "Facility" means all petroleum and natural gas equipment on a well-pad, or associated with a well pad or to which emulsion is transferred and CO_2 EOR operations that are under common ownership or common control including leased, rented, or contracted activities by an onshore petroleum and natural gas production owner or operator and that are located in a single hydrocarbon basin as defined in section 95102(a) of MRR. When a commonly owned cogeneration plant is within the basin, the cogeneration plant is only considered part of the onshore petroleum and natural gas production facility if the onshore petroleum and natural gas production facility operator or owner has a greater than fifty percent ownership share in the cogeneration plant. Where a person or entity owns or operates more than one well in a basin, then all onshore petroleum and natural gas production equipment associated with all wells that the person or entity owns or operates in the basin would be considered one facility. Onshore natural gas processing equipment that is owned and/or operated by the facility owner/operator and located within the same basin, is considered "associated with a well pad" and is included with the onshore petroleum and natural gas production facility, unless such equipment is required to be reported as part of a separate onshore petroleum and natural gas processing facility.

With respect to onshore natural gas processing, "Facility" means equipment associated with the separation of natural gas liquids (NGLs) or non-methane gases from produced natural gas, including separation of sulfur and carbon dioxide, that processes an annual average throughput of 25 MMscf per day or greater, or whose owner/operator does not also own/operate a production facility in the same basin.

"Fiberglass Pulled" means the quantity of glass removed from the melting furnace in the fiberglass manufacturing process where "Fiberglass" is defined as insulation products for thermal, acoustic, and fire applications manufactured using glass.

"Final Point of Delivery" means the sink specified on the NERC e-Tag, where defined points have been established through the NERC Registry. When NERC e-Tags are not used to document electricity deliveries, as may be the case within a balancing authority, the final point of delivery is the location of the load. Exported electricity is disaggregated by the final point of delivery on the NERC e-Tag.

"Finished cement" means cement that includes adjusted clinker, mineral additives, and Supplementary Cementitious Materials produced by a covered or opt-in covered entity.

"First Deliverer of Electricity" or "First Deliverer" means the owner or operator of an electricity generating facility in California, or an electricity importer.

"First Point of Receipt" means the generation source specified on the NERC e-Tag, where defined points have been established through the NERC Registry. When NERC e-Tags are not used to document electricity deliveries, as may be the case within a balancing authority, the first point of receipt is the location of the individual generating

facility or unit, or group of generating facilities or units. Imported electricity and wheeled electricity are disaggregated by the first point of receipt on the NERC e-Tag.

“Flash Point” of a volatile liquid is the lowest temperature at which it can vaporize to form an ignitable mixture in air.

“Flat Glass Pulled” means the quantity of glass removed from the melting furnace in the flat glass manufacturing process where “flat glass” is defined as glass initially manufactured in a sheet form.

“Flavored Almonds” means pasteurized almond meats that are introduced to the flavoring process. Flavoring occurs when almonds are passed through a seasoning mixture to add various snack food flavors and then dehydrated to a desired moisture level for packaging.

“Flavored Pistachios” means hulled and dried pistachios that are introduced to the flavoring process. Flavoring occurs when pistachios are passed through a seasoning mixture to add various snack food flavors and then dehydrated to a desired moisture level for packaging. Flavored pistachios may include pistachios hulled and dried internally, or pistachios hulled and dried by other facilities.

“Fluid Milk Product” means a product that meets the definition of milk, skim milk, buttermilk, ultrafiltered milk, or cream.

“Fluorinated Greenhouse Gas” means sulfur hexafluoride (SF_6), nitrogen trifluoride (NF_3), and any fluorocarbon except for controlled substances as defined at 40 CFR Part 82 (May 10, 1995), subpart A and substances with vapor pressures of less than 1 mm of Hg absolute at 25 C. With these exceptions, “fluorinated GHG” includes any hydrofluorocarbon; any perfluorocarbon; any fully fluorinated linear, branched, or cyclic alkane, ether, tertiary amine, or aminoether; any perfluoropolyether; and any hydrofluoropolyether.

“Fluting” means the center segment of corrugated shipping containers, being faced with linerboard (testliner/kraftliner) on both sides. Fluting covers mainly papers made from recycled fiber but this group also holds paperboard that is made from chemical and semichemical pulp.

“Forest Buffer Account” means a holding account for ARB offset credits issued to forest offset projects. It is used as a general insurance mechanism against unintentional reversals, for all forest offset projects listed under a Compliance Offset Protocol.

“Forest Offset Project” means an offset project that uses or has used either the offset protocols identified in section 97973(a)(2)(C)4. or one of the Climate Action Reserve Forest Project Protocols identified as offset quantification methodologies in the definition of the Program for Recognition of Early Action Offset Credits in section 95802(a).

“Forest Owner” means the owner of any interest in the real (as opposed to personal) property involved in a forest offset project, excluding government agency third party beneficiaries of conservation easements. Generally, a Forest Owner is the owner in fee of the real property involved in a forest offset project. In some cases, one entity may be the owner in fee while another entity may have an interest in the trees or the timber on the property, in which case all entities or individuals with interest in the real property are collectively considered the Forest Owners, however, a single Forest Owner must be identified as the Offset Project Operator.

“Fossil Fuel” means natural gas, petroleum, coal, or any form of solid, liquid, or gaseous fuel derived from such material for the purpose of creating useful heat.

“Fractionates” means the process of separating natural gas liquids into their constituent liquid products.

“Freshwater diatomite filter aids” means inorganic mineral powders derived by processing freshwater diatomite which is fossilized single-celled algae found in lake beds. Filter aids are used in combination with filtration hardware to enhance filtration performance to separate unwanted solids from fluids.

“Fried potato chip” means a thin slice of potato that is deep fried until crunchy.

“Fuel” means solid, liquid, or gaseous combustible material. Volatile organic compounds burned in destruction devices are not fuels unless they can sustain combustion without use of a pilot fuel, and such destruction does not result in a commercially useful end product.

“Fuel Analytical Data” means data collected about fuel usage (including mass, volume, and flow rate) and fuel characteristics (including heating value, carbon content, and molecular weight) to support emissions calculation.

“Fuel Cell” means a device that converts the chemical energy of a fuel and an oxidant directly into electrical energy without using combustion. Fuel cells require a continuous source of fuel and oxidant to operate.

“Fuel ethanol” means ethanol that meets the specifications within ASTM D4806-21 “Standard Specification for Denatured Fuel Ethanol for Blending with Gasolines for Use as Automotive Spark-Ignition Engine Fuel” (2021), which is hereby incorporated by reference, for blending with gasolines for use as automotive spark-ignition engine fuel.

“Fuel supplier” means a supplier of transportation fuels or a supplier of liquefied petroleum gas, natural gas or natural gas liquids or their biomass-derived equivalents, as specified in MRR.

“Fugitive Emissions” means those emissions which are unintentional and could not reasonably pass through a stack, chimney, vent, or other functionally-equivalent opening.

"Full Offset Verification" means, for the purposes of this article, offset verification services that meet all the requirements of sections 95977.1 and 95977.2, including a site visit.

"Galvanized Steel Sheet" means steel coated with a thin layer of zinc to provide corrosion resistance for such products as garbage cans, storage tanks, or framing for buildings. Sheet steel normally must be cold-rolled prior to the galvanizing stage.

"Gas" means the state of matter distinguished from the solid and liquid states by: relatively low density and viscosity; relatively great expansion and contraction with changes in pressure and temperature; the ability to diffuse readily; and the spontaneous tendency to become distributed uniformly throughout any container.

"Gaseous Hydrogen" means hydrogen in a gaseous state.

"Geologic Sequestration" means the process of injecting CO_2 captured from an emissions source into deep subsurface rock formations for permanent storage.

"Global Warming Potential" or "GWP" means the ratio of the time-integrated radiative forcing from the instantaneous release of one kilogram of a trace substance relative to that of one kilogram of a reference gas, i.e., CO_2.

"Granulated refined sugar" means white refined sugar (99.9% sucrose), made by dissolving and purifying raw sugar then drying it to prevent clumping.

"Grape Juice concentrate" means the liquid from crushed grapes, from the botanical genus *Vitas*, processed to remove water.

"Grape seed extract" means the extract from grape seeds containing concentrations of proanthocyanidin.

"Greenhouse Gas" or "GHG" means carbon dioxide (CO_2), methane (CH_4), nitrogen trifluoride (NF_3), nitrous oxide (N_2O), sulfur hexafluoride (SF_6), hydrofluorocarbons (HFCs), perfluorocarbons (PFCs), and other fluorinated greenhouse gases as defined in this section.

"Greenhouse Gas Emission Reduction" or "GHG Emission Reduction" or "Greenhouse Gas Reduction" or "GHG Reduction" means a calculated decrease in GHG emissions relative to a project baseline over a specified period of time.

"Greenhouse Gas Emissions Source" or "GHG Emissions Source" means, in the context of offset credits, any type of emitting activity that releases greenhouse gases into the atmosphere.

"Greenhouse Gas Removal" or "GHG Removal" means the calculated total mass of a GHG removed from the atmosphere over a specified period of time.

"Greenhouse Gas Removal Enhancement" or "GHG Removal Enhancement" means a calculated increase in GHG removals relative to a project baseline.

“Greenhouse Gas Reservoir” or “GHG Reservoir” means a physical unit or component of the biosphere, geosphere, or hydrosphere with the capability to store, accumulate, or release a GHG removed from the atmosphere by a GHG sink or a GHG captured from a GHG emission source.

“Greenhouse Gas Sink” or “GHG Sink” means a physical unit or process that removes a GHG from the atmosphere.

“Grind aid” shall have the same meaning as defined in MRR section 95102(a).

“Gypsum” means a mineral with the chemical formula $CaSO_4 \cdot 2H_2O$.

“HD-5” or “Special Duty Propane” has the same meaning as contained in MRR.

“HD-10” has the same meaning as contained in MRR.

“Hold” in the context of a compliance instrument, is to have the serial number assigned to that instrument registered into an account assigned to an entity that is registered into the California Cap-and-Invest Program or an External Greenhouse Gas Emissions Trading System to which California has linked its Cap-and-Invest Program pursuant to subarticle 12, or an account under the control of the Executive Officer.

“Holding Account” or “General Holding Account” means an account created for each covered entity, opt-in covered entity, or voluntarily associated entity to hold compliance instruments.

“Horsepower Tested” means the total horsepower of all turbine and generator set units tested prior to sale.

“Hot Rolled Steel Sheet” means steel produced from the rolling mill that reduces a hot slab into a coil of specified thickness at a relatively high temperature.

“Hydrocarbon” means a chemical compound containing predominantly carbon and hydrogen.

“Hydrofluorocarbon” or “HFC” means a class of GHGs consisting of hydrogen, fluorine, and carbon.

“Hydrogen” means diatomic molecular hydrogen, the lightest of all gases.

“Imported Electricity” means electricity generated outside the state of California and delivered to serve load located inside the state of California. Imported electricity includes electricity delivered across balancing authority areas from a first point of receipt located outside the state of California, to the first point of delivery located inside the state of California, having a final point of delivery in California. Imported electricity includes electricity imported into California over a multi-jurisdictional retail provider's transmission and distribution system, or electricity imported into the state of California from a facility or unit physically located outside the state of California with the first point of interconnection into a California balancing authority's transmission and distribution

system. Imported electricity includes electricity that is a result of cogeneration located outside the state of California. Imported electricity does not include electricity wheeled through California, defined pursuant to MRR section 95102(a). Imported electricity does not include electricity imported into the CAISO balancing authority area to serve retail customers that are located within the CAISO balancing authority area, but outside the state of California. Imported Electricity does not include electricity imported into California by an Independent System Operator to obtain or provide emergency assistance under applicable emergency preparedness and operations reliability standards of the North American Electric Reliability Corporation or Western Electricity Coordinating Council. Imported electricity shall include Western Energy Imbalance Market (WEIM) and Extended Day-Ahead Market (EDAM) dispatches designated by the CAISO's optimization model and reported by the CAISO to CAISO Scheduling Coordinators as electricity imported to serve retail customers load that is located within the state of California.

“Importer of fuel” shall have the same meaning as defined in MRR section 95102(a).

“Incident Action Plan” means, in the context of wildland fire, a plan that sets forth the incident objectives and is created daily to direct and document the day-to-day tactical objectives and actions taken to accomplish those objectives in the service of the broader strategies developed by the Incident Management Team.

“Incident Management Team” means a group from federal, state, local, tribal, and territorial entities responsible for incident management response to wildland fire. An incident management team is dispatched or mobilized during emergency incidents to provide a command-and-control infrastructure for managing the operational, logistical, informational, planning, fiscal, community, political, and safety issues associated with wildland fire response.

“Independent Merchant Refinery” means a refinery that produces at least one million barrels of motor gasoline blendstock annually and is owned by a standalone company that primarily operates petroleum refining assets that is not vertically integrated with crude oil exploration or production and not vertically integrated with retail marketing through proprietary, branded stations.

“Initial Crediting Period” means the crediting period that begins with the first day of the first reporting period which receives a Positive Offset or Qualified Positive Offset Verification Statement and has that Offset Verification Statement approved by ARB.

“Intentional Reversal” means any reversal that is not an unintentional reversal pursuant to section 95983(b)(1). An intentional reversal is any reversal caused by a forest owner's negligence, gross negligence, or willful intent, including harvesting, development, and harm to the area within the offset project boundary, or an overestimate of tree volume or biomass by an approved growth model.

Legal Disclaimer: This is an unofficial electronic version of the Regulation for the California Cap on Greenhouse Gas Emissions and Market-Based Compliance Mechanisms. The official legal edition is available at the OAL website: http://oal.ca.gov/publications/ccr/

“Intermediate dairy ingredients” means intermediate (non-final) dairy products imported from other dairy facilities that enter the rehydrating process, which uses water and heat to manufacture powdered milk products.

“Intermittent bleed pneumatic devices” means automated flow control devices powered by pressurized natural gas and used for automatically maintaining a process condition such as liquid level, pressure, delta-pressure and temperature. These are snap-acting or throttling devices that discharge all or a portion of the full volume of the actuator intermittently when control action is necessary, but do not bleed continuously. Intermittent bleed devices which bleed at a cumulative rate of 6 standard cubic feet per hour or greater are considered high bleed devices for the purposes of this Regulation.

“Interstate Pipeline” means any entity that owns or operates a natural gas pipeline delivering natural gas to consumers in the state and is subject to rate regulation by the Federal Energy Regulatory Commission.

“Intrastate Pipeline” means any pipeline or piping system wholly within the State of California that is delivering natural gas to end-users and is not regulated as a public utility gas corporation by the California Public Utility Commission (CPUC), is not a publicly owned natural gas utility, and is not regulated as an interstate pipeline by the Federal Energy Regulatory Commission. This definition includes onshore petroleum and natural gas production facilities and natural gas processing facilities, as defined by sections 95150(a)(2)-(3) of MRR, that deliver pipeline and/or non-pipeline quality natural gas to one or more end users. Facility operators that are required to report facility GHG emissions under MRR and also own or operate an interconnection pipeline that connects their facility to an interstate pipeline, or that jointly own or operate an interconnection pipeline to an interstate pipeline with other nearby facilities, are not considered intrastate pipeline operators. Facilities that receive gas from an upstream LDC and redeliver a portion of the gas to one or more adjacent facilities are not considered intrastate pipelines.

“Inventory Position” means a contractual agreement with the terminal operator for the use of the storage facilities and terminaling services for the fuel.

“Issue” or “Issuance” means, in the context of offset credits, the creation of ARB offset credits or registry offset credits equivalent to the number of verified GHG reductions or GHG removal enhancements for an offset project over a specified period of time. In the context of allowances, issue means the placement of an allowance into an account under the control of the Executive Officer.

“Joint Powers Authority” or “JPA” means an public agency that is formed and created pursuant to the provisions of Government Code sections 6500. et seq.

“Kerosene” is a light petroleum distillate with a maximum distillation temperature of 400 °F at the 10-percent recovery point, a final maximum boiling point of 572 °F, a minimum flash point of 100 °F, and a maximum freezing point of -22 °F. Included are No. 1-K and

No. 2-K, distinguished by maximum sulfur content (0.04 and 0.30 percent of total mass, respectively), as well as all other grades of kerosene called range or stove oil. Kerosene does not include kerosene-type jet fuel.

“Kerosene-Type Jet Fuel” means a kerosene-based product used in commercial and military turbojet and turboprop aircraft. The product has a maximum distillation temperature of 400 °F at the 10 percent recovery point and a final maximum boiling point of 572 °F. Included are Jet A, Jet A-1, JP-5, and JP-8.

“Lactose” means a white to creamy white crystalline product, possessing a mildly sweet taste. It may be anhydrous, contain one molecule of water of hydration, or be a mixture of both forms.

“Lager beer” means beer produced with bottom fermenting yeast strains, *Saccharomyces uvarum* (or *carlsbergensis*) at colder fermentation temperatures than ales.

“Lead and lead alloys” means lead or the metal alloy that combines lead and other elements such as antimony, selenium, arsenic, copper, tin, or calcium.

“Lead Verifier” means, for purposes of this article, a person that has met all of the requirements in section 95132(b)(2) of MRR and who may act as the lead verifier of an offset verification team providing offset verification services or as a lead verifier providing an independent review of offset verification services rendered.

“Lead Verifier Independent Reviewer” or “Independent Reviewer” means, for purposes of this article, a lead verifier within a verification body who has not participated in conducting offset verification services for an Offset Project Developer or Authorized Project Designee for the current Offset Project Data Report and who provides an independent review of offset verification services rendered for an Offset Project Developer or Authorized Project Designee as required in section 95977.1(b)(3)(R). The independent reviewer is not required to also meet the requirements for a sector specific or offset project specific verifier.

“Legacy Contract” means a written contract or tolling agreement, originally executed prior to September 1, 2006, governing the sale of electricity and/or legacy contract qualified thermal output at a price, determined by either a fixed price or price formula, that does not provide for recovery of the costs associated with compliance with this regulation; the originally executed contract or agreement must have remained in effect and must not have been amended since September 1, 2006 to change or affect the terms governing the California greenhouse gas emissions responsibility, price, or amount of electricity or legacy contract qualified thermal output sold, or the expiration date. For purposes of this regulation, legacy contracts exclude contracts that have been amended to include a Legacy PPA Amendment, as defined in the Combined Heat and Power Program Settlement Agreement Term Sheet pursuant to CPUC Decision 10-12-035, with a privately owned utility as defined in the Public Utilities Code section 216

(referred to as an Investor Owned Utility or IOU). This definition of a "Legacy Contract" does not apply to opt-in covered entities.

"Legacy Contract Counterparty" means an entity that has been identified, pursuant to section 95894, and may also be identified under industrial allocation pursuant to Table 8-1 to receive an allowance allocation, and has a contract to purchase legacy contract qualified thermal output and/or electricity from a legacy contract generator with an industrial counterparty, or from a legacy contract generator without an industrial counterparty, determined by the Executive Officer pursuant to section 95894(b) to be eligible for transition assistance under section 95894.

"Legacy Contract Emissions" means the covered emissions calculated, based on a positive or qualified positive emissions data verification statement issued pursuant to MRR, by the legacy contract generator with an industrial counterparty or legacy contract generator without an industrial counterparty, that are a result of either electricity and/or legacy contract qualified thermal output sold to a legacy contract counterparty, and calculated pursuant to section 95894 of this regulation.

"Legacy Contract Generator with an Industrial Counterparty" means a covered entity that generates and sells electricity, thermal energy, or both, subject to a legacy contract with a legacy contract counterparty that is identified as eligible for allowance allocation pursuant to section 95891.

"Legacy Contract Generator without an Industrial Counterparty" means a covered entity that generates and sells electricity, thermal energy, or both, subject to a legacy contract, and does not also sell electricity or thermal energy under the legacy contract to a covered entity eligible for allowance allocation pursuant to section 95891.

"Legacy Contract Qualified Thermal Output" means thermal energy that is sold to a legacy contract counterparty, and reported pursuant to MRR.

"Less Intensive Verification" means, for the purposes of this article, the offset verification services provided in interim years between full offset verifications of an Offset Project Data Report; less intensive verification of an Offset Project Data Report only requires data checks and document reviews of an Offset Project Data Report based on the analysis and risk assessment in the most current sampling plan developed as part of the most recent full offset verification services. This level of verification may only be used if the offset verifier can provide findings with a reasonable level of assurance.

"Light-Duty Vehicle Assembly" means the manufacturing of a light-duty vehicle.

"Light-Duty Vehicle" means a passenger vehicle with a gross vehicle weight rating under 8,500 pounds.

"Limited Use Holding Account" means an account in which allowances are placed after an entity qualifies for a direct allocation under section 95890(b) or 95890(f). Allowances

placed in this account can only be removed for consignment to the auction pursuant to section 95831(a)(3).

“Linkage” means the approval of compliance instruments from an external greenhouse gas emission trading system (GHG ETS) to meet compliance obligations under this article, and the reciprocal approval of compliance instruments issued by California to meet compliance obligation in an external GHG ETS.

“Liquefied natural gas” or “LNG” means natural gas (primarily methane) that has been liquefied by reducing its temperature to -260 degrees Fahrenheit at atmospheric pressure.

“Liquefied Petroleum Gas” or “LPG” means a flammable mixture of hydrocarbon gases used as a fuel. LPG is primarily mixtures of propane, butane, propene (propylene) and ethane. The most common specification categories are propane grades, HD-5, HD-10, and commercial grade propane. LPG also includes both odorized and non-odorized liquid petroleum gas, and is also referred to as propane.

“Liquid Color Concentrate” means a fluid extract from fruits and/or vegetables reduced by driving off water that has the purpose of altering the color of materials and/or food.

"Liquid Hydrocarbon Fuel” or “LHF” means produced motor gasoline blendstocks, diesel, lubricants, jet fuel, hydrocarbon gas liquids sold as finished fuels, and any functionally equivalent biomass-derived hydrocarbon fuels or biomass-derived hydrocarbon fuel blendstocks, such as renewable diesel, renewable naphtha, and sustainable aviation fuel. Liquid hydrocarbon fuels exclude unfinished oils, residual oils, refinery fuel gas, petroleum coke, ethanol, biodiesel, asphalt, and road oils.

“Liquid Hydrogen” means hydrogen in a liquid state.

“Lobbying” for the purposes of sections 95892(d)(7) and 95893(d)(7) means communicating directly or through an agent with any federal or State elected official, agency official, or legislative official for the purpose of influencing legislative or administrative action.

“Long-Term Contract” means a contract for the delivery of electricity entered into before January 1, 2006, for the term of five years or more.

“Low-bleed pneumatic devices” means automated flow control devices powered by pressurized natural gas and used for maintaining a process condition such as liquid level, pressure, delta-pressure and temperature. Part of the gas power stream that is regulated by the process condition flows to a valve actuator controller where it vents continuously or intermittently bleeds to the atmosphere at a rate equal to or less than six standard cubic feet per hour.

“Mandatory Reporting Regulation” or “MRR” means ARB's Regulation for the Mandatory Reporting of Greenhouse Gas Emissions as set forth in title 17, California Code of Regulations, chapter 1, subchapter 10, article 2 (commencing with section 95100).

“Manufacturing Decarbonization Incentive Allocation Allowance” means an allowance issued by CARB equal to up to one metric ton of CO2 equivalent, with a current vintage assigned pursuant to section 95871(k), that is provided for manufacturing decarbonization incentive allocation pursuant to section 95891(g).

“Market Index” means any published index of quantities or prices based on results of market transactions.

“Market-Shifting Leakage,” in the context of an offset project, means increased GHG emissions or decreased GHG removals outside an offset project's boundary due to the effects of an offset project on an established market for goods or services.

“Marketer” means a purchasing-selling entity that delivers electricity and is not a retail provider.

“Methane” or “CH_4” means a GHG consisting on the molecular level of a single carbon atom and four hydrogen atoms.

“Metric Ton” or “MT” means a common international measurement for mass, equivalent to 2,204.6 pounds or 1.1 short tons.

“Milk” means the lacteal secretion, practically free from colostrum, obtained by the complete milking of one or more healthy cows. Milk that is in final package form for beverage use shall have been pasteurized or ultrapasteurized, and shall contain not less than 8 ¼ percent milk solids not fat and not less than 3 ¼ percent milkfat. Milk may have been adjusted by separating part of the milkfat from, or by adding cream to, concentrated milk, dry whole milk, skim milk, concentrated skim milk, or nonfat dry milk. Milk may be homogenized.

“Milk Powder (high heat)” means milk powder obtained by removing water from pasteurized milk. It contains no more than 5% moisture (by weight) and includes undenatured whey protein nitrogen content less than 1.5 mg/g powder. This definition is in effect as of January 1, 2018.

“Milk Powder (low heat)” means milk powder obtained by removing water from pasteurized milk. It contains no more than 5% moisture (by weight) and includes undenatured whey protein nitrogen content greater than or equal to 6 mg/g powder. This definition is in effect as of January 1, 2018.

“Milk Powder (medium heat)” means milk powder obtained by removing water from pasteurized milk. It contains no more than 5% moisture (by weight) and includes undenatured whey protein nitrogen content greater than or equal to 1.5 mg/g powder and less than 6 mg/g powder. This definition is in effect as of January 1, 2018.

"Monitoring" means, in the context of offset projects, the ongoing collection and archiving of all relevant and required data for determining the project baseline, project emissions, and quantifying GHG reductions or GHG removal enhancements that are attributable to the offset project.

"Multi-Jurisdictional Retail Provider" means a retail provider that provides electricity to consumers in California and in one or more other states in a contiguous service territory or from a common power system.

"Municipal Solid Waste" or "MSW" means solid-phase household, commercial/retail, and/or institutional waste. Household waste includes material discarded by single and multiple residential dwellings, hotels, motels, and other similar permanent or temporary housing establishments or facilities. Commercial/retail waste includes material discarded by stores, offices, restaurants, warehouses, non-manufacturing activities at industrial facilities, and other similar establishments or facilities. Institutional waste includes material discarded by schools, nonmedical waste discarded by hospitals, material discarded by non-manufacturing activities at prisons and government facilities, and material discarded by other similar establishments or facilities. Household, commercial/retail, and institutional wastes include yard waste, refuse-derived fuel, and motor vehicle maintenance materials. Insofar as there is separate collection, processing, and disposal of industrial source waste streams consisting of used oil, wood pallets, construction, renovation, and demolition wastes (which includes, but is not limited to, railroad ties and telephone poles), paper, clean wood, plastics, industrial process or manufacturing wastes, medical waste, motor vehicle parts or vehicle fluff, or used tires that do not contain hazardous waste identified or listed under 42 U.S.C. § 6921, such wastes are not municipal solid waste. However, such wastes qualify as municipal solid waste where they are collected with other municipal solid waste or are otherwise combined with other municipal solid waste for processing and/or disposal.

"Natural Gas" means a naturally occurring mixture or process derivative of hydrocarbon and non-hydrocarbon gases found in geologic formations beneath the earth's surface, of which its constituents include methane, heavier hydrocarbons, and carbon dioxide. Natural gas may be field quality (which varies widely) or pipeline quality. For the purposes of this rule, the definition of natural gas includes similarly constituted fuels such as field production gas, process gas, and fuel gas.

"Natural Gas Liquids" or "NGLs", means those hydrocarbons in natural gas that are separated from the gas as liquids through the process of absorption, condensation, adsorption, or other methods. Natural gas liquids can be classified according to their vapor pressures as low (condensate), intermediate (natural gasoline), and high (liquefied petroleum gas) vapor pressure. Generally, such liquids consist of ethane, propane, butanes, pentanes and higher molecular weight hydrocarbons. Bulk NGLs refers to mixtures of NGLs that are sold or delivered as undifferentiated product from natural gas processing plants.

"Natural gas supplier" or "supplier of natural gas" means any entity that distributes or uses natural gas in California and is described below:

(A) A public utility gas corporation operating in California;

(B) A publicly owned natural gas utility operating in California; or

(C) The operator of an intrastate pipeline not included in section 95811(c)(1) or section 95811(c)(2) that distributes natural gas directly to end users. For the purposes of this article, an interstate pipeline is not a natural gas supplier.

"NERC e-tag" means North American Electric Reliability Corporation (NERC) energy tag representing transactions on the North American bulk electricity market scheduled to flow between or across balancing authority areas.

"Nitric Acid" means HNO_3 of 100 percent purity.

"Nonfat dry milk and skimmed milk powder (high heat)" means milk powder obtained by removing water from pasteurized skim milk. It contains no more than 5% moisture (by weight) and no more than 1.5% milkfat (by weight). It is derived from cumulative heat treatment of 88 °C for 30 minutes and includes undenatured whey protein nitrogen content equal to or less than 1.5 mg/g powder. This definition is only in effect through December 31, 2017.

"Nonfat dry milk and skimmed milk powder (low heat)" means milk powder obtained by removing water from pasteurized skim milk. It contains no more than 5% moisture (by weight) and no more than 1.5% milkfat (by weight). It is derived from cumulative heat treatment of milk no higher than 70 °C for 2 minutes and includes undenatured whey protein nitrogen content equal to or greater than 6 mg/g powder. This definition is only in effect through December 31, 2017.

"Nonfat dry milk and skimmed milk powder (medium heat)" means milk powder obtained by removing water from pasteurized skim milk. It contains no more than 5% moisture (by weight) and no more than 1.5% milkfat (by weight). It is derived from cumulative heat treatment of 70-78 °C for 20 minutes and includes undenatured whey protein nitrogen content equal to or greater than 1.51 mg/g powder up to 5.99 mg/g powder. This definition is only in effect through December 31, 2017.

"Non-Aseptic tomato juice" means tomato juice packaged using methods other than aseptic preparation.

"Non-Aseptic tomato paste and tomato puree" means the sum of tomato paste and tomato puree packaged using methods other than aseptic preparation. Non-Aseptic paste and puree is normalized to 24% tomato soluble solids. Non-Aseptic Paste and puree normalized to 24% TSS = (%TSS - raw TSS)/(24 - raw TSS).

"Non-Aseptic whole and diced tomato" means the sum of whole and diced tomatoes packaged using methods other than aseptic preparation.

Sum of Non-Aseptic Whole and Diced Tomatoes = Whole Tomatoes + (Diced Tomatoes x 1.05).

"Non-exempt Biomass derived CO_2" means CO_2 emissions resulting from the combustion of fuel not listed under section 95852.2(a), or that is not verifiable under section 95131(i) of MRR.

"Non-thermal enhanced oil recovery" or "non-thermal EOR" means the process of using methods other than thermal EOR, which may include water flooding or CO_2 injection, to increase the recovery of crude oil from a reservoir.

"Notice of Delegation" means a formal notice used to delegate authority to make an electronic submission to the accounts administrator.

"Offset Material Misstatement" means a discrepancy, omission, misreporting, or aggregation of the three, identified in the course of offset verification services that leads an offset verification team to believe that an Offset Project Data Report contains errors resulting in an overstatement of the reported total GHG emission reductions or GHG removal enhancements greater than 5.00 percent. Discrepancies, omissions, or misreporting, or an aggregation of the three, that result in an understatement of total reported GHG emission reductions or GHG removal enhancements in the Offset Project Data Report is not an offset material misstatement.

"Offset Project" means all equipment, materials, items, or actions that are directly related to or have an impact upon GHG reductions, project emissions, or GHG removal enhancements within the offset project boundary.

"Offset Project Boundary" is defined by and includes all GHG emission sources, GHG sinks or GHG reservoirs that are affected by an offset project and under control of the Offset Project Operator or Authorized Project Designee. GHG emissions sources, GHG sinks or GHG reservoirs not under control of the Offset Project Operator or Authorized Project Designee are not included in the offset project boundary.

"Offset Project Commencement" means, unless otherwise specified in a Compliance Offset Protocol, the date of the beginning of construction, work, or installation for an offset project involving physical construction, other work at an offset project site, or installation of equipment or materials. For an offset project that involves the implementation of a management activity, "offset project commencement" means, unless otherwise specified in a Compliance Offset Protocol, the date on which such activity is first implemented.

"Offset Project Data Report" means the report prepared by an Offset Project Operator or Authorized Project Designee each Reporting Period that provides the information, documentation, and attestations required by this article or a Compliance Offset Protocol. An unattested report is not a valid Offset Project Data Report, and therefore will not satisfy any deadlines regarding submittal of an Offset Project Data Report.

"Offset Project Listing" or "Listing" means the information, documentation and attestations required by this article or a Compliance Offset Protocol that an Offset Project Operator or Authorized Project Designee has submitted to ARB or an Offset Project Registry, that has been reviewed for completeness by ARB and/or the Offset Project Registry and publicly listed by ARB or the Offset Project Registry for an initial or renewed crediting period. An Offset Project Listing must include the attestations required by this article in order to be considered complete by ARB or the Offset Project Registry.

"Offset Project Operator" means the entity(ies) with legal authority to implement the offset project. Only a Primary Account Representative or Alternate Account Representative, as defined in this article, may sign Listing documents, an Offset Project Data Report, a Request for Issuance, or attestations on behalf of the Offset Project Operator.

"Offset Project Registry" means an entity that meets the requirements of section 95986 and is approved by ARB that lists offset projects, collects Offset Project Data Reports, facilitates verification of Offset Project Data Reports, and issues registry offset credits for offset projects being implemented using a Compliance Offset Protocol.

"Offset Protocol" means a documented set of procedures and requirements to quantify ongoing GHG reductions or GHG removal enhancements achieved by an offset project and calculate the project baseline. Offset protocols specify relevant data collection and monitoring procedures, emission factors, and conservatively account for uncertainty and activity-shifting and market-shifting leakage risks associated with an offset project.

"Offset Verification" means a systematic, independent, and documented process for evaluation of an Offset Project Operator's or Authorized Project Designee's Offset Project Data Report against ARB's Compliance Offset Protocols and this article for calculating and reporting project baseline emissions, project emissions, GHG reductions, and GHG removal enhancements.

"Offset Verification Services" means services provided during offset verification as specified in sections 95977.1 and 95977.2, including reviewing an Offset Project Operator's or Authorized Project Designee's Offset Project Data Report, verifying its accuracy according to the standards specified in this article and applicable Compliance Offset Protocol, assessing the Offset Project Operator's or Authorized Project Designee's compliance with this article and applicable Compliance Offset Protocol, and submitting an Offset Verification Statement to ARB or an Offset Project Registry. For purposes of this article, Offset Verification Services begin with the Planning Meeting and end with the issuance of ARB offset credits, and do not include preliminary planning activities such as scheduling meetings and site visits, or preparing contract documents.

"Offset Verification Statement" means the final statement rendered by a verification body attesting whether an Offset Project Operator's or Authorized Project Designee's

Offset Project Data Report is free of an offset material misstatement, and whether the Offset Project Data Report conforms to the requirements of this article and applicable Compliance Offset Protocol, and containing the attestations required pursuant to this article.

“Offset Verification Team” means all of those working for a verification body, including all subcontractors, to provide offset verification services for an Offset Project Operator or Authorized Project Designee.

“On-purpose hydrogen gas” means molecular hydrogen gas produced as a result of a process or processes dedicated to producing hydrogen (e.g., steam methane reforming).

“Operational Control” means the authority to introduce and implement operating, environmental, health, and safety policies. In any circumstance where this authority is shared among multiple facility operators, the holder of the permit to operate from the local air pollution control district or air quality management district is considered to have operational control for purposes of this article.

“Operator” means the entity, including an owner, having operational control of a facility, or other entity from which an emissions data report is required under article 2, section 95104, title 17, Greenhouse Gas Emissions Data Report. For onshore petroleum and natural gas production, the operator is the operating entity listed on the state well drilling permit, or a state operating permit for wells where no drilling permit is issued by the state.

“Opt-in Covered Entity” means an entity that meets the requirements of 95811 that does not exceed the inclusion thresholds set forth in section 95812 and may elect to voluntarily opt-in to the Cap-and-Invest Program and be willing to be subject to the requirements set forth in this article.

“Over-the-Counter” means the trading of carbon compliance instruments, contracts, or other instruments not executed or entered for clearing on any exchange.

“Oxidation” means a reaction in which the atoms in an element lose electrons and the valence of the element is correspondingly increased.

“Ozone Depleting Substances” or “ODS” means a compound that contributes to stratospheric ozone depletion.

“Passenger Vehicle” has the same meaning as defined in section 39046 of the Health and Safety Code.

“Pasteurized Almonds” means raw almond meats that are introduced to the pasteurizing process. Pasteurizing partially sterilizes the almonds to destroy objectionable organisms without major chemical alteration of the almond meats.

“Perfluorocarbons” or “PFCs” means a class of greenhouse gases consisting on the molecular level of carbon and fluorine.

“Permanent” means, in the context of offset credits, either that GHG reductions and GHG removal enhancements are not reversible, or when GHG reductions and GHG removal enhancements may be reversible, that mechanisms are in place to replace any reversed GHG emission reductions and GHG removal enhancements to ensure that all credited reductions endure for at least 100 years.

“Permanent Retirement Registry” means the publicly available registry in which the Executive Officer will record the retired compliance instruments.

“Petroleum” means oil removed from the earth and the oil derived from tar sands, and/or shale.

“Petroleum Refinery” means any facility engaged in producing gasoline, gasoline blending stocks, naphtha, kerosene, distillate fuel oils, residual fuel oils, lubricants, or asphalt (bitumen) through distillation of petroleum or through re-distillation, cracking, or reforming of unfinished petroleum derivatives. Facilities that distill only pipeline transmix (off-spec material created when different specification products mix during pipeline transportation) are not petroleum refineries, regardless of the products produced.

“Physical Address” means an address for a physical presence, such as an office location, a rental space, or a residence, where an employee, director, officer, or owner primarily conducts their day-to-day business activities. A P.O. box is not a physical address.

“Pickled Steel Sheet” means hot rolled steel sheet that is sent through a series of hydrochloric acid baths that remove the oxides, and includes both finished pickled steel, and steel produced by the facility as an intermediate product for further processing.

“Pipeline Quality Natural Gas” means, for the purpose of calculating emissions under MRR, natural gas having all of the following characteristics on an annual weighted average basis: high heat value greater than 970 Btu/scf and equal to or less than 1,100 Btu/scf, at least ninety percent (90%) methane by volume, and less than five percent (5%) carbon dioxide by volume.

“Pistachio” means the nuts of the pistachio tree *Pistacia vera*.

“Plaster” is calcined gypsum that is produced and sold as a finished product and is not used in the production of plasterboard at the same facility.

“Plasterboard” is a panel made of gypsum plaster pressed between two thick sheets of paper. For the purpose of this article, plasterboard includes only saleable plasterboard, which does not include trimmings.

“Point of Delivery” or “POD” means the point on an electricity transmission or distribution system where a deliverer makes electricity available to a receiver or

available to serve load. This point can be an interconnection with another system or a substation where the transmission provider's transmission and distribution systems are connected to another system, or a distribution substation where electricity is imported into California over a multi-jurisdictional retail provider's distribution system.

“Point of Receipt” or “POR” means the point on an electricity transmission or distribution system where an electricity receiver receives electricity from a deliverer. This point can be an interconnection with another system or a substation where the transmission provider's transmission and distribution systems are connected to another system.

“Portable” means designed and capable of being carried or moved from one location to another. Indications of portability include wheels, skids, carrying handles, dolly, trailer, or platform. Equipment is not portable if any one of the following conditions exists: the equipment is attached to a foundation; the equipment or a replacement resides at the same location for more than 12 consecutive months; the equipment is located at a seasonal facility and operates during the full annual operating period of the seasonal facility, remains at the facility for at least two years, and operates at that facility for at least three months each year; or the equipment is moved from one location to another in an attempt to circumvent the portable residence time requirements of this definition.

“Position Holder” means an entity that holds an inventory position in motor vehicle fuel, ethanol, distillate fuel, biodiesel, or renewable diesel as reflected in the records of the terminal operator or a terminal operator that owns motor vehicle fuel or diesel fuel in its terminal. “Position holder” does not include inventory held outside of a terminal, fuel jobbers (unless directly holding inventory at the terminal), retail establishments, or other fuel suppliers not holding inventory at a fuel terminal.

“Positive Emissions Data Verification Statement” means a verification statement rendered by a verification body attesting that the verification body can say with reasonable assurance that the covered emissions data in the submitted emissions data report is free of material misstatement and that the emissions data conforms to the requirements of MRR. For purposes of this definition, ‘material misstatement' shall have the same meaning as ascribed to it in section 95102(a) of MRR.

“Positive Offset Verification Statement” means an Offset Verification Statement rendered by a verification body attesting that the verification body can say with reasonable assurance that the submitted Offset Project Data Report is free of an offset material misstatement and that the Offset Project Data Report conforms to the requirements of this article and applicable Compliance Offset Protocol.

“Positive Product Data Verification Statement” means a verification statement rendered by a verification body attesting that the verification body can say with reasonable assurance that the covered product data in the submitted emissions data report is free of material misstatement and that the product data conforms to the requirements of

MRR. For purposes of this definition, ‘material misstatement' shall have the same meaning as ascribed to it in section 95102(a) of MRR.

“Poultry deli product” means the products, including corn dogs, sausages, and franks, that contain a significant portion of pre-processed poultry, that are cooked and sold wholesale or retail, or transferred to other facilities.

“Power” means electricity, except where the context makes clear that another meaning is intended.

“Power contract” shall have the same meaning ascribed in section 95102(a) of MRR.

“Pretzel” is a crisp biscuit made from dough formed into a knot or stick, flavored with salt, passed through a caustic hot water bath and baked in an oven.

“Price Ceiling” means the maximum fixed price at which allowances and price ceiling units would be available for sale to covered entities in the Program, pursuant to section 95915.

“Price Ceiling Account” means the holding account under the control of the Executive Officer in which allowances and price ceiling units would be transferred pursuant to this Article.

“Price Ceiling Unit” means a compliance instrument that is offered for sale at the price ceiling. Moneys generated from issuance of price ceiling units will be deposited into the California Climate Mitigation Fund.

“Primary Account Representative” means an individual authorized by a registered entity through the registration process outlined in section 95832 to make submissions to the Executive Officer and the tracking system in all matters pertaining to this article that legally bind the authorizing entity.

“Primary Residence” means the property an individual uses as a residence the majority of the time during the year or as the principal place of abode of the individual's family members. The primary residence may be documented by the address listed on the individual's federal and state tax returns, driver's license, automobile registration, or voter registration card.

“Proceeds” means monies generated as a result of an auction or from sales from the Allowance Price Containment Reserve.

“Process” means the intentional or unintentional reactions between substances or their transformation, including the chemical or electrolytic reduction of metal ores, the thermal decomposition of substances, and the formation of substances for use as product or feedstock.

“Process Emissions” means the emissions from industrial processes (e.g., cement production, ammonia production) involving chemical or physical transformations other

than fuel combustion. For example, the calcination of carbonates in a kiln during cement production or the oxidation of methane in an ammonia process results in the release of process CO_2 emissions to the atmosphere. Emissions from fuel combustion to provide process heat are not part of process emissions, whether the combustion is internal or external to the process equipment.

“Process Unit” means the equipment assembled and connected by pipes and ducts to process raw materials and to manufacture either a final or intermediate product used in the onsite production of other products. The process unit also includes the purification of recovered byproducts.

“Producer” means a person who owns leases, operates, controls, or supervises a California production facility.

“Product Data Verification Statement” means the final statement rendered by a verification body attesting whether a reporting entity's product data in their covered emissions data report is free of material misstatement, and whether the product data conforms to the requirements of the MRR. For purposes of this definition, ‘material misstatement' shall have the same meaning as ascribed to it in section 95102(a) of MRR.

“Professional Judgment” means the ability to render sound decisions based on professional qualifications and relevant greenhouse gas accounting and auditing experience.

“Program for Recognition of Early Action Offset Credits” means a former program for issuing ARB offset credits to early action offset projects that has ended, but was previously found in subarticle 14 of the Cap-and-Invest Regulation as amended effective November 1, 2015. The program included recognition of early action offset credits for the following early action quantification methodologies:

• Climate Action Reserve U.S. Livestock Project Protocol versions 1.0 through 3.0;

• Climate Action Reserve Urban Forest Project Protocol versions 1.0 through 1.1;

• Climate Action Reserve U.S. Ozone Depleting Substances Project Protocol version 1.0;

• Climate Action Reserve Forest Project Protocol versions 2.1 and 3.0 through 3.2, if the early action offset project contributes early action offset credits into a buffer account based on its reversal risk calculated according to the most recent version of the Compliance Offset Protocol in section 95973(a)(2)(C)4;

• Climate Action Reserve Coal Mine Methane Project Protocol versions 1.0 and 1.1;

• Verified Carbon Standard VMR0001 Revisions to ACM0008 to Include Pre-drainage of Methane from an Active Open Cast Mine as a Methane Emission Reduction Activity Methodology, v1.0;

• Verified Carbon Standard VMR0002 Revisions to ACM0008 to Include Methane Capture and Destruction from Abandoned Coal Mines Methodology, v1.0;

• American Carbon Registry Voluntary Emission Reductions in Rice Management Systems Parent Methodology, version 1.0;

• American Carbon Registry Voluntary Emission Reductions in Rice Management Systems -- California Module, version 1.0; and

• American Carbon Registry Voluntary Emission Reductions in Rice Management Systems -- Mid-South Module, version 1.0.

“Project Area” means the property associated with the geographic boundaries of a forest project, as defined following the requirements of the relevant protocol from section 95973(a)(2)(C)4.

“Project Baseline” means, in the context of a specific offset project, a conservative estimate of business-as-usual GHG emission reductions or GHG removal enhancements for the offset project's GHG emission sources, GHG sinks, or GHG reservoirs within the offset project boundary.

“Project Emissions” means any GHG emissions associated with the implementation of an offset project that must be accounted for in the Offset Project Data Report.

“Proof Gallons” means one liquid gallon of distilled spirits that is 50% alcohol at 60 degrees F.

“Propane” is a paraffinic hydrocarbon with molecular formula C_3H_8.

“Property Right” means any type of right to specific property whether it is personal or real property, tangible or intangible.

“Protein meal and fat” means meal, feather meal, and fat rendered product from poultry tissues including meat, viscera, bone, blood, and feathers.

“Public Service Facility” means: a facility that is a covered entity or opt-in covered entity owned by a local government as defined in Government Code section 53720(a) that provides steam or chilled water to buildings and facilities owned by the local government, and may also provide steam or electricity to other buildings or to an electrical distribution utility other than the local government; or a covered entity that provides steam or chilled water to a publicly owned university that is an educational facility pursuant to Education Code section 94110(e). Facilities operated by electrical distribution utilities are excluded from this definition.

“Public Utility Gas Corporation” is a gas corporation defined in California Public Utilities Code section 222 that is also a public utility as defined in California Public Utilities Code section 216.

"Publicly Owned Natural Gas Utility" means a municipality or municipal corporation, a municipal utility district, a public utility district, or a joint powers authority that includes one or more of these agencies that furnishes natural gas services to end users.

"Public Wholesale Water Agency" means a covered entity that is owned and operated as a special district, as defined in Statutes of 1960, Ch. 209 (California Water Code appendix § 109), that uses electricity to convey wholesale water supplies and has a compliance obligation during the period 2013 to 2030.

"Purchase Limit" means the maximum percentage of allowances that may be purchased by an entity of a group of affiliated entities at an allowance auction.

"Purchasing-Selling Entity" or "PSE" means the same meaning as ascribed in MRR.

"Qualified Positive Emissions Data Verification Statement" means a statement rendered by a verification body attesting that the verification body can say with reasonable assurance that the covered emissions data in the submitted emissions data report is free of material misstatement and is in conformance with section 95131(b)(9) of MRR, but the emissions data may include one or more other nonconformance(s) with requirements of MRR which do not result in a material misstatement. For purposes of this definition, 'material misstatement' shall have the same meaning as ascribed to it in section 95102(a) of MRR.

"Qualified Positive Offset Verification Statement" means an Offset Verification Statement rendered by a verification body attesting that the verification body can say with reasonable assurance that the submitted Offset Project Data Report is free of an offset material misstatement, but the Offset Project Data Report may include one or more nonconformance(s) with this article and applicable Compliance Offset Protocol which do not result in an offset material misstatement. Nonconformance, in this context, does not include disregarding the explicit requirements of this article or applicable Compliance Offset Protocol and substituting alternative requirements not approved by the Board.

"Qualified Positive Product Data Verification Statement" means a statement rendered by a verification body attesting that the verification body can say with reasonable assurance that the covered product data in the submitted emissions data report is free of material misstatement and is in conformance with section 95131(b)(9) of MRR, but the product data may include one or more other nonconformance(s) with the requirements of MRR which do not result in a material misstatement.

"Qualified Thermal Output" means the thermal energy generated by a cogeneration unit or district heating facility that is sold to particular end-users and reported pursuant to MRR section 95112(a)(5)(A) and the thermal energy used on-site by industrial processes or operations and heating and cooling operations that is not in support of or a part of the electricity generation or cogeneration system and is reported pursuant to MRR sections 95112(a)(5)(C). Qualified thermal output does not include thermal energy

that is vented, radiated, wasted, or discharged before it is utilized at industrial processes or operations, or for a facility with a cogeneration unit, any thermal energy generated by equipment that is not an integral part of the cogeneration unit.

“Quantifiable” means, in the context of offset projects, the ability to accurately measure and calculate GHG reductions or GHG removal enhancements relative to a project baseline in a reliable and replicable manner for all GHG emission sources, GHG sinks, or GHG reservoirs included within the offset project boundary, while accounting for uncertainty and activity-shifting leakage and market-shifting leakage.

“Quantitative Usage Limit” means a limit on the percentage of an entity's compliance obligation that may be met by surrendering offset credits, sector-based credits, or other compliance instruments designated to be subject to the limit under this article.

“Rack” means a mechanism for delivering motor vehicle fuel or diesel from a petroleum refinery or biorefinery or terminal into a truck, trailer, railroad car, or other means of non-bulk transfer.

“Radiative Forcing” means the change in the net vertical irradiance at the atmospheric boundary between the troposphere and the stratosphere due to an internal change or a change in the external forcing of the climate system such as a change in the concentration of carbon dioxide or the output of the Sun.

“Raw TSS” means the average annual percent tomato soluble solids of raw tomatoes to be processed in a tomato processing facility.

“Real” means, in the context of offset projects, that GHG reductions or GHG enhancements result from a demonstrable action or set of actions, and are quantified using appropriate, accurate, and conservative methodologies that account for all GHG emissions sources, GHG sinks, and GHG reservoirs within the offset project boundary and account for uncertainty and the potential for activity-shifting leakage and market-shifting leakage.

“Reasonable Assurance” means a high degree of confidence that submitted data and statements are valid.

“Recycled Boxboard” means containers of solid fiber made from recycled fibers, including cereal boxes, shoe boxes, and protective paper packaging for dry foods. It also includes folding paper cartons, set-up boxes, and similar boxboard products. Recycled boxboard is made from recycled fibers.

“Recycled Linerboard” means types of paperboard made from recycled fibers that meet specific tests adopted by the packaging industry to qualify for use as the outer facing layer for corrugated board, from which shipping containers are made.

“Recycled Medium” means the center segment of corrugated shipping containers, being faced with linerboard on both sides. Recycled medium is made from recycled fibers.

"Reference Level" means the quantity of GHG emission equivalents that have occurred during the normal course of business or activities during a designated period of time within the boundaries of a defined sector and a defined jurisdiction.

"Reformulated Gasoline Blendstock for Oxygenate Blending" or "RBOB" has the same meaning as defined in title 13 of the California Code of Regulations, section 2260(a).

"Register," in the context of a compliance instrument, means the act of assigning the serial number of a compliance instrument into an account.

"Registrant" or "Registered Entity" means an entity that has completed the process for registration.

"Registry Offset Credit" means a credit issued by an Offset Project Registry for a GHG reduction or GHG removal enhancement of one metric ton of CO_2e. The GHG reduction or GHG removal enhancement must be real, additional, quantifiable, permanent, verifiable, and enforceable and may only be issued for offset projects using Compliance Offset Protocols. Pursuant to section 95981.1, ARB may determine that a registry offset credit may be removed, retired, or cancelled from the Offset Project Registry system and issued as an ARB offset credit.

"Registry Services" means all services provided by an ARB approved Offset Project Registry in section 95987.

"Regulatory Compliance" means fulfilling 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.

"Renewable diesel" means a motor vehicle fuel or fuel additive that is all of the following: registered as a motor vehicle fuel or fuel additive under 40 CFR Part 79; not a mono-alkyl ester; intended for use in engines that are designed to run on conventional diesel fuel; and derived from nonpetroleum renewable resources.

"Renewable Energy" means energy from sources that constantly renew themselves or that are regarded as practically inexhaustible. Renewable energy includes energy derived from solar, wind, geothermal, hydroelectric, wood, biomass, tidal power, sea currents, and ocean thermal gradients.

"Renewable Energy Credit" or "REC" has the same meaning as defined in the California Energy Commission's "Renewables Portfolio Standard Eligibility," 9th edition, Commission Guidebook, pp. 85-86. January, 2017; CEC-300-2016-ED9-CMF-REV, which is hereby incorporated by reference.

"Renewed Crediting Period" means a Crediting Period that is not the Initial Crediting Period. A Renewed Crediting Period may follow either the Initial Crediting Period or another Renewed Crediting Period.

"Reporting Period" means, in the context of offsets, the period of time for which an Offset Project Operator or Authorized Project Designee quantifies and reports GHG reductions or GHG removal enhancements covered in an Offset Project Data Report. An offset project's Reporting Period is established in the project listing documentation, but may be modified by notifying ARB and the OPR (if applicable) in writing or by providing updated listing information with the submittal of the Offset Project Data Report. Modifications to the Reporting Period are only allowed if ARB and the OPR (if applicable) are notified prior to any deadlines being missed. The first reporting period for an offset project in an initial crediting period may consist of 6 to 24 consecutive months; all subsequent reporting periods in an initial crediting period and all reporting periods in any renewed crediting period must consist of 12 consecutive months, with the following exception: 1) Offset projects that submitted a first reporting period in the initial crediting period that was less than 24 consecutive months may include any months not included in the first reporting period in the final reporting period of the initial crediting period, such that the combined duration of the initial and final reporting periods in the initial crediting period do not exceed 36 months total; and 2) Offset projects using a Compliance Offset Protocol in section 95973(a)(2)(C)2 may have one reporting period less than 12 consecutive months to allow the project to transition to a Low Carbon Fuel Standard pathway. For offset projects developed using the Compliance Offset Protocol in section 95973(a)(2)(C)1., there may only be one Reporting Period per offset project. The Reporting Period may not be longer than 12 months and there is no minimum timeframe imposed for the Reporting Period. For offset projects developed using the compliance offset protocol in section 95973(a)(2)(C)6., the Reporting Period is approximately 12 months; it may be less than or exceed 12 months.

"Reporting Year" means data year.

"Request for Issuance" refers to a request submitted by an Offset Project Operator or Authorized Project Designee to ARB seeking issuance of ARB offset credits based on an Offset Project Data Report, pursuant to the requirements of sections 95981 and 95981.1. A Request for Issuance must include the attestations required pursuant to this article.

"Reserve Allowance" means the allowances directly allocated to the Allowance Price Containment Reserve pursuant to sections 95870(a) and 95871(a), or non-vintaged allowances issued by an External Greenhouse Gas Emissions Trading System to which California has linked its Cap-and-Invest Program pursuant to subarticle 12, allocated to a reserve account.

"Reserve Price" see "Auction Reserve Price." "Reserve Sale Administrator" means the operator of sales from the Allowance Price Containment Reserve account, which may be the Executive Officer or an entity designated by the Executive Officer.

"Resource Shuffling" means any plan, scheme, or artifice undertaken by a First Deliverer of Electricity to substitute electricity deliveries from sources with relatively

lower emissions for electricity deliveries from sources with relatively higher emissions to reduce its emissions compliance obligation. Resource shuffling does not include substitution of electricity deliveries from sources with relatively lower emissions for electricity deliveries from sources with relatively higher emissions resources when the substitution occurs pursuant to the conditions listed in section 95852(b)(2)(A).

“Response to Wildfire” means any action taken by an Incident Management Team undertaken with authorization from a local, state, or federal government agency during the management of a wildfire to achieve wildfire management objectives, as documented by one or more of the following: (1) a letter from state or local fire agency representatives, (2) an Incident Action Plan developed by an Incident Management Team that specifies the day-to-day actions taken that affected carbon stocking, or (3) the Wildland Fire Decision Support System (WFDSS) documents that justify and provide context for the incident objectives and stated course of action.

“Retail Provider” means an entity that provides electricity to retail end users in California and is an electrical corporation as defined in Public Utilities Code section 218, electric service provider as defined in Public Utilities Code section 218.3, local publicly owned electric utility as defined in Public Utilities Code section 224.3, a community choice aggregator as defined in Public Utilities Code section 331.1, or the Western Area Power Administration. For purposes of this article, electrical cooperatives, as defined by Public Utilities Code section 2776, are excluded.

“Retire” or “Retired” or “Retirement” means that the serial number for a compliance instrument is registered into the Retirement Account under the control of the Executive Officer. Compliance instruments registered into this account cannot be removed.

“Reversal” means a GHG emission reduction or GHG removal enhancement for which an ARB offset credit or registry offset credit has been issued 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.

“Salt” means sodium chloride, determined as chloride and calculated as percent sodium chloride, by the method prescribed in “Official Methods of Analysis of the Association of Official Analytical Chemists,” 13th Ed., 1980, sections 32.025 to 32.030, under the heading “Method III (Potentiometric Method).”

“Salvage Harvest” means the removal of only those trees that are dead, dying, or deteriorating because of damage from fire, wind, insects, disease, flood, or other injurious agent. Salvage harvesting provides for the economic recovery of trees prior to a total loss of their wood product value.

“Seamless rolled ring” means a metal product manufactured by punching a hole in a thick, round piece of metal, and then rolling and squeezing (or in some cases, pounding) it into a thin ring. Ring diameters can be anywhere from a few inches to 30 feet.

"Sector" or "Sectoral," when used in conjunction with sector-based crediting programs, means a group or subgroup of an economic activity, or a group or cross-section of a group of economic activities, within a jurisdiction.

"Sector-Based Crediting Program" is a GHG emissions-reduction crediting mechanism established by a country, region, or subnational jurisdiction in a developing country and covering a particular economic sector within that jurisdiction. A program's performance is based on achievement toward an emissions reduction target for the particular sector within the boundary of the jurisdiction.

"Sector-Based Offset Credit" means a credit issued from a sector-based crediting program once the crediting baseline for a sector has been reached.

"Self-Generation of Electricity" means electricity dedicated to serving an electricity user on the same location as the generator. The system may be operated directly by the electricity user or by an entity with a contractual arrangement.

"Serial Number" means a unique number assigned to each compliance instrument for identification.

"Sequestration" means the removal and storage of carbon from the atmosphere in GHG sinks or GHG reservoirs through physical or biological processes.

"Sink" or "sink to load" or "load sink" means the sink identified on the physical path of NERC e-Tags, where defined point have been established through the NERC Registry. Exported electricity is disaggregated by the sink on the NREC e-Tag, also referred to as the final point of delivery on the NERC e-Tag.

"Skim milk" means the product that results from the complete or partial removal of milk fat from milk.

"Soda Ash Equivalent" means the total mass of all soda ash, biocarb, Sodium Sulfate, Potassium Sulfate, Potassium Chloride, and Sodium Chloride produced. Through December 31, 2017, this definition also includes borax, V-Bor, DECA, PYROBOR, and boric acid.

"Source" means greenhouse gas source; or any physical unit, process, or other use or activity that releases a greenhouse gas into the atmosphere.

"Source of generation" or "generation source" means the generation source identified on the physical path of NERC e-Tags, where defined points have been established through the NERC Registry. Imported electricity and wheels are disaggregated by the source on the NERC e-Tag, also referred to as the first point of receipt.

"Specified Source of Electricity" or "Specified Source" means a facility or unit which is permitted to be claimed as the source of electricity delivered. The reporting entity must have either full or partial ownership in the facility/unit or a written power contract as defined in MRR section 95102(a) to procure electricity generated by that facility/unit.

Specified facilities/units include cogeneration systems. Specified source also means electricity procured from an asset-controlling supplier recognized by ARB.

“Stand-Alone-Electricity Generating Facility” has the same meaning in this regulation as in section 95102(a) of MRR.

“Stationary” means neither portable nor self-propelled, and operated at a single facility.

“Steel Produced Using an Electric Arc Furnace” means steel produced by electric arc furnace or “EAF.” EAF means a furnace that produces molten steel and heats the charge materials with electric arcs from carbon electrodes.

“Stucco” means hemihydrate plaster ($CaSO_4 \cdot 1/2H_2O$) produced by heating (“calcining”) raw gypsum, thereby removing three-quarters of its chemically combined water.

“Sulfuric acid regeneration” means a catalytic process in which spent acid is regenerated to concentrated sulfuric acid. The equipment for this process may include the combustor, waste heat boiler, converter, absorber, SO_3 recycle, and gas cleaning including electrostatic precipitator and amine regenerator.

“Supplementary Cementitious Materials” or “SCMs” are materials that are added to and contribute to the properties of a cementitious mixture through hydraulic or pozzolanic activity, or both, such as fly ash, ground granulated blast furnace slag, silica fume, natural pozzolan, calcined clay, and glass pozzolan.

“Supplier” means an entity, or multiple entities held under common ownership or common control, that is a producer, importer, exporter, position holder, interstate pipeline operator, intrastate pipeline operator, or local distribution company of a fuel or an industrial greenhouse gas.

“Sweet whey powder” is a powder that is obtained by drying fresh whey (derived from the manufacture of cheese) that has been pasteurized and to which no preservatives have been added. Sweet whey powder contains all the constituents of whey, except water, in the same relative proportions.

“Terminal” means a motor vehicle fuel or diesel fuel storage and distribution facility that is supplied by pipeline or vessel, and from which fuel may be removed at a rack. “Terminal” includes a fuel production facility where motor vehicle or diesel fuel is produced and stored and from which fuel may be removed at a rack.

“Testliner” means types of paperboard that meet specific tests adopted by the packaging industry to qualify for use as the outer facing layer for corrugated board, from which shipping containers are made. Testliner is made primarily from fibers obtained from recycled fibers.

“Thermal enhanced oil recovery” or “thermal EOR” means the process of using injected steam to increase the recovery of crude oil from a reservoir.

“Tin Plate” means thin sheet steel with a very thin coating of metallic tin. Tin plate also includes Tin Free Steel or TFS which has an extremely thin coating of metallic chromium and chromium oxide. Tin plate is used primarily in can making.

“Tomato Juice” is the liquid obtained from mature tomatoes conforming to the characteristics of the fruit *Lycopersicum esculentum* P. Mill, of red or reddish varieties. Tomato juice may contain salt, lemon juice, sodium bicarbonate, water, spices and/or flavoring. This food shall contain not less than 4.0 percent by weight tomato soluble solids.

“Tomato Paste” is the food prepared from mature tomatoes conforming to the characteristics of the fruit *Lycopersicum esculentum* P. Mill, of red or reddish varieties. Tomato paste is prepared by concentrating tomato ingredients until the food contains not less than 24.0 percent tomato soluble solids.

“Tomato puree” is the semisolid food prepared from mature tomatoes conforming to the characteristics of the fruit *Lycopersicum esculentum* P. Mill, of red or reddish varieties. Tomato puree is prepared by concentrating tomato ingredients until the food contains not less than 8.0 percent but less than 24.0 percent tomato soluble solids.

“Tomato soluble solids” (TSS or NTSS) means the sucrose value of raw tomatoes or tomato product. For raw tomatoes, this value shall be determined by the methods prescribed in “Inspection Procedures” (2014) for Soluble Solids Testing -- Digital Refractometer, as published by the Processing Tomato Advisory Board (PTAB), which is hereby incorporated by reference. For the tomato products tomato juice, tomato paste, tomato puree, and whole and diced tomatoes, this value shall be determined by the method prescribed in “Inspection Procedures” (2014) for Soluble Solids Testing -- Digital Refractometer, as published by PTAB, or the “Official Methods of Analysis of the Association of Official Analytical Chemists,” 13th Ed., 1980, sections 32.014 to 32.016 and 52.012 (AOAC, 1980), depending on availability. For instances in which no salt has been added, the sucrose value obtained from the referenced tables shall be considered the percent of tomato soluble solids. If salt has been added either intentionally or through the application of the acidified break, determine the percent of such added sodium chloride as specified in the regulation's definition of salt. Subtract the percentage sodium chloride from the percentage of total soluble solids found (sucrose value from the refractive index tables) and multiply the difference by 1.016. The resultant value is considered the percent of “tomato soluble solids.” The centrifuges, centrifuge spin rate, centrifuge spin time, and other lab measurement equipment specified in AOAC (1980) may be exchanged with more modern equipment and measurement procedures where the operator deems necessary. Tomato soluble solids must be rounded to the nearest tenth of a percent of solids.

“Tracking System” means the Compliance Instrument Tracking System Service or registry or application where CARB compliance instruments are issued, traded, and retired.

"Transaction," when referring to an arrangement between registered entities regarding compliance instruments, means an understanding among registered entities to transfer the control of a compliance instrument from one entity to another, either immediately or at a later date.

"Transfer" of a compliance instrument means the removal of a compliance instrument from one account and placement into another account.

"Transfer of Title" means a recorded conveyance of a real property interest. Unexercised options, unrecorded purchase agreements, or failed escrows shall not constitute a transfer of title.

"Transfer Request" means the communication by an authorized account representative or an alternate authorized account representative to the accounts administrator to register into the tracking system the transfer of allowances between accounts.

"Transferred ARB Project" means an offset project which has been transferred from ARB or one Offset Project Registry, where it was previously listed, to ARB or another Offset Project Registry. The entity to which the offset project is transferred will indicate the applicable offset project status from the following list: "Proposed Project," "Active ARB Project," "Active Registry Project," and "Monitored."

"Tribe" means a federally-recognized Indian tribe and any entity created by a federally-recognized Indian Tribe.

"True-up allowance amount" is a quantity of California GHG allowances allocated for changes in production or allocation not properly accounted for in prior allocations pursuant to 95891(b), 95891(c), 95891(c)(2)(B), 95891(f)(1), or 95894(c)-(e).

"Ultrafiltered milk" means raw or pasteurized milk or nonfat milk that is passed over one or more semipermeable membranes to partially remove water, lactose, minerals, and water-soluble vitamins without altering the casein-to-whey protein ratio of the milk or nonfat milk and resulting in a liquid product.

"Unintentional Reversal" means any reversal that is not the result of the forest owner's negligence, gross negligence, or willful intent, such as a reversal due to a pest or disease outbreak, catastrophic weather event, wildfire, authorized agency response to wildfire, or prescribed fire permitted by the fire authority having jurisdiction and conducted per the approved plan.

"University Covered Entity" means a facility that meets the definition of an educational facility pursuant to Education Code section 94110(e) and is either a covered entity, or opt-in covered entity as of January 1, 2015.

"Unspecified Source of Electricity" or "Unspecified Source" means a source of electricity that is not a specified source at the time of entry into the transaction to procure the electricity.

"Urban Forest Offset Project" means an offset project that uses or has used either the offset protocols identified in section 97973(a)(2)(C)3. or one of the Climate Action Reserve Urban Forest Project Protocols identified as offset quantification methodologies in the definition of the Program for Recognition of Early Action Offset Credits in section 95802(a).

"Useful Output" means energy production or use as a feedstock for chemical production but does not include fuel venting or destruction.

"Vented Emissions" means intentional or designed releases of CH_4 or CO_2 containing natural gas or hydrocarbon gas (not including stationary combustion flue gas), including process designed flow to the atmosphere through seals or vent pipes, equipment blowdown for maintenance, and direct venting of gas used to power equipment (such as pneumatic devices).

"Verifiable" means that an Offset Project Data Report assertion is well documented and transparent such that it lends itself to an objective review by an accredited verification body.

"Verification Body" means a firm accredited by ARB, which is able to render an offset verification statement and provide offset verification services for Offset Project Operators or Authorized Project Designees subject to providing an Offset Project Data Report under this article.

"Verifier" or "offset verifier" means an individual accredited by ARB to carry out offset verification services as specified in sections 95977.1 and 95977.2.

"Vintage Year" means the budget year to which an individual Californian GHG allowance is assigned pursuant to subarticle 6.

"Volumetric," with respect to sections 95892 and 95893, describes an electrical distribution utility's or natural gas supplier's direct distribution of allocated allowance auction proceeds to one or more of its ratepayers based on the current or recent amount of electricity, natural gas, or other relevant utility service delivered to those ratepayers, such that higher usage results in ratepayers' receipt of more funds.

"Voluntarily Associated Entity" or "General Market Participant" means any entity which does not meet the requirements of section 95811 or 95813 in this article and that intends to purchase, hold, sell, or voluntarily retire compliance instruments or an entity operating an offset project or early action offset project that is registered with ARB pursuant to subarticle 13 or 14 in this article.

"Voluntary Renewable Electricity" or "VRE" means electricity produced or RECs associated with electricity, produced by a voluntary renewable electricity generator, and which has not and will not be sold or used to meet any other mandatory requirements in California or any other jurisdiction.

"Voluntary Renewable Electricity Participant" or "VRE Participant" means a voluntary renewable electricity generator, a REC marketer, or entity that purchases voluntary renewable electricity or RECs as an end-user or on behalf of an end-user and is seeking allowance retirement pursuant to section 95841.1.

"Waste gas" means a natural gas that contains a greater percentage of gaseous chemical impurities than the percentage of methane. For purposes of this definition, gaseous chemical impurities may include carbon dioxide, nitrogen, helium, or hydrogen sulfide.

"Waste-to-Energy Facility" means a facility located in California that combusts eligible municipal solid waste. The facility must operate in accordance with a current permit issued by the local Air Pollution Control District or Air Quality Management District to generate and distribute electricity over the electric power grid for wholesale or retail customers of the grid located in California.

"Western Energy Imbalance Market" or "WEIM" shall have the same meaning as defined in MRR section 95102(a).

"Whey protein concentrate" means the substance obtained by the removal of sufficient nonprotein constituents from pasteurized whey so that the finished dry product contains greater than 25% protein. Whey protein concentrate is produced by physical separation techniques such as precipitation, filtration, or dialysis. The acidity of whey protein concentrate may be adjusted by the addition of safe and suitable pH-adjusting ingredients.

"Whole chicken and chicken parts" means whole chicken or edible chicken parts (including breasts, thighs, wings, and drums) that are packaged for wholesale or retail sale; transferred to other facilities; or binned, sent to an on-site rendering plant, and rendered into protein meal and fat.

"Whole Tomatoes" is the food prepared from mature tomatoes conforming to the characteristics of the fruit *Lycopersicum esculentum* P. Mill, of red or reddish varieties. The tomatoes are kept whole, and shall have had the stems and calyces removed.

"Wildland Fire Decision Support System" or "WFDSS" means a decision support system intended to assist wildland fire managers in dynamically assessing risks, documenting incident decisions, and justifying strategies as they change during the incident. A viewer can access the system and incident information for all WFDSS incidents and groups and view completed analyses, decisions, and strategies, along with the fire data and documentation.

(b) For the purposes of sections 95801 through 96023, the following acronyms apply:

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"AB 32" means Assembly Bill 32, the California Global Warming Solutions Act of 2006.

"ARB" or "CARB" means the California Air Resources Board.

"BAU" means business as usual.

"BPA" means Bonneville Power Administration.

"C" means Centigrade.

"CAISO" means the California Independent System Operator.

"CEC" means California Energy Commission.

"CFR" means Code of Federal Regulations.

"CH_4" means methane.

"CO_2" means carbon dioxide.

"CO_2e" means carbon dioxide equivalent.

"CPP" means Clean Power Plan.

"DWR" means California Department of Water Resources.

"ETS" means Emission Trading System.

"F" means Fahrenheit.

"GHG" means greenhouse gas.

"GHG ETS" means greenhouse gas emissions trading system.

"GWP" means global warming potential.

"HFC" means hydrofluorocarbon.

"LPG" means liquefied petroleum gas.

"MMBtu" means one million British thermal units.

"MRR" means the Air Resources Board's Regulation for the Mandatory Reporting of Greenhouse Gas Emissions.

"Mscf" means one thousand standard cubic feet.

"MWh" means megawatt-hour.

"MT" means metric tons.

"NAICS" means North American Industry Classification System.

"NGLs" means natural gas liquids.

"NERC" means North American Electric Reliability Corporation.

"N_2O" means "nitrous oxide."

"PFC" means perfluorocarbon.

"PSE" means purchasing-selling entity.

"PUC" means the Public Utilities Commission.

"REC" means Renewable Energy Credit.

"REDD" means reducing emissions from deforestation and degradation.

"RPS" means the Renewable Portfolio Standard.

"SCF" means standard cubic foot.

"SF_6" means sulfur hexafluoride.

"TEAP" means the Technology and Economic Assessment Panel of the Montreal Protocol.

"WAPA" means Western Area Power Administration.

"WREGIS" means Western Renewable Energy Generation Information System.

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.

§ 95803. Submittal of Required Information.

Different sections of this article identify information that must be submitted to ARB or maintained by the entity. The following general requirements apply to all information submissions unless otherwise specified:

(a) Information that is submitted electronically with electronic signatures, or by means other than original hardcopy with original handwritten signature, will have the same legal effect as if it were submitted in hardcopy form certified by a handwritten signature.

(b) Unless another deadline is specified, information requested by the Executive Officer must be submitted to ARB within 10 calendar days of the request.

(c) Information and requests submitted to the Executive Officer electronically under the following sections must be submitted electronically to the prescribed email addresses:

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(1) Sections 95812, 95813, 95891, 95894, and 95895 to: allocation@arb.ca.gov

(2) Sections 95814, 95830, 95832, 95833, 95835, 95920, 95921, and 95922 to: CACITSSRegistrar@arb.ca.gov

(3) Section 95841.1 to: vreprogram@arb.ca.gov

(4) Section 95892 to: edu-allocation@arb.ca.gov

(5) Section 95893 to: ngs-allocation@arb.ca.gov

(6) Subarticles 13 and 14 to: GHGoffsetverification@arb.ca.gov

(7) Section 95834, subarticle 10, and unless otherwise specified, to: CACITSSHelpdesk@arb.ca.gov.

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.

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Subarticle 3. Applicability

This article applies to all of the entities identified in this subarticle.

§ 95811. Covered Entities.

This article applies to all of the following entities with associated GHG emissions pursuant to section 95812:

(a) Operators of Facilities. The operator of a facility within California that has one or more of the following processes or operations:

(1) Cement production;

(2) Cogeneration;

(3) Glass production;

(4) Hydrogen production;

(5) Iron and steel production;

(6) Lead Production;

(7) Lime manufacturing;

(8) Nitric acid production;

(9) Petroleum and natural gas systems, as specified in section 95852(h);

(10) Petroleum refining and biorefining;

(11) Pulp and paper manufacturing;

(12) Self-generation of electricity; or

(13) Stationary combustion.

(b) First Deliverers of Electricity.

(1) Electricity generating facilities: the operator of an electricity generating facility located in California; or

(2) Electricity importers.

(c) Suppliers of Natural Gas. An entity that distributes or uses natural gas in California as described below:

(1) A public utility gas corporation operating in California;

(2) A publicly owned natural gas utility operating in California; or

(3) The operator of an intrastate pipeline not included in section 95811(c)(1) or section 95811(c)(2) that distributes natural gas directly to end users.

(d) Suppliers of RBOB and Distillate Fuel Oil. A position holder of one or more of the following fuels, or an enterer that imports one or more of the following fuels into California outside the bulk transfer/terminal system:

(1) RBOB;

(2) Distillate Fuel Oil No. 1; or

(3) Distillate Fuel Oil No. 2.

(e) Suppliers of Liquefied Petroleum Gas.

(1) The operator of a refinery that produces liquefied petroleum gas in California;

(2) The operator of a facility that fractionates natural gas liquids to produce liquefied petroleum gas; or

(3) An importer of liquefied petroleum gas into California as defined under MRR.

(f) Sections 95811(c), (d), and (e) apply to suppliers of blended fuels that contain the fuels listed above.

(g) Suppliers of Liquefied Natural Gas and Compressed Natural Gas.

(1) Facilities that make liquefied natural gas products or compressed natural gas products by liquefying or compressing natural gas received from interstate pipelines as described in section 95122 of MRR; and

(2) Importers of liquefied natural gas and compressed natural gas.

(h) Carbon dioxide suppliers.

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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, Health and Safety Code.

§ 95812. Inclusion Thresholds for Covered Entities.

(a) The inclusion threshold for each covered entity is based on the subset of greenhouse gas emissions that generate a compliance obligation for that entity as specified in section 95852. The entity must report and verify annual emissions pursuant to sections 95100 through 95157 of MRR.

(b) If an entity's reported or reported and verified annual emissions in any data year from 2009 through 2012 from the categories specified in section 95852(a) or (b) equal or exceed the thresholds identified below, that entity is classified as a covered entity as of January 1, 2013, and for all future years until any requirement set forth in section 95835(c) is met.

(c) The requirements apply as follows:

(1) Operators of Facilities. The applicability threshold for a facility is 25,000 metric tons or more of CO_2e per data year.

(A) Limited Exemption of Emissions from Fuel Cells. For budget years 2025 through 2030, a facility may apply for its emissions from a fuel cell to be excluded from the facility's annual emissions when comparing to the applicability threshold in section 95812(c)(1) if all requirements of section 95812(c)(1)(A)1. are met.

1. A facility with a fuel cell must apply to the Executive Officer by providing the following information electronically by April 10 of calendar year "t" for the limited exemption of emissions from fuel cells to be applied starting in year "t-1." The application must include:

a. A narrative description demonstrating that installing the fuel cell did not require additional natural gas infrastructure beyond the facility boundary.

b. A demonstration that fuel cell installation resulted in local air quality benefits. Such a demonstration includes a description of a replacement of an on-site electricity generation unit with a cleaner fuel cell or engineering estimates of decreased grid emissions due to installation of the fuel cell.

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c. The following attestation: “I certify under penalty of perjury of the laws of the State of California that I am authorized by [name of entity] to sign this attestation on behalf of [name of entity], and that the information submitted herein is true, accurate, and complete.”

(2) First Deliverers of Electricity.

(A) Electricity Generating Facilities. The applicability threshold for an electricity generating facility is based on the annual emissions from which the electricity originated. The applicability threshold for an electricity generating facility is 25,000 metric tons or more of CO_2e per data year.

1. Emissions from an electricity generating facility occurring during a State of Emergency order that is declared by the Governor, under the provisions of Government Code section 8558(b), to address a sudden and severe energy shortage are excluded from the facility’s annual emissions when comparing to the applicability threshold if the facility is not already a covered entity.

(B) Electricity importers. The applicability threshold for an electricity importer is based on the annual emissions from each of the electricity importer's sources of delivered electricity.

1. All emissions reported for imported electricity from specified sources of electricity that emit 25,000 metric tons or more of CO_2e per year are considered to be above the threshold.

2. All emissions reported for imported electricity from unspecified sources are considered to be above the threshold.

(3) Carbon Dioxide Suppliers. The applicability threshold for a carbon dioxide supplier is 25,000 metric tons or more of CO_2e per year. For purpose of comparison to this threshold, the supplier must include the sum of the CO_2 that it captures from its production process units for purposes of supplying CO_2 for commercial applications or that it captures from a CO_2 stream to utilize for geologic sequestration, and the CO_2 that it extracts or produces from a CO_2 production well for purposes of supplying for commercial applications or that it extracts or produces to utilize for geologic sequestration.

(4) Petroleum and Natural Gas Facilities. The applicability threshold for a petroleum and natural gas facility is 25,000 metric tons or more of CO_2e per data year. This threshold is applied for each facility type specified in section 95852(h).

(d) If an entity's annual, assigned, or reported and verified emissions from any data year between 2011-2014 equal or exceed the thresholds identified below from the categories specified in sections 95851(a) or (b), then that entity is classified as a covered entity as of January 1, 2015, for the year in which the threshold is reached and for all future years until all requirements set forth in section 95835(c) are met.

(1) Fuel Suppliers. The threshold for a fuel supplier is 25,000 metric tons or more of CO_2e annually of GHG emissions that would result from full combustion or oxidation of the quantities of the fuels, identified in section 95811(c) through (g), which are imported and/or delivered to California.

(2) Electricity importers. The threshold for an electricity importer of specified source of electricity is zero metric tons of CO_2e per year and for unspecified sources is zero MWh per year as of January 1, 2015.

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.

§ 95813. Opt-In Covered Entities.

(a) An entity that meets the requirements of section 95811, but does not exceed the inclusion thresholds set forth in section 95812 may elect to voluntarily opt-in to the Cap-and-Invest Program.

(b) An entity that does not qualify to opt in to the Program pursuant to section 95813(h) and that voluntarily elects to participate in this Program under this section must submit its request to the Executive Officer for approval by March 1 of the calendar year immediately preceding the first year in which it voluntarily elects to be subject to a compliance obligation pursuant to this section. The request for approval to be an opt-in covered entity shall specify the first year in which the entity elects to be subject to a compliance obligation. The Executive Officer shall evaluate such applications, designate approved applicants as opt-in covered entities, and, for approved applicants, specify the first year in which the opt-in covered entity will be subject to a compliance obligation.

(c) An entity that voluntarily elects to participate in this Program under section 95813(b) may rescind its request to opt in to the Program by October 1 of the

calendar year prior to the first year in which it voluntarily elects to be subject to a compliance obligation pursuant to section 95813(b). An entity that voluntarily elects to participate in the Cap-and-Invest Program under section 95813(h) may rescind its request to opt in to the Program by October 1 of the calendar year in which it requests approval to be an opt-in covered entity.

(d) An opt-in covered entity is subject to all reporting, verification, enforcement, registration, and compliance obligations that apply to covered entities. An opt-in covered entity's first reporting and verification year shall be the calendar year immediately preceding the first year in which it voluntarily elects to be subject to a compliance obligation pursuant to this section, unless the entity opts in pursuant to section 95813(h), in which case the entity must continue to report and verify emissions, product data (if applicable), and all other data required by MRR.

(e) An opt-in covered entity may be eligible to receive freely allocated allowances subject to subarticles 8 and 9.

(f) Opt-in participation shall not affect the allowance budgets set forth in subarticle 6.

(g) Opting out. At the end of any given compliance period, an opt-in covered entity may choose to opt out of the Program provided its annual emission levels for any data year remain below the inclusion thresholds set forth in section 95812. An entity choosing to opt out of the Program must either fulfill its compliance obligations as required pursuant to subarticle 7 or surrender allowances equivalent to all the directly allocated allowances it has received from the budget years for the compliance period in question. An opt-in covered entity that wishes to opt-out of this Program must apply to the Executive Officer by September 1 of the last year of a compliance period.

(h) An entity that was previously a covered entity, meets the requirements of section 95811, and drops below the inclusion thresholds set forth in section 95812 for an entire compliance period, may request approval from the Executive Officer to voluntarily opt in to the Cap-and-Invest Program. This request to the Executive Officer must be submitted by June 1 of the first year of the new compliance period immediately after a compliance period during which the entity's emissions were below the inclusion thresholds. To qualify for opt-in covered entity status under this section (95813(h)), the entity can only request to be an opt-in covered entity starting in the year the request is submitted. The Executive Officer shall evaluate such applications and designate approved applicants as opt-in covered entities.

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.

§ 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.

(1) The following list defines the entities that may qualify as voluntarily associated entities:

(A) An individual, or an entity that does not meet the requirements of sections 95811 and 95813, that intends to purchase, hold, sell, or voluntarily retire compliance instruments;

(B) An entity operating an offset project or early action offset project that is registered with ARB pursuant to subarticles 13 or 14. Entities qualifying as voluntarily associated entities under this subparagraph may hold offsets without needing to fulfill the requirements of section 95830(c)(1)(G). Entities qualifying as voluntarily associated entities under this subparagraph may also hold allowances, but only after fulfilling the requirements of section 95830(c)(1)(G); or

(C) An entity providing clearing services in which it takes only temporary possession of compliance instruments for the purpose of clearing transactions between two entities registered with the Cap-and-Invest Program. A qualified entity must be a derivatives clearing organization as defined in the Commodities Exchange Act (7 U.S.C. § 1a(9)) that is registered with the U.S. Commodity Futures Trading Commission pursuant to the Commodities Exchange Act (7 U.S.C. § 7a-1(a)).

(2) An individual registering as a voluntarily associated entity must have a primary residence in the United States.

(3) Registration and Consulting Activities. An individual who provides cap-and-invest consulting services as described in section 95923 and also registers as a voluntarily associated entity in the tracking system must disclose to the Executive Officer the entities for which the individual is providing consulting services.

(A) The disclosure must be made when the individual registers as a voluntarily associated entity, or within 30 days of initiating the consulting activity if the individual is already registered.

(B) If the individual is associated with an entity providing cap-and-invest consulting services so that in the course of the individual's duties the individual gains access to the market position of another registered entity, then the individual must provide a notarized letter from the entity providing the cap-and-invest consulting services stating that it is aware of the individual's plans to apply as a voluntarily associated entity in the Cap-and-Invest Program and that it has conflict of interest policies and procedures in place which prevent the individual from using information gained from the relationship with the entity for personal gain in the Cap-and-Invest Program. Failure to provide such a letter by the applicable deadline in section 95814(a)(3)(A) will result in suspension, modification, or revocation of the individual's tracking system account.

(4) An individual who is already registered in the tracking system and intends to provide cap-and-invest program advisory services to other registrant(s) must disclose the proposed relationship with the other registrant(s) to the Executive Officer and comply with the requirements of section 95814(a)(3)(B) prior to providing the advisory services. Failure to provide such a letter by the deadline will result in suspension, modification, or revocation of the individual's tracking system account.

(5) An entity registering as a voluntarily associated entity must be able to demonstrate their location in the United States according to the registration information reported pursuant to section 95830(c).

(A) Effective January 1, 2028, a voluntarily associated entity must at all times employ an individual with authority to make legally binding decisions on behalf of the entity that is located in the United States, and at least two account representatives, each with a primary residence and physical address in the United States. Only an individual registrant who elects to have a combined role pursuant to section 95830(c)(4) will not be required to maintain two account representatives located in the United States.

(B) A voluntarily associated entity must have a physical address in the United States. The entity must be able to demonstrate that it conducts business in the United States and has an active file number or identification number with a Secretary of State within the United States, if assigned.

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(6) Individuals identified by registered entities pursuant to sections 95830(c)(1)(B), (C), (J), and (L) and section 95832, unless disclosed pursuant to section 95814(a)(3), are not eligible to register as voluntarily associated entities.

(7) An individual who is an employee of an entity subject to the requirements of MRR or the Cap-and-Invest Program is not eligible to register as a voluntarily associated entity.

(b) Restrictions on Other Registered Participants. The following entities do not qualify to hold compliance instruments and do not qualify as a Registered Participant:

(1) An offset verifier accredited pursuant to section 95978;

(2) A verification body accredited pursuant to section 95978;

(3) Offset Project Registries;

(4) Early Action Offset Programs approved pursuant to subarticle 14; or

(5) A MRR verifier accredited pursuant to the MRR.

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.

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Subarticle 4. Compliance Instruments

§ 95820. Compliance Instruments Issued by the Air Resources Board.

(a) California Greenhouse Gas Emissions Allowances.

(1) The Executive Officer shall create California GHG allowances pursuant to the schedule set forth in subarticle 6.

(2) The Executive Officer shall assign each California GHG allowance a unique serial number that indicates the annual allowance budget from which the allowance originates.

(3) The Executive Officer shall place these allowances into a holding account under the control of the Executive Officer pursuant to section 95831(b).

(b) Offset Credits Issued by ARB.

(1) The Executive Officer shall issue and register ARB offset credits pursuant to the requirements of subarticles 13 and 14.

(2) Surrender of ARB offset credits shall be subject to the quantitative usage limit set forth in section 95854.

(c) Each compliance instrument issued by the Executive Officer represents a limited authorization to emit up to one metric ton in CO2e of any greenhouse gas specified in section 95810, subject to all applicable limitations specified in this article. No provision of this article may be construed to limit the authority of the Executive Officer to terminate or limit such authorization to emit. A compliance instrument issued by the Executive Officer does not constitute property or a property right.

(d) Compliance instruments issued by ARB may only be used for the purposes expressly set forth in this article.

(e) Price ceiling units.

(1) The Executive Officer may issue price ceiling units pursuant to section 95915.

(2) Surrender of price ceiling units shall be subject to the requirements of section 95915.

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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, Health and Safety Code.

§ 95821. Compliance Instruments Issued by Approved Programs.

The following compliance instruments may be used to meet a compliance obligation under this article:

(a) Allowances specified in section 95942(b) and issued by a program approved by ARB pursuant to section 95941;

(b) Offset credits specified in section 95942(c) and issued by a program approved by ARB pursuant to section 95941;

(c) ARB offset credits issued for purposes of early action pursuant to the Program for Recognition of Early Action Offset Credits as defined in section 95802;

(d) Sector-based offset credits recognized pursuant to subarticle 14; and

(e) Compliance instruments specified in sections 95821(b) through (d) are subject to the quantitative usage limit set forth in section 95854.

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.

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Subarticle 5. Registration and Accounts

§ 95830. Registration with ARB.

(a) General Provisions.

(1) The Executive Officer shall serve as accounts administrator or may contract with an entity to serve as accounts administrator.

(2) An entity qualified to register with ARB cannot apply for more than one set of accounts in the tracking system, except as otherwise provided in section 95830(g)(4).

(3) An entity cannot hold a compliance instrument until the Executive Officer approves the entity's registration with ARB and the accounts administrator creates an account in the tracking system.

(b) Entities Eligible for Registration.

(1) An entity must qualify for registration in the tracking system as a covered entity (pursuant to section 95811), as an opt-in covered entity (pursuant to section 95813), or as a voluntarily associated entity (pursuant to section 95814).

(2) If an entity qualifies for registration pursuant to section 95811 or 95813, the facility operator, fuel or CO2 supplier, electric power entity, or operator of petroleum and natural gas systems, as applicable and as identified in section 95101(a)(1) of MRR, must register pursuant to this section and meet all other applicable requirements of this article.

(3) Entities Eligible for Initial Registration in a Consolidated Account.

(A) If a group of unregistered entities that qualify for registration and, as identified in section 95101(a)(1) of MRR, are members of a direct corporate association, then they may choose to register for a consolidated account on behalf of some or all of the group members.

(B) If one entity has control over any of the entities in a group of entities applying for a consolidated account as measured by the indicia in section 95833(a), then the registration process must be initiated and completed by that entity.

(4) An entity seeking to list an offset project situated on the categories of land in section 95973(d) must demonstrate the existence of a limited waiver of

sovereign immunity entered into pursuant to section 95975(l) prior to registering pursuant to this section.

(c) Requirements for Registration. Registration is complete when the Executive Officer approves the registration and the accounts administrator informs the entity of the approval. Once registration is completed, an entity must keep its registration information updated pursuant to section 95830(e).

(1) An entity must complete an application to register with ARB for an account in the tracking system. Applicants must provide the following information:

(A) Name, physical and mailing addresses, contact information, and entity type;

(B) Name, physical address of workplace, mailing address, phone number, and email address of the entity's directors, officers, individuals with authority to make legally binding decisions on behalf of the entity, and partners with over 10 percent control over the partnership, including any individual or entity doing business as the limited partner or general partner;

(C) Names and contact information for persons controlling over 10 percent of the voting rights attached to all the outstanding voting securities of the entity;

(D) Date and place of business registration with a Secretary of State within the United States, and an active file number or ID number assigned by a Secretary of State within the United States, if applicable. If an entity is unable to incorporate with a Secretary of State, then it must submit a Certificate of Status or a Certificate of Good Standing from a Secretary of State within the United States. This information is not required for a covered entity or opt-in covered entity that is foreign, government-operated, or tribe-operated;

(E) A Government issued taxpayer or Employer Identification Number, or for entities located in the United States, a U.S. Federal Tax Employer Identification Number, if assigned;

(F) Identification of the qualifications for registration pursuant to sections 95811, 95813, or 95814;

(G) Disclosure of all other entities with whom the entity has a direct corporate association or indirect corporate association that must be

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reported pursuant to section 95833(d), and a brief description of the association. Entities qualifying as voluntarily associated entities under section 95814(a)(1)(B) must complete this disclosure before they may hold allowances;

(H) An applicant that is a member of a direct corporate association may apply for a consolidated entity account to include other associated registered entities from within the direct corporate association. To do so, the applicant must identify each associated registered entity that will be assigned to its account, and each associated registered entity must provide an attestation signed by its officer or director to confirm that it seeks to be added to the consolidated entity account. The applicant must be able to demonstrate that it has the controlling ownership or authority to act on behalf of all members of the direct corporate association. The applicant cannot be an entity that is a subsidiary to or controlled by another associated entity within the direct corporate association;

(I) An applicant that is a member of a direct corporate association and seeks to apply for its own separate entity account, rather than apply for a consolidated entity account, must provide an allocation of the holding and purchase limits among the separate accounts established for any of its corporate associates per the requirements of section 95833(d)(1)(E). All members of a direct corporate association must separately confirm the allocation of holding and purchase limits;

(J) Name, physical address of workplace, phone number, email address, and the employer of any individual with knowledge of or access to the entity's specific market position (current and/or expected holdings of compliance instruments and current and/or expected covered emissions). Employees and delegates of local, state, and federal regulatory agencies who have the ability to gain knowledge of or access to the entity’s specific market positions pursuant to any applicable local, state, or federal rules, orders, or decisions are excluded from this disclosure requirement;

(K) An entity registering as an opt-in covered entity must identify the first year it intends to be subject to a compliance obligation, and the year must match the year for which the Executive Officer approved the entity as an opt-in covered entity pursuant to section 95813(b);

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(L) Information required pursuant to section 95923 for individuals serving as Cap-and-Invest Consultants and Advisors for entities participating in the Cap-and-Invest Program;

(M) Names and contact information of the National Futures Association (NFA)-registered commodity pool operator or commodity trading advisor that is associated with the entity by contract, employment, or other means; and

(N) Excluding a voluntarily associated entity registering solely to hold offsets and electing to use the corporate disclosure exemption pursuant to section 95833(c)(2), all individuals and entities registering as a voluntarily associated entity must submit the following supplemental registration information:

1. the entity's founding and governing agreements,
2. fund prospectus,
3. loan or financing documents,
4. a description of planned market activities,
5. the amount of initial capital funds,
6. the projected capital the entity plans to invest in the carbon market,
7. the source of funds,
8. a statement of compliance with section 95921(f),
9. and any other documents requested by the Executive Officer on a case-by-case basis as needed to determine whether the entity's participation in the Program conforms with the Regulation. This documentation must be submitted to the Executive Officer within 30 days of request.

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All supplemental registration information submitted must be accompanied with a signed and dated attestation from an account representative that meets the requirements of sections 95830(e)(6) and 95832(d). Any updates to supplemental registration information must be submitted pursuant to section 95830(e)(1). The Executive Officer may, on a case-by-case basis as needed to determine whether the entity's participation in the Program conforms with all requirements of this article, request a covered entity or opt-in covered entity applicant submit this supplemental registration information to CARB within 30 days.

(2) An entity that is applying for registration in the California Cap-and-Invest Program, and that has a direct corporate association with an entity registered in an external GHG emissions trading system to which the California Cap-and-Invest Program has linked pursuant to section 95943, may not include that associated registered entity in a consolidated entity account.

(3) To create a consolidated account for entities that are members of a direct corporate association that accept assignment to a consolidated entity account, the Executive Officer shall instruct the accounts administrator to create a single consolidated entity account in the tracking system that includes the following:

(A) A holding account as described in section 95831;

(B) A compliance account only for a consolidated entity account with at least one member entity that is eligible for a compliance account as described in section 95831;

(C) A limited use holding account only for a consolidated entity account with at least one member entity that is eligible for a limited use holding account as described in section 95831; and

(D) An annual allocation holding account only for a consolidated entity account with at least one member entity that is eligible for an annual allocation holding account as described in section 95831.

(4) An entity must designate a primary account representative and at least one, and up to four, alternate account representatives pursuant to section 95832. An individual registering as a voluntarily associated entity may elect to have a combined role to serve as both primary and alternate account representatives or designate additional account representatives or account viewing agents as desired.

(5) An individual registering as a voluntarily associated entity and having a primary residence in the United States, but not located in California, must designate an agent for service of process in California. The agent may be an individual who resides in California or a corporation that has previously filed a certificate pursuant to California Corporations Code section 1505.

(6) An entity applying for registration that is not an individual or an entity supplying exchange clearing services pursuant to section 95814(a)(1)(C) must designate, pursuant to section 95832, either:

(A) A primary account representative or at least one alternate account representative with a primary residence in California; or

(B) An agent for service of process in California. For entities registering into California, the agent may be an individual who resides in California or a corporation that has previously filed a certificate pursuant to California Corporations Code section 1505.

(7) Any individual who requires access to the tracking system, including a prospective primary account representative, alternate account representative, or account viewing agent for a registered entity, must first register as a user in the tracking system.

(A) An individual qualified to register as a user in the tracking system, whether through the California Cap-and-Invest Program or an External GHG ETS, cannot apply for more than one user registration.

(B) An individual cannot be designated in a capacity requiring access to the tracking system until the Executive Officer approves the user's registration in the tracking system. This prohibition includes all primary account representatives, alternate account representatives, and account viewing agents.

(C) An individual registering in the tracking system must provide all applicable information required by sections 95832, 95833, and 95834.

(D) An individual registering in the tracking system must agree to the terms and conditions contained in Appendix B of this article.

(8) An entity or individual applicant may be denied registration:

(A) Based on the information provided;

(B) If the Executive Officer determines the applicant has provided false or misleading information;

(C) If the Executive Officer determines the applicant has withheld information material to the registration;

(D) If an individual fails to comply with section 95834 Know-Your-Customer Requirements or does not provide the documentation required pursuant to section 95834 within 30 days of submitting a user registration request in the tracking system;

(E) If an individual is already registered and has a user account under the same or a different name. This provision applies to individuals registered in an external GHG emissions trading system that uses the tracking system.

(9) Signatures and dates on any registration forms and any attestations submitted for new account applications pursuant to this article must be recent, and no more than 180 days old. Registration forms and attestations dated more than 180 days old will be rejected.

(d) Registration Deadlines.

(1) An entity that meets or exceeds the inclusion thresholds in section 95812 must complete registration within 30 calendar days of the reporting deadline contained in MRR when it first reports to ARB emissions that exceed the inclusion threshold.

(2) An opt-in covered entity that is approved for opt-in covered status pursuant to section 95813(b) must complete registration by October 1 of the year before the entity is approved to have a compliance obligation.

(3) An entity qualifying as a voluntarily associated entity pursuant to section 95814 may register at any time.

(e) Updating Registration Information.

(1) When there is a change to the information registrants have submitted pursuant to section 95830(c)(1)(A)-(D), (I), (J), (L), (M), and (N); (c)(4); (c)(5); or (c)(6)(B), registrants must update the registration information within 30 calendar days of the change. When there is a change to the information that a registrant's Consultant or Advisor submitted pursuant to section 95914(c)(3)(C), both the registrant and the Consultant or Advisor must update their information within 30 calendar days of the change.

(2) Updates of information on corporate associations provided pursuant to section 95830(c)(1)(G) must be updated on the schedule contained in section 95833(e). An entity qualifying as a voluntarily associated entity under section 95814(a)(1)(B) that did not complete the disclosure required by section 95830(c)(1)(G) at the time of registration may choose to complete that disclosure at any time; such an entity will only be allowed to hold allowances upon approval of the disclosure by the Executive Officer.

(3) Updates of information on Cap-and-Invest Consultants or Advisors provided pursuant to section 95830(c)(1)(L) must be updated per the schedule contained in section 95923(c).

(4) An entity that fails to update registration information by the applicable deadline may be subject to the restriction or revocation of its tracking system accounts pursuant to section 95921(g)(3).

(5) When there is a change to the government-issued taxpayer or Employer Identification Number or U.S. Federal Tax Employer Identification Number submitted pursuant to section 95830(c)(1)(E), a registrant must re-register for a new tracking system account and cannot maintain the same tracking system account identification number.

(6) Signatures and dates on any forms and any attestations submitted pursuant to this article must be 180 days old or newer. Any new materials accompanied with attestations submitted pursuant to section 95832(a) dated more than 180 days old will be rejected.

(f) Information Confidentiality. The following information collected about individuals during the registration process will be treated as confidential by the Executive Officer and the accounts administrator to the extent possible, except as needed in the course of oversight, investigation, enforcement and prosecution:

(1) Information collected pursuant to section 95830(c)(1)(B), (C), (J) and (L);

(2) Information collected about individuals pursuant to section 95834; and

(3) Information collected about individuals pursuant to section 95832.

(g) Linking.

(1) An entity located in California based on the physical location information the entity must provide pursuant to section 95830(c)(1)(A) must register with California.

(2) An entity located outside of California, but in the United States based on the physical location information the entity must provide pursuant to section 95830(c)(1)(A) may only register with California to participate in the California Cap-and-Invest Program unless that entity:

(A) Does not qualify as a covered or opt-in covered entity in California, and

(B) Qualifies as a covered or opt-in covered entity in an external GHG ETS to which California has linked pursuant to subarticle 12.

(3) An entity not located within California, the United States, or a jurisdiction operating an external GHG ETS to which California has linked pursuant to subarticle 12, may register with a jurisdiction in which it qualifies as a covered or opt-in covered entity.

(4) Entities With a Compliance Obligation in More than One Jurisdiction.

(A) If an entity registered with California has a compliance obligation in an external GHG ETS to which California has linked pursuant to subarticle 12, then that entity may also register directly with that jurisdiction pursuant to that jurisdiction's registration requirements or the entity may request that the accounts administrator provide the entity's California registration application to the jurisdiction operating the linked GHG ETS to facilitate registration in the linked jurisdiction. The entity may still need to submit additional registration attestations or other materials specific to the linked jurisdiction's registration requirements.

(B) If an entity registered with an external GHG ETS to which California has linked pursuant to subarticle 12 has a compliance obligation with California, then the entity must register with California and provide the following information:

1. Name, physical and mailing addresses, contact information, entity type, date and place of incorporation, and ID number assigned by the incorporating agency;

2. A Government issued taxpayer or Employer Identification Number, or for entities located in the United States, a U.S. Federal Tax Employer Identification Number, if assigned;

3. Identification of the qualifications for registration pursuant to sections 95811, 95813, or 95814.

4. For all registration information required pursuant to sections 95830 and 95833 not listed in paragraphs 1. through 3. above, the entity may submit registration information to the California accounts administrator or may request that the accounts administrator of the external GHG ETS provide the entity's registration information submitted to the external GHG ETS to the California accounts administrator to facilitate registration in California.

5. Regardless of whether the entity registers with California by completing the process contained in sections 95830 and 95833 or by requesting the external GHG ETS to submit the registration application materials to the California accounts administrator to facilitate registration in California, the entity must submit all California-specific registration attestations required by this article.

6. An individual who is approved by an external GHG ETS with a user account and who intends to be designated as a primary account representative, alternate account representative, or account viewing agent for an entity registering or registered in California must submit all California-specific registration attestations and other applicable information required by sections 95832, 95833, and 95834.

(5) California will recognize the registration of an entity that registers into an External GHG ETS to which California has linked pursuant to subarticle 12 and allow that entity to participate in the California Cap-and-Invest 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, Health and Safety Code.

§ 95831. Account Types.

(a) Accounts Created for Registered Entities.

(1) The Executive Officer shall not create more than one holding account, one limited use holding account, one compliance account, one annual allocation holding account, or one exchange clearing holding account for each entity registered pursuant to 95830.

(2) Holding Accounts. When the Executive Officer approves a registration for a covered entity, an opt-in covered entity, or a voluntarily associated entity, the accounts administrator will create a holding account for the registrant.

(3) Limited Use Holding Accounts. When an entity qualifies for a direct allocation under section 95890(b) or 95890(f), the accounts administrator will create a limited use holding account for the entity that shall be subject to the following restrictions:

(4) The entity may not transfer compliance instruments from other accounts into the limited use holding account; and

(5) The entity may not transfer compliance instruments from the limited use holding account to any account other than the Auction Holding Account.

(6) Compliance Accounts. When the Executive Officer approves a registration for a covered entity or opt-in covered entity, the accounts administrator will create a compliance account for the entity.

(7) A covered entity or opt-in covered entity may transfer compliance instruments to its compliance account at any time.

(8) A compliance instrument transferred into a compliance account may not be removed by the entity.

(9) The Executive Officer may transfer compliance instruments into a compliance account. The Executive Officer may remove compliance instruments to satisfy a compliance obligation or when closing an account.

(10) Exchange Clearing Holding Accounts. When the Executive Officer approves registration for an entity identified as a voluntarily associated entity pursuant to section 95814(a)(3), then the accounts administrator will create an exchange clearing holding account for the entity.

(11) Entities may transfer compliance instruments to exchange clearing holding accounts only for the purpose of transferring control of the instruments to the entity performing the clearing function.

(12) The clearing entity may only transfer the compliance instruments in its exchange clearing holding account to the account designated by the entity receiving the allowances under the transaction being cleared.

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(13) Annual Allocation Holding Account. When an entity qualifies for a direct allocation under subarticle 9, the accounts administrator will create an annual allocation holding account for the entity.

(14) Except for allowances to be placed in limited use holding accounts, the Executive Officer will place allowances allocated to an entity on a date prior to the vintage year of the allowances into the entity's annual allocation holding account.

(15) Entities may only transfer allowances from an annual allocation holding account to their compliance account. No other transfer of allowances from an annual allocation holding account is permitted.

(16) Allowances transferred from an annual allocation holding account to an entity's compliance account will be subject to the holding limit pursuant to section 95920(c).

(17) Allocation of allowances to publicly owned electric utilities and electrical cooperatives pursuant to subarticles 8 and 9 will be transferred on January 1 of the vintage year of the allowances to the compliance accounts designated in the determination made by the entity pursuant to section 95892(b)(2)(A).

(18) Allocation of allowances to natural gas suppliers pursuant to subarticles 8 and 9 will be transferred on January 1 of the vintage year of the allowances to the entity's compliance account pursuant to section 95893(b)(1)(B).

(19) Allocation of allowances to industrial entities, universities, public service facilities, waste-to-energy facilities, and legacy contract generators pursuant to subarticles 8 and 9 will be transferred to the entity's holding account on January 1 of the vintage year of the allowances.

(20) Allocation of allowances to public wholesale water agencies pursuant to subarticles 8 and 9 will be transferred on January 1 of the vintage year of the allowances to the entity's compliance account pursuant to section 95895(a).

(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:

(1) A holding account to be known as the Allocation Holding Account into which the serial numbers of compliance instruments will be registered when the compliance instruments are created.

(2) A holding account to be known as the Auction Holding Account into which allowances are transferred to be sold at auction from:

(A) The Allocation Holding Account;

(B) The holding accounts of those entities for which allowances are being auctioned on consignment pursuant to section 95921(g)(3);

(C) The limited use holding accounts of those entities consigning allowances to auction pursuant to section 95910; and

(D) The compliance accounts of entities fulfilling an untimely surrender obligation pursuant to section 95857(d)(1)(A).

(3) A holding account to be known as the Retirement Account to which the Executive Officer will transfer compliance instruments from compliance accounts or from holding accounts under the control of the Executive Officer for the purpose of permanently retiring them. Alternatively, entities may voluntarily retire compliance instruments by transferring the compliance instruments to the Retirement Account.

(A) When compliance instruments are registered into the Retirement Account, these compliance instruments cannot be returned to any other holding or compliance account.

(B) When compliance instruments are registered into the Retirement Account, any External GHG ETS to which California links pursuant to subarticle 12 will be informed of the retirements.

(C) The Executive Officer will record the retired instruments in a publicly available Permanent Retirement Registry.

(4) A holding account to be known as the Allowance Price Containment Reserve Account:

(A) Into which the serial numbers of allowances directly allocated to the Allowance Price Containment Reserve pursuant to sections 95870(a) and 95871(a) will be transferred; and

(B) From which the Executive Officer will authorize the withdrawal of allowances for sale to covered entities pursuant to section 95913.

(5) A holding account to be known as the Forest Buffer Account:

(A) Into which ARB will place ARB offset credits pursuant to section 95983(a); and

(B) From which ARB may retire ARB offset credits pursuant to sections 95983(b)(2), (c)(3), and (c)(4) and place them into to the Retirement Holding Account.

(6) A holding account to be known as the Voluntary Renewable Electricity Reserve Account, which will be closed when it is depleted of the following originally allocated allowances:

(A) Into which the Executive Officer will transfer allowances allocated pursuant to section 95870(c); and

(B) From which the Executive Officer may retire allowances pursuant to section 95841.1.

(7) A holding account to be known as the External GHG Program Holding Account, which will process voluntary retirements under the Retirement-Only Agreements listed in section 95943(d).

(A) Entities that are part of an external GHG program with a Retirement-Only Agreement with California may contract with registered entities to transfer compliance instruments to the External GHG Program Holding Account for retirement for recognition in their external GHG program. To be eligible for recognition, the transfer request must specify the entity identification code assigned to the entity by the external GHG program in which it is registered.

(B) ARB will review each transfer into the External GHG Program Holding Account for compliance with the requirements of this article.

(C) If the transfer conforms to the requirements of this article, ARB will transfer the compliance instruments to the Retirement Account.

(D) The Executive Officer will transmit a summary of the retirements to the jurisdiction named in the Retirement-Only Agreement based on the timing specified in the Retirement-Only Agreement.

(8) A holding account to be known as the Price Ceiling Account, which will contain allowances transferred pursuant to section 95913(h)(1)(C) and

price ceiling units approved by the Executive Officer pursuant to section 95915.

(9) A holding account to be known as the Allowance Removal for Offset Use Account, which will contain allowances transferred pursuant to section 95871(j).

(10) A holding account to be known as the Build Up California Reserve Account, which will contain current vintage allowances created pursuant to section 95871(k).

(c) Additional accounts may be created by the Executive Officer to implement the Cap-and-Invest 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, Health and Safety Code.

§ 95832. Designation of Representatives and Agents.

(a) An application for registration into the California Cap-and-Invest Program for an account must designate a single primary account representative and at least one, but no more than four, alternate account representatives. Any communication between the accounts administrator and an alternate account representative must also be addressed to the primary account representative. A complete application for an account, or a request to designate or redesignate account representatives and agents pursuant to section 95832(f), shall be submitted to the accounts administrator and shall include the following elements:

(1) Name, business and primary residence addresses, e-mail addresses, and phone numbers of the primary account representative and any alternate account representatives and account viewing agents;

(2) Name of the organization designating the primary account representative or any alternate account representative to represent its ownership interest with respect to the compliance instruments held in the account;

(3) The primary account representative and any alternate account representative must attest, pursuant to section 95803(a), to ARB as follows: “I certify under penalty of perjury under the laws of the State of California that I was selected as the primary account representative or the alternate account representative, as applicable, by an agreement that is binding on all persons who have an ownership interest with respect to compliance instruments held in the account. I certify that I have all the

necessary authority to carry out the duties and responsibilities contained in title 17, article 5, sections 95800 et seq. on behalf of such persons and that each such person shall be fully bound by my representations, actions, inactions, or submissions and by any order or decision issued to me by the accounts administrator or a court regarding the account.";

(4) An attestation verifying the selection of the primary account representative, alternate account representatives, and account viewing agents, signed by the director or officer of the entity who is responsible for the conduct of the primary account representative, alternate account representatives, and account viewing agents, and who is one of the directors or officers disclosed pursuant to section 95830(c)(1)(B);

(5) The signature of the primary account representative and any alternate account representative and the dates signed; and

(6) An attestation as follows: "I certify under penalty of perjury under the laws of the State of California that I have personally examined, and am familiar with, the statements and information submitted in this document and all its attachments. I certify under penalty of perjury of the laws of the State of California that the statement of information submitted to ARB is true, accurate, and complete."

(b) Unless otherwise required by the Executive Officer, documents of agreement referred to in section 95832(a) in the application for an account shall not be submitted to the accounts administrator. The accounts administrator shall not be under any obligation to review or evaluate the sufficiency of such documents, if submitted.

(c) Authorization of primary account representative. Upon receipt by the accounts administrator of a complete application for an account under section 95830(c):

(1) The accounts administrator will establish an account or accounts for the person or persons for whom the application is submitted pursuant to section 95831.

(2) The primary account representative and any alternate account representative for the account shall represent and, by his or her representations, actions, inactions, or submissions, legally bind each entity that owns compliance instruments held in the account in all matters pertaining to this article, notwithstanding any agreement between the primary account representative or any alternate account representative and such entity.

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(3) Any such entity shall be bound by any decision or order issued to the primary account representative or any alternate account representative by the Executive Officer or a court regarding the account. Any representation, action, inaction, or submission by any alternate account representative shall be deemed to be a representation, action, inaction, or submission by the primary account representative or any alternate account representative.

(d) Each submission concerning the account shall be submitted, signed, and attested to, pursuant to section 95803(a), by the primary account representative or any alternate account representative for the entity that owns the compliance instruments held in the account. Each such submission shall include the following attestation statement by the primary account representative or any alternate account representative: "I certify under penalty of perjury under the laws of the State of California that I am authorized to make this submission on behalf of the entity that owns the compliance instruments held in the account. I certify under penalty of perjury under the laws of the State of California that I have personally examined, and am familiar with, the statements and information submitted in this document and all its attachments. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify under penalty of perjury under the laws of the State of California that the statements and information submitted to ARB are true, accurate, and complete. I consent to the jurisdiction of California and its courts for purposes of enforcement of the laws, rules and regulations pertaining to title 17, article 5, sections 95800 et seq., and I am aware that there are significant penalties for submitting false statements and information or omitting required statements and information, including the possibility of fine or imprisonment."

(e) The accounts administrator will accept or act on a submission concerning the account only if the submission has been made, signed, and attested to in accordance with this section.

(f) Changing primary account representative and alternate account representative.

(1) The primary account representative for an account may be changed at any time upon receipt by the accounts administrator of a designation of a primary account representative for an account under section 95830(c). Notwithstanding any such change, all representations, actions, inactions, and submissions by the previous primary account representative, or the previous alternate account representative prior to the time and date when the accounts administrator approves the designation of a primary account representative shall be binding on the new primary account representative and the entity that owns the compliance instruments in the account.

Except as provided in section 95832(f)(3), the change of a primary account representative must include completion of an attestation by the individual, submission of an attestation from an active primary or alternate account representative, and an attestation from a director or officer as described in section 95832(a)(3)-(a)(6).

(2) The alternate account representative for an account may be changed at any time upon the approval by the accounts administrator of a designation of an alternate account representative for an account under section 95830(c). Notwithstanding any such change, all representations, actions, inactions, and submissions by the previous primary account representative, or the previous alternate account representative, prior to the time and date when the accounts administrator approves the designation of an alternate account representative shall be binding on the new alternate account representative and the entity that owns the compliance instruments in the account. Except as provided in section 95832(f)(3), the change of an alternate account representative must include completion of an attestation by the individual, submission of an attestation from an active primary or alternate account representative, and an attestation from a director or officer as described in section 95832(a)(3)-(a)(6).

(3) The primary account representative for an account may be designated as an alternate account representative and an alternate account representative for an account may be designated as the primary account representative at any time upon approval by the accounts administrator of a designation of a primary account representative or alternate account representative for an account under section 95830(c).

(A) Any prior attestation signed by an active account representative and any signature of a director or officer of the entity responsible for the conduct of the primary account representative and alternate account representative will remain applicable even if account representative roles are swapped.

(B) A new attestation by the primary account representative or an alternate account representative that previously submitted a signed attestation is not required.

(C) A new attestation by a director or officer of the entity responsible for the conduct of the primary account representative and alternate account representatives is not required if the director or officer is disclosed pursuant to section 95830(c). Otherwise, if the director or officer has not been disclosed pursuant to section 95830(c), then a

new attestation as described in section 95832(a)(4) verifying the selection of the primary account representative and alternate account representative must be submitted to the accounts administrator.

(4) Except in the case of individual registrants serving in a dual capacity as an account representative pursuant to section 95830(c)(4), a registered entity must maintain a minimum of two active account representatives at all times until the entity is authorized to exit the Cap-and-Invest Program. An active account representative is an individual who maintains their contact information, user profile information as described in section 95832(a), and Know-Your-Customer information pursuant to section 95834 up-to-date and maintains the authority to act on behalf of the entity's tracking system account.

(A) If a registered entity no longer maintains an active account representative, then a director, officer, or any other individual with authority to make legally binding decisions on behalf of the entity disclosed pursuant to section 95830(c)(1)(B) must identify new account representatives in accordance with section 95832(a).

(g) Objections Concerning Account Representatives.

(1) Once a complete application for an account under section 95830(c)has been submitted and received, the accounts administrator will rely on the application unless and until a superseding complete application for an account under section 95830(c) is received by the accounts administrator.

(2) Except as provided in section 95832(f)(1), no objection or other communication submitted to the accounts administrator concerning the authorization, or any representation, action, inaction, or submission of the primary account representative or any alternate account representative for an account shall affect any representation, action, inaction, or submission of the primary account representative or any alternate account representative or the finality of any decision or order by the accounts administrator under this article.

(3) The accounts administrator will not adjudicate any private legal dispute concerning the authorization or any representation, action, inaction, or submission of the primary account representative or any alternate account representative for an account, including private legal disputes concerning the proceeds of compliance instrument transfers.

(h) Delegation by primary account representative and alternate account representatives.

(1) A primary account representative or an alternate account representative for a registered entity may authorize up to five natural persons per account that may view all information contained in the tracking system involving the entity's accounts, information, and transfer records (account viewing authority). The persons delegated shall not have authority to take any other action with respect to an account on the tracking system.

(2) In order to delegate account viewing authority in accordance with section 95832(h)(1) the primary account representative or alternate account representative, as appropriate, must submit to the accounts administrator a notice of delegation, that includes the following elements:

(A) The name, address, email address, and telephone number of such primary account representative or alternate account representative;

(B) The name, address, email address, and telephone number of each such natural person, herein referred to as “account viewing agent;” and

(C) An attestation verifying the selection of the account viewing agent, signed by the officer of the entity who is responsible for the conduct of the account viewing agent, and is one of the officers disclosed pursuant to section 95830(c)(1)(B).

(3) A notice of delegation submitted under section 95832(h)(2) shall be effective, with regard to the accounts identified in such notice, upon receipt of such notice by the accounts administrator and until receipt by the accounts administrator of a superseding notice of delegation by such primary account representative or alternate account representative as appropriate. The superseding notice of delegation may replace any previously identified account viewing agent, add a new account viewing agent, or eliminate entirely any delegation of authority.

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.

§ 95833. Disclosure of Corporate Associations.

(a) Criteria for Determining Corporate Associations.

(1) A corporate association exists when one entity has an ownership interest in or control over a second entity. The indicia of control or ownership, or both, listed in sections 95833(a)(1)(A)-(F), are used to determine if a corporate association exists, and multiple indicia may apply at the same time.

(A) Percent of ownership of any class of listed shares, the right to acquire such shares, or any option to purchase such shares of the other entity;

(B) Percent of common owners, directors, or officers of the other entity;

(C) Percent of the voting power of the other entity;

(D) In the case of a partnership other than a limited partnership, percent of the interests of the partnership;

(E) In the case of a limited partnership, the percent of control over the general partner or the percent of the voting rights to select the general partner; and

(F) In the case of a limited liability corporation, percent of ownership in the other entity regardless of how the interest is held.

(2) An entity has a direct corporate association with another entity, regardless of whether the second entity is registered in the Cap-and-Invest Program or in an external GHG ETS to which California is linked pursuant to subarticle 12, if either one of these entities has any indicia described in section 95833(a)(1) that is greater than 50 percent.

(3) A direct corporate association also exists when two entities are connected through a line of more than one direct corporate association.

(A) An entity (A) has a direct corporate association with another entity (B) if the two entities share a common parent and that parent has a direct corporate association with each entity (A and B) when applying the indicia contained in section 95833(a)(2).

(B) An entity that has a direct corporate association with a second entity also has a direct corporate association with any entity with whom the second entity has a direct corporate association.

(4) An entity has an indirect corporate association with another entity if:

(A) The two entities do not have a direct corporate association; and

(B) The controlling entity's percentage of ownership or any indicia identified in section 95833(a)(1) of the controlled entity is more than 20 percent but less than or equal to 50 percent. If the two entities are connected through a chain of more than one corporate association, the indicia identified in section 95833(a)(1) is calculated by multiplying the percentages at each link in the chain of corporate associations starting with the last entity that is in a direct corporate association. An indirect corporate association exists between the two entities if the total percentage of control is more than 20 percent but less than or equal to 50 percent when multiplying the percentage of control at each link in the chain of corporate associations.

(5) A publicly owned electric utility or joint powers authority that is the operator of an electricity generating facility in California has a direct corporate association with the operator of another electricity generating facility in California if the same entity operates both generating facilities. A publicly owned electric utility or joint powers authority that is the operator of an electricity generating facility in California has a direct corporate association with an electricity importer if the same entity operates the generating facility in California and is the entity importing electricity.

(6) Direct Corporate Association Due to Individuals Who Have Shared Roles. An individual who has knowledge of or access to the market positions (current and/or expected holdings of compliance instruments and current and/or expected covered emissions) of two or more entities registered in the tracking system or registered in an external GHG ETS to which California has linked pursuant to subarticle 12 is considered to be an individual who has shared roles. A direct corporate association will result due to an individual who has shared roles unless every registered entity has applied for and been approved for a Shared Role Exemption pursuant to section 95833(c)(4). A government employee or its delegate who has ability to gain knowledge of or access to the market positions of multiple entities to perform their job duties and functions is not considered to be an individual who has shared roles.

(7) Direct Corporate Association Due to Shared Commodity Pool Operators (CPOs) or Commodity Trading Advisors (CTAs). If two or more entities registered in the tracking system or registered in an external GHG ETS to which California has linked pursuant to subarticle 12 hire or contract the same CPO or CTA, then these entities will have a direct corporate association. For the purposes of this requirement, CPOs and CTAs are defined as individuals or entities actively registered with the National

Futures Association (NFA), pursuant to the Commodities Exchange Act (7 U.S.C. § 1 et seq.).

(b) Disclosure of Corporate Associations.

(1) Disclosure of Associated Registered Entities. Entities must disclose all direct and indirect corporate associations with entities registered in the California Cap-and-Invest Program or in another external GHG ETS to which California has linked pursuant to subarticle 12.

(2) Disclosure of Unregistered Parent Entities. Entities must disclose all direct corporate associations with entities not registered in the California Cap-and-Invest Program or in another external GHG ETS to which California has linked pursuant to subarticle 12 if those entities have the degree of ownership interest in or control over the registered entity to meet the requirements of having a direct corporate association.

(3) Disclosure of Unregistered Entities in a Line of Corporate Associations Between Registered Entities. A registered entity that has a direct or indirect corporate association with another registered entity must disclose the identity of all entities involved in the line of direct or indirect corporate associations between the two registered entities, even if such entities are not registered.

(4) Disclosures of Direct Corporate Associations with Unregistered Entities in the United States or Canada. Entities that have direct corporate associations with unregistered entities in the United States or Canada that are otherwise not required to be disclosed must disclose those associations within 30 calendar days of a request by the Executive Officer. The disclosing entity may elect to disclose only those directly associated entities located in the United States or Canada that participate in a market related to the Cap-and-Invest Program.

(A) Entities participating in a market related to the Cap-and-Invest Program include only those that purchase and sell greenhouse gas emissions instruments, natural gas, oil, or electricity; or conduct exchange trades involving derivatives or swaps based on greenhouse gas emission instruments, natural gas, oil, or electricity.

(B) The disclosure of entities in related markets may be accomplished through the submission of the most recent information submitted to another government agency in the United States using one or more of the following official governmental forms or documentation as

needed to meet the required disclosure: (1) Exhibit 21 of the Form 10-K submitted to the Securities and Exchange Commission by the registrant or an affiliate of the registrant; (2) the application for market-based rate authority, or update to such application, submitted by the registrant or an affiliate of the registrant to the Federal Energy Regulatory Commission pursuant to 18 CFR Part 35 and Order 697; (3) the application for registration with the National Futures Association, or update to such application, submitted by the registrant or an affiliate of the registrant as required by the Commodity Futures Trading Commission pursuant to the Commodity Exchange Act; (4) Form 40 or Form 40S filed by the registrant or an affiliate of the registrant in accordance with the Commodity Futures Trading Commission's reporting rules; and/or (5) Part 1A of a Form ADV filed with the Securities and Exchange Commission by a registered investment advisor responsible for managing the registrant.

(5) Disclosures of Other Unregistered Entities Outside the United States and Canada. Entities that have direct corporate associations with other entities outside the United States and Canada that participate in a market related to the Cap-and-Invest Program that are not otherwise required to be disclosed must disclose those associations within 30 calendar days of a request by the Executive Officer.

(A) Entities participating in a market related to the Cap-and-Invest Program include only those that purchase and sell greenhouse gas emission instruments, natural gas, electricity, or oil; or conduct exchange trades involving derivatives or swaps based on greenhouse gas emission instruments, natural gas, oil, or electricity.

(B) Entities may disclose these associations using the documentation options listed in section 95833(b)(4)(B).

(c) Disclosure Exemptions.

(1) Any registered entity subject to affiliate compliance rules promulgated by state or federal agencies shall not be required to disclose information or take other action that violates those rules.

(2) An entity registering as a voluntarily associated entity pursuant to section 95814(a)(1)(B) solely to hold offsets is not required to disclose any direct or indirect corporate associations.

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

(4) A registered entity subject to a direct corporate association pursuant to section 95833(a)(6) is eligible to apply for a Shared Role Exemption. A registered entity approved by the Executive Officer for the Shared Role Exemption is not required to disclose any direct corporate association information resulting from the relationship with the individual Cap-and-Invest Consultant or Advisor who has shared roles. Every registered entity that would be subject to a direct corporate association due to an individual with shared roles must be approved for the Shared Role Exemption for the exemption to take effect.

(A) Applying for the Shared Role Exemption. If an entity is subject to a direct corporate association due to an individual with shared roles, and if that individual is accurately disclosed as a Cap-and-Invest Consultant or Advisor pursuant to section 95923, then that entity is eligible to apply for the Shared Role Exemption from a direct corporate association pursuant to section 95833(a)(6). To apply for this Shared Role Exemption from a direct corporate association, an entity must identify the name of the Cap-and-Invest Consultant or Advisor, submit to CARB a contractual agreement or the employment terms and conditions that describe the individual's roles and responsibilities, and submit a signed and dated Conflict-of-Interest and Confidentiality Attestation. The Executive Officer will approve or deny, pursuant to section 95833(c)(4)(B), an application for the Shared Roles Exemption within 30 business days of receiving completed applications from all entities subject to a direct corporate association due to an individual Cap-and-Invest Consultant or Advisor with shared roles. At any time, the Executive Officer may request a copy of the registered entity's conflict-of-interest and confidentiality policies and procedures, which must be provided within 10 days of such request pursuant to section 95803(c).

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1. Conflict-of-Interest and Confidentiality Attestation. The primary account representative or any alternate account representative of the entity must submit the following signed and dated statement to apply for the Shared Role Exemption: "I certify under penalty of perjury under the laws of the State of California that for the named Cap-and-Invest Consultant or Advisor that meets the exemption qualification, this individual disclosed pursuant to section 95923 will neither gain access to a tracking system account, nor engage in any activities, analyses, or discussions that would result in sharing market position information of my entity with any other entity or individual. I certify that the named Cap-and-Invest Consultant or Advisor has neither legally binding authority over my entity nor decision-making authority over my entity's market position. I certify that conflict-of-interest and confidentiality policies and procedures are in place for work with this Cap-and-Invest Consultant or Advisor and that the individual has read and acknowledged that they will adhere to these policies and procedures."

(B) Qualification for the Shared Role Exemption. An entity is eligible for the Shared Role Exemption when the individual Cap-and-Invest Consultant or Advisor with shared roles has neither legally binding authority over any of the entities that they serve nor decision-making authority over the market positions of any of the entities that they serve. An individual will not be considered to meet the qualification for the Shared Role Exemption and the entity will remain subject to the disclosure requirements of a direct corporate association if the individual has a user account in the tracking system, or if the individual provides services specifically to the registered entity that are not listed in section 95979(b)(2) or section 95133(b)(2) of MRR.

(d) Disclosure Requirements.

(1) Entities disclosing direct or indirect corporate association must provide the following information to identify each reportable corporate association:

(A) Name, contact information, and physical address of the entity;

(B) Tracking system entity identification number, if applicable;

(C) A government issued Taxpayer Identification Number or Employer Identification Number, or for entities located in the United States, a U.S. Federal Tax Employer Identification Number, if assigned; and

(D) Place and Date of Incorporation, if applicable;

(E) For direct corporate associations with registered entities only, the percentage share of the holding limit and purchase limit assigned to each entity opting out of account consolidation pursuant to section 95830(c)(1)(I); the sum of the shares must equal 100 percent.

(2) Entities that have disclosable corporate associations must identify whether the type of corporate association is direct or indirect.

(A) Entities identifying an indirect corporate association must provide a brief description of the association, including information sufficient to explain the entity's evaluation of the indicia in section 95833(a)(1) that was used to determine the type of corporate association disclosed for each associated entity.

(B) Entities identifying a direct corporate association must identify the nature of the associated entity as a parent, a subsidiary, or an entity with a common parent, but need not include an evaluation of the indicia.

(3) Methods of Disclosure. All corporate association disclosures required by this section must be provided in a manner described in section 95803(a).

(e) Disclosure Timing. The entity must disclose the information pursuant to section 95833(d):

(1) At the time of registration pursuant to section 95830;

(2) Within 30 calendar days of the creation of a direct or indirect corporate association or of a change in the type of a corporate association involving registered entities pursuant to sections 95833(b)(1), or registered and unregistered entities pursuant to section 95833(b)(2) and (3);

(3) Within one year of a modification if the changes in information involve only unregistered entities disclosed pursuant to sections 95833(b)(4) and (5);

(4) No later than 10 calendar days prior to the auction application deadline established in section 95912 when disclosing a change related to another entity registered in the Cap-and-Invest Program or to entities registered into the California Cap-and-Invest Program and other external GHG ETS

to which California has linked pursuant to subarticle 12, if the disclosing entity intends to participate in the auction; and

(5) Within one year for all other changes.

(f) Delayed Deadline for Direct Corporate Association Purchase Limit Share and Holding Limit Share Disclosures.

(1) Prior to January 1, 2028, a registered entity that is newly in a direct corporate association with another registered entity pursuant to sections 95833(a)(6) or (a)(7) will have 30 calendar days to identify this corporate association and disclose the required information pursuant to sections 95833(d)(1)(A)-(D). These registered entities will have until December 31, 2027, to disclose the applicable purchase limit share and holding limit share information pursuant to section 95833(d)(1)(E). Prior to January 1, 2028, each member of a corporate association group that is newly formed or newly updated due to a new applicant must provide the required information pursuant to sections 95833(d)(1)(A)-(E) by the applicable deadline specified in section 95833(e).

(2) Effective January 1, 2028, and thereafter, registered entities subject to direct corporate associations pursuant to sections 95833(a)(6) or (7) must disclose the required information pursuant to sections 95833(d)(1)(A)-(E), in accordance with the deadline schedule contained in section 95833(e).

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.

§ 95834. Know-Your-Customer Requirements.

(a) General Requirements.

(1) The accounts administrator cannot provide access to the tracking system to an individual until the Executive Officer has determined the individual applying for participation has complied with the requirements of this section.

(2) The requirements of this section are in addition to any requirements contained elsewhere in this article that apply to the functions the individual will undertake in the tracking system.

(3) All documents submitted to the Executive Officer pursuant to this section shall be in English.

(4) Individuals with a criminal conviction in any jurisdiction in the five previous years constituting a felony under U.S. federal law or California law, or the equivalent thereof, are ineligible for registration and participation in the Cap-and-Invest Program.

(5) Individuals are prohibited from sharing with anyone their login information (User ID or username, password, and security questions and answers) for the tracking system account or auction system. Sharing this information with anyone is a violation of this article and can result in loss of access to the tracking or auction systems, and, if warranted, civil or criminal prosecution under state, provincial, or federal law.

(b) The individual must provide, within 30 days of submitting a user registration request in the tracking system, documentation of the following:

(1) Name;

(2) The address of the primary residence of the applicant, which may be shown by any of the following:

(A) A valid government-issued identity card or government-issued document with an expiration date;

(B) Any other document that is customarily accepted by the State of California as evidence of the primary residence of the individual;

(3) Date of birth;

(4) Proof of an open bank account in the United States, except as provided in section 95834(b)(4)(B) below;

(A) The proof must be in the form of a bank statement dated no earlier than 3 months prior to submission, must identify the individual holding the account, and must contain the name and business contact information of the bank.

(B) If an applicant will only represent a covered entity located outside of the United States, the applicant may either provide:

1. Proof of an open bank account in the United States, or

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2. Documentation of an open bank account in the country in which the covered entity is located. This documentation must be accompanied by a signed attestation of an officer or director of the applicant's employer to ARB as follows: “I certify under penalty of perjury under the laws of the State of California that the person requesting access to the market tracking system will be designated as an account representative for this entity. This entity is a covered entity under the California Cap-and-Invest Regulation and has no personnel residing in the United States with the authority to take actions that are binding on all persons who have an ownership interest with respect to compliance instruments held in the account for this entity.”

(5) Employment or other relationship to an entity that has registered or has applied to register with the California Cap-and-Invest Program if the individual is or will represent an entity registering or registered pursuant to section 95830;

(6) A government-issued document providing photographic evidence of identity of the applicant which may include:

(A) A valid government-issued identity card or driver's license with an expiration date and date of birth; or

(B) A passport; and

(7) Any criminal conviction declared in any jurisdiction during the previous five years constituting a felony under U.S. federal law or California law, or the equivalent thereof. This disclosure must include the type of violation, jurisdiction, and year.

(c) An individual who will become an account representative or viewing agent of a covered entity or opt-in covered entity as defined in section 95802 may choose to provide documentation pursuant to section 95834(b) directly to their employer instead of to ARB. An entity's director or officer disclosed pursuant to section 95830(c)(1)(B) must confirm that the individual meets the Know-Your-Customer Requirements described in section 95834 and that the entity will retain the documentation.

(1) The covered entity or opt-in covered entity must verify the identity of the individual and confirm that the individual does not have a criminal conviction constituting the equivalent of a felony under U.S. federal law or

California law, or the equivalent thereof, in any jurisdiction during the previous five years.

(2) A director or officer of the covered entity who has been disclosed pursuant to section 95830(c)(1)(B) must complete an attestation to verify the accuracy and veracity of the documentation submitted pursuant to section 95834(b).

(3) The documents submitted by the individual shall be retained by the entity, and the Executive Officer or his/her designated representative shall be permitted, at any time, to review and audit the documentation. The covered or opt-in covered entity must provide this documentation to the Executive Officer or his/her designated representative within 5 calendar days of a request by the Executive Officer.

(d) Verification of information.

(1) One of the documents submitted pursuant to section 95834(b)(2), (4), or (6) must be notarized by a notary public no more than three months before submittal.

(2) The notary stamp or seal, if required by the jurisdiction where the notary public is commissioned, the notary public's name, the county or state of the notary public's place of business, and the commission expiration date must each be legible. The notarization must also include the signature of the notary public and the date of notarization.

(3) If a notary is obtained from outside of the United States, an apostille must be submitted to confirm that the individual who notarized the document had valid commission at the time that the document was notarized. The apostille must be attached to the notarized document.

(4) The Executive Officer may re-verify all documents required pursuant to Section 95834 upon request. To allow verification, upon request and within ten days, the individual must provide updated documentation required pursuant to 95834(b).

(e) Updating Individual Know-Your-Customer Registration and Tracking System Information.

(1) When there is a change to the information a user submitted pursuant to section 95834(b)(1)-(3), the user must update the individual registration information within 60 calendar days of the change.

(2) The user must submit updated disclosures to CARB of any criminal conviction declared in any jurisdiction constituting a felony under U.S. federal law or California law, or the equivalent thereof, after the time of initial disclosure under section 95834(b). This updated disclosure must be within 60 calendar days of the subsequent conviction. This disclosure must include the type of violation, jurisdiction, and year.

(3) When there is a change to contact information, such as email address, phone number, or mailing address, in the tracking system, the user must update this contact information within 5 calendar days of the change.

(4) The information submitted to CARB must be true, accurate, and complete. The Executive Officer can revoke the tracking system user access of an individual who fails to update or maintain individual Know-Your-Customer or user registration information in the tracking system.

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.

§ 95835. Changes to Entity Type and Reassignment of Facilities Already Registered to Different Entity Accounts.

(a) Assignment of Facilities to Entity Accounts.

(1) Subdivision of MRR Facilities with Distinct ARB IDs Currently Registered in the Tracking System. The following provisions apply to facilities that are currently registered in the tracking system and wish to change their entity type or account assignment(s):

(A) A facility may not be subdivided without a demonstration of a change to the continuity of its ownership and control, as defined in MRR, to one or more of its constituent units.

(B) The subdivided units must complete all the requirements of MRR before they can be reassigned from existing tracking system accounts, including the assignment of an ARB ID to each subdivided unit.

(C) The subdivided units must complete the disclosure process outlined in section 95835(b).

(D) The entity seeking the subdivision must either indicate the existing accounts to which the subdivided facilities will be assigned or

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complete an application for a new account, or for closure of an existing account, if applicable.

(2) Assignment of a New Facility to an Account. The owner or operator of a new facility that has received an ARB ID but that is not yet assigned to a tracking system account must register pursuant to section 95830 and request either a new account or assignment of the facility to an existing account.

(3) Changing Account Assignments within a Direct Corporate Association. Members of a direct corporate association may request a change to the distribution of facilities within their set of accounts only once per compliance period. Approved changes to consolidate or opt-out of account consolidation pursuant to section 95830(b)(3) will be effective at the beginning of the next compliance period provided that the request is made by June 30 of the year immediately preceding that next compliance period.

(b) Change of Facility Ownership. When the ownership of a facility changes, whether by merger, acquisition, or any other means, the successor entity after the change in ownership is expressly liable for the unsurrendered compliance obligation of the predecessor covered entity that is party to the change in ownership transaction. For the avoidance of doubt, the unsurrendered compliance obligation of the predecessor covered entity consists of the quantity of verified reported emissions, assigned emissions, and emissions that have been released from the subject facility but not reported yet for which the covered entity would be required to submit compliance instruments to CARB absent the change of ownership, but that the covered entity has not surrendered to CARB at the time of the change of ownership. Subarticle 7 compliance requirements are interpreted and enforced in light of the successor entity being expressly liable for the unsurrendered compliance obligation of the predecessor covered entity. When the ownership of a facility changes, the following information must be submitted to CARB within 30 calendar days of finalization of the ownership change:

(1) A description of the merger or acquisition and the effective date of the change of ownership, including whether the merger or acquisition is the purchase of a facility or facilities from another entity or the purchase of an entity that owns a facility or facilities;

(2) Both the legal and operating names and the tracking system entity IDs of the entities owning the facility or facilities prior to the change of ownership;

(3) The legal name, operating name, and the tracking system entity ID of the purchasing entity, if any;

(4) Written direction regarding whether the purchased facility or facilities will be added to a consolidated entity account or whether the purchased facility or facilities will be associated with an entity that will opt-out of account consolidation pursuant to section 95830(b)(3);

(5) Documentation with signatures (original or electronic pursuant to section 95803(a)) by a director or officer from the entity owning the facility or facilities and from the purchasing entity, notifying ARB of the change of ownership;

(6) Any changes to disclosures or new disclosures pursuant to section 95833;

(7) Direction regarding the disposition of compliance instruments that must be transferred by the jurisdiction to the purchasing entity. Compliance instruments can be transferred only between accounts of the same type (e.g., from a compliance account to a compliance account) and any administrative transfers required may be requested as a one-time occurrence scheduled to occur within five business days after the facility or facilities are transferred in the tracking system to the purchasing entity;

(8) It is the responsibility of the entities participating in the change of ownership to transfer any compliance instruments from tracking system holding accounts that they control prior to closure. Prior to closure, the Executive Officer may transfer compliance instruments from an entity's compliance account to its holding account upon request by the entity. If a covered entity no longer owns or operates any active facility in its tracking account due to a change of facility ownership, then that covered entity may exit the Program and close its tracking system accounts within five business days after the facility or facilities are transferred in the tracking system to the purchasing entity.

(c) Eligibility for a Change of Entity Type.

(1) Eligibility of an Opt-In Covered Entity to Change Its Entity Type.

(A) After a compliance period, an opt-in covered entity may choose to exit the Program or apply for a new tracking system account to change its entity type to a voluntarily associated entity provided that it meets the requirements specified in section 95813(g).

(B) An opt-in covered entity choosing to exit the Program must fulfill its compliance obligations as required pursuant to subarticle 7 and report and verify emissions data, product data, and any other data required pursuant to MRR for its final year with a compliance

obligation to allow for any true-up allocations pursuant to subarticles 8 and 9 before requesting a change of entity type.

(2) Eligibility of a Covered Entity or Opt-In Covered Entity to Change Its Entity Type.

(A) Effect of Reduced Emissions on a Covered Entity's Compliance Obligation. A covered entity that reports annual covered GHG emissions less than 25,000 metric tons of CO2e per year during one entire compliance period may request a change to its entity type from the Executive Officer by the deadlines specified in section 95835(e)(1). If the covered entity does not complete the change in entity type by the deadline, then the Executive Officer will consider the entity as a voluntarily associated entity for the assignment of purchase limit and holding limit, if applicable. If the entity does not apply to change its entity type by the deadline, then the Executive Officer maintains the ability to suspend or revoke the registration and any compliance instruments remaining in the entity's tracking system accounts will be consigned on the entity's behalf or transferred pursuant to section 95835(f) or 95890(k).

(B) Effect of a Facility Shutdown on a Covered Entity's Compliance Obligation. Once a covered or opt-in covered entity has fully met the reporting cessation requirements of section 95101(i) of MRR due to ceasing to operate, full facility shutdown, and cessation of all activities subject to reporting under section 95101(c) of MRR, it may request a change to its entity type from the Executive Officer by the deadlines specified in section 95835(e)(1).

(C) Eligibility of a Fuel Supplier to Change Entity Type. A fuel supplier that reports annual covered emissions less than 25,000 metric tons of CO_2e per year during one entire compliance period and has met the reporting requirements of section 95103(n)(2)(D) of MRR, or has met the reporting cessation requirements due to a facility shut down under 95101(i) of MRR, may request a change to its entity type from the Executive Officer by the deadlines specified in section 95835(e)(1).

(D) Eligibility of an Electric Power Entity to Change Entity Type. An electric power entity that reports annual covered emissions less than the emissions inclusion threshold in section 95812(c)(2) and 95812(d)(2) during one entire compliance period and has met the reporting requirements of section 95101(h) of MRR, or has met the

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reporting cessation requirements due to a facility shut down under 95101(i) of MRR, may request a change to its entity type from the Executive Officer by the deadlines specified in section 95835(e)(1).

(3) A voluntarily associated entity is eligible to request to exit the Cap-and-Invest Program at any time.

(4) The Executive Officer may close the account of a voluntarily associated entity if no compliance instruments are transferred into or out of the account for a period of two years.

(d) Options for Changing Entity Type. When an entity qualifies for a change in entity type pursuant to section 95835(c), the following shall apply:

(1) A covered entity may elect to remain in the Cap-and-Invest Program as an opt-in covered entity pursuant to section 95813(h) and does not need to apply for a new set of tracking system accounts; or

(2) A covered entity or an opt-in covered entity may elect to remain in the Cap-and-Invest Program and apply for a new tracking system account as a voluntarily associated entity pursuant to section 95814; or

(3) An entity that has fully met the reporting cessation requirements of section 95101(i) of MRR may elect to exit the Cap-and-Trade Program pursuant to section 95835(f).

(e) If a covered entity or opt-in covered entity qualifies for a change in entity type, it may request a change by completing the following requirements:

(1) Request Deadlines.

(A) A covered entity or opt-in covered entity requesting a change in entity type pursuant to section 95835(c)(2)(A) or 95835(c)(1)(A), respectively, must make the request to the Executive Officer by September 30 of the first calendar year after the end of a compliance period.

(B) A covered entity or opt-in covered entity requesting a change in entity type pursuant to section 95835(c)(2)(B) has 30 days from the completion of the MRR cessation of reporting provisions per section 95101(i), or within 30 calendar days of the finalization of the ownership change, whichever is sooner, to request to remain in the Program and apply as a voluntarily associated entity.

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(C) A covered entity whose request to be an opt-in covered entity pursuant to section 95813(h) was approved by the Executive Officer must request a change in entity type by September 30 of the same year as the deadline specified in section 95813(h).

(D) An opt-in covered entity that intends to exit the program entirely pursuant to section 95813(g) must separately make a request to exit to the Executive Officer by September 30 of the first calendar year immediately after the end of a compliance period.

(2) A covered entity or opt-in covered entity that qualifies for account closure pursuant to section 95835(c)(2)(B) must, after fulfilling its compliance obligation for its final year of operations pursuant to section 95856 and addressing final allocation provisions pursuant to section 95835(f), elect one of the following options:

(A) Request to close its tracking system accounts, comply with MRR cessation of reporting provisions pursuant to section 95101(h) or (i), and apply to be in the tracking system as a voluntarily associated entity as defined in section 95814; or

(B) Request to consolidate its holding and compliance accounts with an existing account held by another entity pursuant to section 95830(b)(3) with whom it has a direct corporate association and comply with MRR cessation of reporting provisions pursuant to section 95101(h) or (i); or

(C) Request to close its tracking system accounts within 30 calendar days after the entity is qualified to request an account closure, comply with MRR cessation of reporting provisions per section 95101(h), and exit the Program.

(f) Account Closure for Entities Exiting the Program.

(1) Return of Initial Allocation for Entities Exiting the Program. An entity may not exit the Program pursuant to section 95835 until the entity has satisfied the requirements in 95890(k). If an entity has met the cessation requirements pursuant to MRR section 95101(h) or (i) and remains in the Program solely to meet the requirements of section 95890(k), then the entity need not report and verify data pursuant to MRR for any time period after which the MRR cessation requirements have been met.

(2) When an entity requests that ARB close its accounts in the tracking system, it must arrange to transfer all compliance instruments out of its

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accounts before the accounts can be closed. If the entity has compliance instruments in its compliance or holding account when a request for account closure is submitted, then the entity may request a one-time administrative transfer for ARB to either:

(A) Transfer the compliance instruments from its compliance account to the entity's holding account to allow the entity to transfer the allowances out of its account; or

(B) Transfer the compliance instruments from its compliance and holding accounts to the account of another registered entity or to the Retirement Account at the request of the entity closing the account.

(3) Requirements to request tracking system account closure. An entity that meets the requirements of this article may request to close its account if all associated holding accounts are clear of compliance instruments. An entity must not owe a compliance obligation or return of allowances pursuant to section 95890(k), and an account representative must submit a written request to the Executive Officer with the following information:

(A) Requested date for account closure;

(B) Reason for the account closure;

(C) Confirmation that account balances are zero;

(D) Account representatives will keep access to historical account records so long as the representatives meet the requirements to remain active and designated on the account pursuant to section 95832(f)(4); and

(E) Signed and dated attestation by an account representative pursuant to section 95832(d).

(g) Changing entity type from Voluntarily Associated Entity to Covered Entity. If a currently registered voluntarily associated entity subsequently meets the requirements in sections 95811 and 95812 for inclusion in the Program as a covered entity, the entity will be required to change its entity type to a covered entity within 30 days of reporting its emissions to MRR and is subject to a compliance obligation pursuant to subarticle 7. This entity must have established a greenhouse gas reporting facility account with an assigned ARB ID pursuant to section 95104 of MRR.

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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, Health and Safety Code.

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Subarticle 6. California Greenhouse Gas Allowance Budgets

§ 95840. Compliance Periods.

Duration of Compliance Periods is as follows:

(a) The first compliance period starts on January 1, 2013, and ends on December 31, 2014.

(b) The second compliance period starts on January 1, 2015, and ends on December 31, 2017.

(c) The third compliance period starts on January 1, 2018, and ends on December 31, 2020.

(d) The fourth compliance period starts on January 1, 2021, and ends on December 31, 2023.

(e) The fifth compliance period starts on January 1, 2024, and ends on December 31, 2026.

(f) The sixth compliance period starts on January 1, 2027, and ends on December 31, 2028.

(g) The seventh compliance period starts on January 1, 2029, and ends on December 31, 2030.

(h) The eighth compliance period starts on January 1, 2031, and ends on December 31, 2033.

(i) Each subsequent compliance period after the eighth compliance period will alternate between a duration of two calendar years and three calendar 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, Health and Safety Code.

§ 95841. Annual Allowance Budgets for Calendar Years 2013-2045.

(a) The California GHG Allowance Budgets for the years 2013 to 2045 are set as described in Table 6-1 and Table 6-2.

(b) Manufacturing Decarbonization Incentive Allocation Allowances are created with a current vintage year assigned pursuant to section 95871(k).

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Table 6-1: 2013-2020 California GHG Allowance Budgets

Budget Year	Annual Allowance Budget (millions of CA GHG allowances)
2013	162.8
2014	159.7
2015	394.5
2016	382.4
2017	370.4
2018	358.3
2019	346.3
2020	334.2

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Table 6-2: 2021-2045 California GHG Allowance Budgets

Budget Year	Annual Allowance Budget (millions of CA GHG allowances)
2021	320.8
2022	307.5
2023	294.1
2024	280.7
2025	267.4
2026	254
2027	225.6
2028	200.8
2029	178.8
2030	158.8
2031	147.3
2032	136.8
2033	127.1
2034	118.1
2035	109.6
2036	101.5
2037	93.7
2038	86.0
2039	78.4
2040	70.8
2041	63.1
2042	55.3
2043	47.3
2044	39.0
2045	30.3

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.

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§ 95841.1. Voluntary Renewable Electricity.

(a) Voluntary Renewable Electricity Program Requirements. The end-user, or VRE participant acting on behalf of the end-user, must meet the requirements of this section. Generation must not have an online date or have served load prior to July 1, 2005. Allowance retirement for purposes of voluntary renewable electricity will begin in 2014 for 2013 generation, and will continue in the same manner for subsequent years. Allowances will be retired annually from the Voluntary Renewable Electricity Reserve Account for the preceding year's eligible and approved generation in order of increasing vintage year until the account has been exhausted. For the year in which available allowances are exhausted, allowance retirement will be pro-rated among all eligible and approved generation. Voluntary renewable electricity must be directly delivered to California. RECs must represent generation that occurred during the year for which allowance retirement is requested. RECs shall be retired before the submittal of the request to retire allowances pursuant to this section.

(1) Generator Eligibility. Each generator must meet one of these criteria:

(2) Be certified as RPS-eligible by the California Energy Commission;

(3) Received an incentive under the California Solar Initiative Program; or,

(4) Be a solar generation installation interconnected with the distribution system of a California EDU.

(b) Reporting Requirements. The end-user, or the VRE participant acting on behalf of the end-user, requesting allowance retirement for eligible generation must meet the following requirements for the period in which allowance retirement is being requested:

(1) By July 1 of each year, provide a written request for allowance retirement from the Voluntary Renewable Electricity Reserve Account and all required documentation for the previous year's eligible generation or REC purchases. The request must meet the requirements below:

(2) Report to ARB the quantity of renewable electricity in MWh, the number of RECs generated during the previous year and designated for VRE allowance retirement from each eligible generator, and the total quantity of MWh for all eligible generators;

(3) Generator eligibility must be demonstrated by providing to ARB:

1. A California Energy Commission RPS identification number; or

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2. Documentation from an EDU that demonstrates that an incentive payment for each generator was received or approved under California's Solar Electric Incentive Program; or

3. Documentation from an EDU approving interconnection to the EDU's distribution system;

4. If WREGIS RECs were created for the generation, provide the WREGIS identification number for each generator and REC retirement report;

5. If WREGIS RECs were not created for the generation, provide alternative tracking system data documenting the month and year of the generation and documentation that the RECs were not used in any other mandatory or voluntary program;

6. Contract or settlement data demonstrating the sale to and purchase of the electricity or RECs associated with the generation of the electricity to the end-user or entity purchasing on behalf of the end-user; and

7. Submit the following attestations:

8. Submit a signed attestation to ARB as follows: “I certify under penalty of perjury of the laws of the State of California that I have not authorized use of, or sold, any renewable electricity credits or any claims to the emissions, or lack of emissions, for electricity for which I am seeking ARB allowance retirement, in any other voluntary or mandatory program.”

9. Submit a signed attestation to ARB as follows: “I understand I am voluntarily participating in the California Greenhouse Gas Cap-and-Invest Program under title 17, Cal. Code of Regs. article 5, and by doing so, I am now subject to all regulatory requirements and enforcement mechanisms of this voluntary renewable electricity program and subject myself to the jurisdiction of California as the exclusive venue to resolve any and all disputes.”

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(c) Allowance Retirement. The number of allowances retired from the Voluntary Renewable Electricity Reserve Account for a VRE participant in a given year are calculated as follows:

$$VRE_{retired} = MWh_{VRE} \, x \, EF_{unspecified}$$

Where:

"$VRE_{retired}$" is the number of allowances to be retired from the Voluntary Renewable Electricity Reserve Account for the VRE participant, rounded down to the nearest whole ton;

"MWh_{VRE}" is the amount of voluntary renewable electricity, in MWh, that is generated in the previous year by the VRE participant, meets the eligibility requirements of this article, and is approved by ARB; and

"$EF_{unspecified}$" is the default CO_2e emissions factor for unspecified power, pursuant to section 95111(b)(1) of MRR.

ARB shall determine the actual MWh of voluntary renewable electricity purchases that occurred during the period indicated in the documentation. ARB shall retire allowances from the Voluntary Renewable Electricity Reserve Account in an amount up to the number of MT CO_2e represented by actual voluntary renewable electricity purchases, based on actual MWh purchases and the emissions factor determined pursuant to this section.

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.

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Subarticle 7. Compliance Requirements for Covered Entities

§ 95850. General Requirements.

(a) Reporting Requirements. Each covered entity identified in section 95811 is subject to MRR.

(b) An entity's compliance obligation is based on the emissions number for the emissions subject to a compliance obligation for every metric ton of CO_2e for which a positive or qualified positive emissions data verification statement is issued, rounded to the nearest whole ton, or for which there are assigned emissions pursuant to MRR.

(c) Record Retention Requirements. Each entity must retain all of the following records for at least 10 consecutive years and must provide such records within 20 calendar days of receiving a written request from ARB, including:

(1) Copies of all data and reports submitted under this article and section 95105 of MRR;

(2) Records used to calculate a compliance obligation as specified in section 95853;

(3) Emissions data and product data verification statements as required pursuant to section 95103(f) of MRR; and

(4) Detailed verification reports as required pursuant to section 95131 of MRR.

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.

§ 95851. Phase-in of Compliance Obligation for Covered Entities.

(a) Operators of facilities and first deliverers of electricity specified in sections 95811(a) and (b) and carbon dioxide suppliers specified in section 95811(h) that meet or exceed the annual emissions threshold in section 95812(c) have compliance obligations beginning with the first compliance period.

(b) Suppliers of natural gas, suppliers of RBOB and distillate fuel oils, suppliers of liquefied petroleum gas, and suppliers of liquefied and/or compressed natural gas specified in sections 95811(c), (d), (e), (f), and (g) that meet or exceed the annual threshold in section 95812(d) will have a compliance obligation beginning with the second compliance period.

(c) Operators of cogeneration facilities and district heating facilities that have been approved by the Executive Officer for a limited exemption of emissions from the production of qualified thermal output pursuant to section 95852(j) and that meet or exceed the annual threshold in section 95812(c) will have no compliance obligation and are not covered entities through the year before the first year for which natural gas suppliers are required to consign 100 percent of allocated allowances to auction. The compliance obligation for these exempt facilities will be held by the upstream natural gas supplier. Facilities that are not approved by the Executive Officer for a limited exemption of emissions will have a compliance obligation.

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.

§ 95852. Emission Categories Used to Calculate Compliance Obligations.

(a) Operators of Facilities.

(1) An operator of a facility covered under sections 95811(a) and 95812(c)(1) has a compliance obligation for every metric ton of CO_2e for which a positive or qualified positive emissions data verification statement is issued per section 95131 of MRR, including process emissions, stationary combustion emissions and vented emissions. If ARB has assigned emissions for the sources subject to a compliance obligation pursuant to this section, the facility will have a compliance obligation equal to the value of every metric ton of CO_2e assigned emissions. The entity's compliance obligation will be assessed at the facility level unless otherwise noted under section 95812(c).

(2) Beginning in 2015, combustion emissions resulting from burning RBOB, distillate fuel oils, or liquefied petroleum gas are not included when calculating an operator's compliance obligation.

(b) First Deliverers of Electricity. A first deliverer of electricity covered under sections 95811(b) and 95812(c)(2) has a compliance obligation for every metric ton of CO_2e emissions calculated pursuant to section 95852(b)(1) for which a positive or qualified positive emissions data verification statement is issued pursuant to MRR, or for which there are assigned emissions, when such emissions are from a source in California or in a jurisdiction where a GHG emissions trading system has not been approved for linkage by the Board pursuant to subarticle 12.

(1) Calculation of emissions for compliance obligation.

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(A) For first deliverers that are operators of an electricity generating facility in California, the calculation for compliance obligation includes all emissions reported and verified or assigned pursuant to MRR, except emissions without a compliance obligation pursuant to section 95852.2.

(B) For first deliverers that are electricity importers, emissions with a compliance obligation are calculated using the following equation:

$$CO_2e_{covered} = CO_2e_{unspecified} + (CO_2e_{specified} - CO_2e_{specified\text{-}not\ covered}) - CO_2e_{RPS\_adjustment} - CO_2e_{linked}$$

Where:

$CO_2e_{covered}$ = Annual metric tons of CO_2e with a compliance obligation.

$CO_2e_{unspecified}$ = Annual metric tons of CO_2e from unspecified imported electricity calculated pursuant to MRR 95111(b)(1).

$CO_2e_{specified}$ = Annual metric tons of CO_2e from imported electricity from specified sources that meet the requirements of MRR section 95111(b)(2). For CAISO Scheduling Coordinators this includes electricity that is imported into California through CAISO's WEIM and via the EDAM through the WEIM.

$CO_2e_{specified\text{-}not\ covered}$ = Annual metric tons of CO_2e without a compliance obligation pursuant to section 95852.2. from specified sources that meet the requirements in MRR section 95111(b)(2).

$CO_2e_{RPS\_adjustment}$ = Annual metric tons of CO_2e calculated pursuant to MRR that meets the requirements of section 95852(b)(4).

CO_2e_{linked} = Annual metric tons of CO_2e from electricity with a first point of receipt located in a jurisdiction where a GHG emissions trading system has been approved for linkage by the Board pursuant to subarticle 12.

(C) All deliveries of electricity not meeting the requirements for specified sources pursuant to MRR will have emissions calculated using the default emission factor for unspecified electricity pursuant to MRR section 95111(b)(1).

(2) Resource shuffling is prohibited and is a violation of this article.

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(A) The following substitutions of electricity deliveries from a lower emission resource for electricity deliveries from a higher emission resource shall not constitute resource shuffling:

1. Electricity deliveries that are caused by the procurement of electricity eligible to be counted towards and purchased for Renewable Portfolio Standard (RPS) compliance in California.

2. Electricity deliveries made for the purpose of compliance with state or federal laws and regulations, including the Emission Performance Standard (EPS) rules established by CEC and the CPUC pursuant to Public Utilities Code section 8340 et. seq.

3. Electricity deliveries made for the purpose of compliance with requirements related to maintaining reliable grid operations, such as North American Electric Reliability Corporation (NERC) Reliability Standards, and Reliability Coordinator directives, including the provision of electricity between balancing authorities or load-serving entities when required to alleviate emergency grid conditions.

4. Electricity deliveries made for the purpose of compliance with either a judicially approved settlement of litigation or a settlement of a transaction dispute pursuant to the dispute resolution terms and conditions of a contract for reasons other than reducing GHG compliance obligations.

5. Electricity deliveries that substitute for power previously supplied by a specified source that has been retired.

6. Electricity deliveries that substitute for deliveries that have been discontinued because of termination of a contract or divestiture of resources for reasons other than reducing a GHG compliance obligation.

7. Electricity deliveries that are necessitated by early termination of a contract for, or full or partial divestiture of, resources subject to the EPS rules.

8. Electricity deliveries that are necessitated by expiration of a contract.

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9. Electricity deliveries pursuant to contracts for short-term delivery of electricity with terms of no more than 12 months, for either specified or unspecified power, linked to the selling off of power from, or assigning of a contract for, electricity subject to the EPS rules from a power plant that does not meet the EPS with which a California Electrical Distribution Utility has a contract, or in which a California Electrical Distribution Utility has an ownership share, and based on economic decisions including congestion costs but excluding implicit and explicit GHG costs. In evaluating these short-term deliveries of electricity, ARB will consider the levels of past sales and purchases from similar resources of electricity, among other factors, to judge whether the activity is resource shuffling.

10. Short-term transactions and contracts for delivery of electricity with terms of no more than 12 months, or resulting from an economic bid or self-schedule that clears the CAISO day-ahead or real-time market, for either specified or unspecified power, based on economic decisions including implicit and explicit GHG costs and congestion costs, unless such activity is linked to the selling off of power from, or assigning of a contract for, electricity subject to the EPS rules from a power plant that does not meet the EPS with which a California Electricity Distribution Utility has a contract, or in which a California Electricity Distribution Utility has an ownership share, that is not covered under paragraphs 11., 12., or 13. below.

11. Electricity deliveries that are necessitated by operational emergencies or transmission or distribution constraints, including constraints caused by the inability to obtain or retain transmission rights, transmission curtailments or outages, or emergencies.

12. Electricity deliveries that are necessitated because a First Deliverer has more than enough electricity to meet demand as a result of the First Deliverer being required to take electricity from specific generating units, including requirements due to electricity contracts with “must-take” or “must-run” provisions.

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13. Deliveries of electricity that are required to make up for transmission losses associated with electricity deliveries in California.

(B) Prohibited substitutions of electricity deliveries from a higher emission resource with electricity deliveries from a lower emission resource include:

1. Substituting relatively lower emission electricity to replace electricity generated at a high emission power plant procured by a First Deliverer under a long-term contract or ownership arrangement, when the power plant does not meet California's EPS, and the substitution is made to reduce a First Deliverer's compliance obligation.

2. Assigning a long-term contract for high emission electricity specified in section 95852(b)(2)(B)1. to a third party for the purpose of reducing a compliance obligation.

(3) The following criteria must be met for electricity importers to claim a compliance obligation for delivered electricity based on a specified source emission factor or asset controlling supplier emission factor.

(A) Electricity deliveries must be reported to ARB and emissions must be calculated pursuant to MRR section 95111.

(B) The electricity importer must be the facility operator or have right of ownership or a written power contract, as defined in MRR section 95102(a), to the amount of electricity claimed and generated by the facility or unit claimed; and

(C) The electricity must be directly delivered, as defined in MRR section 95102(a), to the California grid.

(4) RPS adjustment. Electricity procured from an eligible renewable energy resource reported pursuant to MRR must meet the following conditions to be included in the calculation of the RPS adjustment:

(A) The electricity importer must have

1. Ownership or contract rights to procure the electricity and the associated RECs generated by the eligible renewable energy resource; or

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2. A contract with an entity subject to the California RPS that has ownership or contract rights to the electricity and associated RECs generated by the eligible renewable energy resource, as verified pursuant to MRR.

(B) The RECs associated with the electricity claimed for the RPS adjustment must be placed in the retirement subaccount of the entity subject to the California RPS, and party to the contract in 95852(b)(4)(A), in the accounting system established by the CEC pursuant to California Public Utilities Code section 399.25, and designated as retired for the purpose of compliance with the California RPS program that meet the requirements specified in section 95111(g) of MRR for the year for which the RPS adjustment is claimed. The RECs associated with the electricity claimed for the RPS adjustment must be eligible for RPS compliance pursuant to California Public Utilities Code sections 399.11 through 399.33.

(C) The quantity of emissions included in the RPS adjustment is calculated as the product of the default emission factor for unspecified sources, pursuant to MRR, and the reported electricity generated (MWh) that meets the requirements of section 95852(b)(4).

(D) No RPS adjustment may be claimed for an eligible renewable energy resource when its electricity is directly delivered.

(E) No RPS adjustment may be claimed for electricity generated by an eligible renewable energy resource in a jurisdiction where a GHG emissions trading system has been approved for linkage by the Board pursuant to subarticle 12.

(F) RECs representing electricity generated during January 1, 2013, through December 31, 2026, are eligible to be used towards the RPS adjustment. RECs representing electricity generated after December 31, 2026, must meet the requirements of California Public Utilities Code section 399.16(d) and if applicable section 399.30(c)(3) to be eligible for the RPS adjustment.

(c) Suppliers of Natural Gas. A supplier of natural gas covered under sections 95811(c) and 95812(d) has a compliance obligation for every metric ton CO_2e of GHG emissions that would result from full combustion or oxidation of all fuel delivered to end users in California contained in an emissions data report that has received a positive or qualified positive emissions data verification statement or for which emissions have been assigned, less the fuel that is delivered to

covered entities and less any fuel for which the natural gas supplier separately incurs a compliance obligation associated with blowdown, fugitive, or vented emissions reported pursuant to sections 95152(e) or 95152(i) of MRR as follows:

(1) Suppliers of natural gas shall report the total metric tons CO_2e of GHG emissions delivered to all end users in California pursuant to section 95122 of MRR;

(2) ARB shall calculate the metric tons CO_2e of GHG emissions for natural gas delivered to covered entities which are customers of the supplier. The emissions will be calculated using the reconciled reported deliveries (in MMBtu) contained in natural gas supplier emissions data reports that received a positive or qualified positive emissions data verification statement. Natural gas received data (in MMBtu) contained in covered facility emissions data reports that received positive or qualified positive emissions data verification statements will be used to reconcile delivery data reported by natural gas suppliers, and will serve as a second source of data in instances of missing supplier data. In the event that a natural gas supplier receives an adverse verification statement, ARB will use the provisions described in section 95131(c)(5) of the MRR to calculate the supplier's assigned emission level;

(3) ARB shall provide the supplier of natural gas a listing of all customers and aggregate natural gas (in MMBtu) and emissions calculated from the supplier's natural gas delivered to covered entities;

(4) CARB shall determine the volume of natural gas reported as delivered to end users in California by the supplier and associated metric tons of CO2e for which the natural gas supplier separately incurs a compliance obligation associated with blowdown, fugitive, or vented emissions reported pursuant to section 95152(e) or 95152(i) of MRR.

(5) The Executive Officer shall calculate the metric tons CO_2e for which the supplier will be required to hold a compliance obligation based on the supplier's reported emissions less ARB's calculated emissions from deliveries to covered entities which are customers of the supplier and less the calculated emissions in section 95852(c)(4). The Executive Officer shall provide this value to the supplier of natural gas within 30 days of the verification deadline in section 95103 of MRR.

(d) Suppliers of RBOB and Distillate Fuel Oils. A supplier of petroleum products covered under sections 95811(d) or 95812(d) has a compliance obligation for every metric ton CO_2e of GHG emissions included in an emissions data report that has received a positive or qualified positive emissions data verification

statement or for which emissions have been assigned that would result from full combustion or oxidation of the quantities of the following fuels that are removed from the rack in California, sold to entities not licensed by the California Board of Equalization as a fuel supplier, or imported into California and not directly delivered to the bulk-transfer/terminal system as defined in section 95102 of MRR, except for products for which a final destination outside California can be demonstrated:

(1) RBOB;

(2) Distillate Fuel Oil No. 1; and

(3) Distillate Fuel Oil No. 2.

(e) Suppliers of Liquefied Petroleum Gas:

(1) A producer of liquefied petroleum gas covered under sections 95811(e) and 95812(d) has a compliance obligation for every metric ton CO_2e of GHG emissions included in an emissions data report that has received a positive or qualified positive emissions data verification statement or for which emissions have been assigned that would result from full combustion or oxidation of all fuel sold, distributed, or otherwise transferred for consumption in California; and

(2) An importer of liquefied petroleum gas covered under section 95811(e) has a compliance obligation for every metric ton CO_2e of GHG emissions included in an emissions data report that has received a positive or qualified positive emissions data verification statement or for which emissions have been assigned that would result from full combustion or oxidation of all fuel imported into California.

(f) Suppliers of Blended Fuels. An entity that supplies any of the fuels covered under sections 95811(f) and 95812(d) as blended fuels has an aggregated compliance obligation for every metric ton of CO_2e of GHG emissions based on the separate constituents of the blend included in an emissions data report that has received a positive or qualified positive emissions data verification statement or for which emissions have been assigned that would result from full combustion or oxidation of the fuel.

(g) Carbon Dioxide Suppliers. An entity that supplies carbon dioxide, “Carbon Dioxide Supplier” or “CO_2 Supplier”, covered under sections 95811(h) and 95812(c)(3), has an aggregated compliance obligation based on the sum of MT CO_2 included in an emissions data report that has received a positive or qualified positive emissions data verification statement or for which emissions have been

assigned. Emissions of CO_2 already covered with a compliance obligation upstream are not included.

(h) Petroleum and Natural Gas Systems. Operators of the facilities specified in section 95101(e)(2)-(5) of MRR have a compliance obligation for every metric ton of CO_2e from the source types specified in sections 95152(c)-(f) of MRR, except as specified in section 95852.2 of this article, that is contained in an emissions data report that has received a positive or qualified positive emissions data verification statement, or for which emissions have been assigned.

(i) The compliance obligation for sources specified in sections 95852(a) through (h), and 95852(k) is calculated based on the sum of the following, as applicable:

(1) Emissions of CO_2, CH_4, and N_2O which resulted from combustion of fossil fuel;

(2) Emissions of CH_4 and N_2O which resulted from combustion of all biomass-derived fuel;

(3) Emissions of CO_2 which resulted from combustion or consumption of biomass or biomass-derived fuels that do not qualify as exempt biomass or exempt biomass-derived fuels pursuant to section 95852.1; and

(4) All process and vented emissions of CO_2, CH_4, and N_2O as specified in the MRR except for those listed in section 95852.2(b).

(j) Limited Exemption of Emissions from the Production of Qualified Thermal Output. From 2013 through the year before which natural gas suppliers are required to consign 100% of allocated allowances to auction pursuant to Table 9-5 or 9-6, emissions from the production of qualified thermal output from a district heating facility or a facility with a cogeneration unit that meets the requirements of this section and has been approved by the Executive Officer for an emissions exemption shall not have a compliance obligation and shall not count toward the inclusion threshold of section 95812(c)(1). A facility that qualifies for this limited exemption shall not be a covered entity until the year in which natural gas suppliers are required to consign 100% of allocated allowances to auction pursuant to Table 9-5 or 9-6.

(1) A facility with a cogeneration unit may apply for the emissions exemption if it meets the following two conditions for each year from 2008-2013, starting with the first year that a cogeneration unit was operational at the facility, and will remain eligible until the year in which either condition is not met, based on data reported pursuant to MRR:

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(A) The facility's annual covered emissions as defined in MRR associated with the production of qualified thermal output, calculated using the following equation, are less than 25,000 metric tons of CO_2e:

$$GHG_{QTO} = Q_{produced} * 0.06244$$

Where:

"GHG_{QTO}" is the annual covered emissions for each calendar year, in metric tons of CO_2e, associated with the production of qualified thermal output;

"$Q_{produced}$" is the annual amount of qualified thermal output produced for each calendar year from fuels that result in covered emissions, measured in MMBtu, at the cogeneration facility. If $Q_{produced}$ is produced from a cogeneration unit that burns both fuels that result in covered emissions and fuels that result in emissions without a compliance obligation pursuant to Subarticle 7, then $Q_{produced}$ is calculated as total qualified thermal output multiplied by the ratio of the MMBtus of fuel that produces covered emissions divided by the total MMBtu of all fuels combusted in the unit; and,

(B) The facility's remaining covered emissions, calculated pursuant to the following equation, are less than 25,000 metric tons of CO_2e:

$$GHG_R = GHG_{Total} - GHG_{QTO}$$

Where:

"GHG_R" is the annual remaining covered emissions, in metric tons of CO_2e.

"GHG_{Total}" is total annual covered emissions, in metric tons of CO_2e.

(2) A district heating facility may apply for the qualified thermal output emissions exemption if the annual emissions associated with qualified thermal output distributed to each single facility on its system do not exceed 25,000 $MTCO_2e$ for each year from 2008 to 2013, and will remain eligible until the year in which this condition is not met:

(A) Emissions associated with a single facility are calculated using the following equation:

$$GHG_{sf} = Q_{sf} * 0.06244$$

Where:

"GHG_{sf}" is the emissions associated with a single facility.

"Q_{sf}" is the amount of Qualified Thermal Output provided to a single facility, measured in MMBtu.

(3) Data Sources. The Executive Officer may employ all available data reported to ARB under MRR for data years 2008-2013 to determine a facility's initial eligibility for the limited exemption of emissions from the production of qualified thermal output.

(4) A facility with a cogeneration unit or a district heating facility must apply to the Executive Officer for the emissions exemption by providing the following data by September 2, 2020:

(A) Annual qualified thermal output for each year from 2008 to 2013, in MMBtu.

(B) A district heating facility must provide the amount of qualified thermal output provided to each single facility it serves.

(C) The application must include the following attestation:

(D) "I certify under penalty of perjury of the laws of the State of California that I am duly authorized by [name of entity] to sign this attestation on behalf of [name of entity], and that the information submitted herein is true, accurate, and complete."

(E) Operators of facilities that meet the requirements of this section must register in the tracking system pursuant to section 95830.

(F) Operators of facilities that meet the requirements of this section must report and verify emissions pursuant to MRR.

(k) Suppliers of Liquefied Natural Gas and Compressed Natural Gas. A supplier of liquefied natural gas and/or compressed natural gas covered under sections 95811(g) or 95812(d) has a compliance obligation for every metric ton CO_2e of GHG emissions included in an emissions data report that has received a positive or qualified positive emissions data verification statement or for which emissions have been assigned that would result from full combustion or oxidation of the quantities of liquefied natural gas or compressed natural gas imported into California and/or produced in California from gas received from an interstate pipeline, excluding products for which a final destination outside California can be demonstrated, less the emissions from liquefied natural gas delivered to other covered entities as determined by ARB based on end-user delivery information reported by the supplier.

(l) CAISO Markets Outstanding Emissions and CAISO Markets Purchaser Emissions. CAISO Markets Outstanding Emissions are the metric tons of CO2e emissions from electricity imported into California through WEIM but not reported

by CAISO scheduling coordinators as calculated pursuant to MRR section 95111(h)(1). CAISO Markets Purchaser Emissions for each CAISO Markets Purchaser are calculated pursuant to MRR section 95111(h)(2) as a share of CAISO Markets Outstanding Emissions. CAISO Markets Outstanding Emissions and CAISO Markets Purchaser Emissions are not included in the calculation of any entity's covered emissions as defined under MRR section 95102.

(1) In 2021 and subsequent years, the Executive Officer will annually retire allowances from the Allocation Holding Account in the full amount of the most recent data year's CAISO Markets Outstanding Emissions. The allowances retired to meet CAISO Markets Outstanding Emissions are also equal to the total number of allowances designated for CAISO Markets Purchaser Emissions pursuant to section 95892(a)(3). Each year, the Executive Officer will retire these allowances no later than November 1.

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.

§ 95852.1. Compliance Obligations for Biomass-Derived Fuels.

An entity has a compliance obligation for every metric ton of CO_2e emissions from biomass-derived fuels as set forth in this subarticle, except for CO_2 emissions from exempt biomass and exempt biomass-derived fuels. An entity claiming use of an exempt biomass-derived fuel must have sole ownership or contract rights to the biomass-derived fuel and any associated emissions exemption or emissions reductions attributed to the use of the fuel such that no other entity may claim an emissions exemption to reduce a compliance obligation in the Cap-and-Invest Program or in a linked external GHG emissions trading system.

Exempt biomass-derived fuels must meet all of the following requirements:

(a) The fuel is listed under section 95852.2; and

(b) The fuel meets the applicable requirements of section 95852.1.1; and

(c) The fuel is reported as exempt biomass-derived fuel in an emissions data report that has received a positive or qualified positive emissions data verification statement under MRR.

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.

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§ 95852.1.1. Eligibility Requirements for Exempt Biomass-Derived Fuels.

(a) Biogas and biomethane sourced from outside of California must be either directly delivered or injected into a common carrier pipeline in North America and meet one of the following criteria in sections 95852.1.1(a)(1)-(5) to be eligible as an exempt biomass-derived fuel. Only the portion of the fuel that meets one of these criteria will be considered an exempt biomass-derived fuel pursuant to section 95852.1.

(1) The contract for purchasing any biomass-derived fuel must be executed prior to January 1, 2012 and remain in effect or have been renegotiated with the same California operator within one year of contract expiration. The delivery of the fuel under the contract must commence by one of the following dates to be eligible under this provision:

(A) 90 days after the execution date of the signed contract; or

(B) January 1, 2012; or

(C) 10 days after the date on which the CEC provides notice that the operator's electricity generating facility is certified as eligible for California's Renewables Portfolio Standard for the contracted biomass-derived fuel, or cannot be so certified, provided that the application for certification was submitted to the CEC before January 1, 2012.

(2) If the biomass-derived fuel does not meet the requirements of section 95852.1.1(a)(1) then the biomass-derived fuel under contract must meet one of the following requirements:

(A) Fuel from the source has not produced useful output during the 36 months immediately before the first date of fuel delivery under contract; or

(B) If fuel from the source has produced useful output during the 36 months before the first date of fuel delivery under contract, then the annual amount of fuel above the 36-month baseline is eligible to be exempt pursuant to section 95852.1. The 36-month baseline is the annual average amount of fuel used to produce useful output during the 36 months immediately before the first date of fuel delivery under contract; or

(C) If fuel from the source has produced useful output in California in each of the three previous years, then the annual average amount

of fuel used in California over the three previous years before the first date of fuel delivery under contract is eligible to be exempt pursuant to section 95852.1.

(3) If the biogas or biomethane is used at the site of production, and not transferred to another operator, thus not requiring a contract, the operator must demonstrate one of the following:

(A) The fuel has been combusted in California prior to January 1, 2012; or

(B) The fuel was not previously used to produce useful output for at least three years or since commencement of fuel recovery operations, whichever is shorter.

(4) The fuel being provided under a contract is from a source and for an amount of fuel that was previously eligible under sections 95852.1.1(a)(1), (2) or (3), and the verifier is able to track the fuel source and amount to the previously eligible contract.

(5) The fuel is from a source within a jurisdiction operating an external GHG ETS to which California has linked pursuant to subarticle 12.

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.

§ 95852.2. Emissions Without a Compliance Obligation.

CO_2 emissions from the fuel types as specified in section 95852.2(a) and emissions from categories specified in sections 95852.2(b) and 95852.2(c) count toward reporting thresholds, as applicable in MRR, but do not count toward a covered entity's compliance obligation set forth in this article unless those emissions are reported as non-exempt biomass-derived CO_2 under MRR. Emissions without a compliance obligation include:

(a) CO_2 emissions from the following biomass-derived fuels, if the fuel is an exempt biomass-derived fuel pursuant to section 95852.1:

(1) The biogenic fraction of solid waste materials as reported under MRR;

(2) Waste pallets, crates, dunnage, manufacturing and construction wood wastes, tree trimmings, mill residues, and range land maintenance residues;

(3) All agricultural waste and residue;

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(4) Wood and wood wastes identified to follow all of the following practices:

(A) Harvested pursuant to an approved timber management plan prepared in accordance with the Z'berg-Nejedly Forest Practice Act of 1973 or other locally or nationally approved plan; and

(B) Harvested for the purpose of forest fire fuel reduction or forest stand improvement.

(5) The biogenic fraction of municipal solid waste as reported under MRR, such as MSW directly combusted or converted to a cleaner-burning fuel;

(6) Biochar if derived from any material listed in sections 95852.2(a)(1)-(3), 95852.2(a)(4)(B), or 95852.2(a)(5);

(7) Biomethane, biogas, other biomass-derived gases, and biomass-derived gases in compressed or liquefied forms, from the following sources:

(A) All animal waste, plant waste, and other organic waste; or

(B) Landfills and wastewater treatment plants;

(8) The following produced liquid fuels:

(A) Renewable diesel;

(B) Biodiesel;

(C) Fuel ethanol, excluding any fossil denaturant; and

(D) Biomass-derived motor gasoline blendstocks.

(9) The biogenic fraction of a fuel that is a co-product of the production of an exempt biomass-derived liquid hydrocarbon fuel.

(b) The following additional process, vented, and fugitive emissions:

(1) Emissions from geothermal generating units and geothermal facilities, including geothermal geyser steam or fluids;

(2) Vented and fugitive emissions from storage tanks used in petroleum and natural gas production and natural gas transmission;

(3) Emissions from pipeline dig-ins reported under section 95152(i) of MRR;

(4) Vented and fugitive emissions from natural gas transmission storage tanks used in petroleum and natural gas production and natural gas transmission, and from produced water;

(5) Emissions reported by petroleum refineries from asphalt blowing operations, equipment leaks, storage tanks, and loading operations;

(6) Emissions from low-bleed pneumatic devices prior to January 1, 2019;

(7) Emissions from intermittent-bleed pneumatic devices beginning January 1, 2019;

(8) Vented emissions from well-site centrifugal and reciprocating compressors with a rated horsepower less than 250hp;

(9) Sources for which fugitive emissions are estimated using leak detection and leaker emission factors, as required by section 95153(o) of MRR, and sources for which vented and fugitive emissions are estimated using a population count and emissions factors, as required by section 95153(p) of MRR;

(10) Sources for which emissions originate from offshore petroleum and natural gas production facilities, as provided in section 95153(q) of MRR;

(11) Carbon dioxide that is exported for purposes other than geologic sequestration or enhanced oil recovery;

(12) Carbon dioxide used in the carbonation process during sugar production in facilities with NAICS code 311313; and

(13) Carbon dioxide from fermentation that occurs during the production of food and beverages.

(c) Other Exemptions. The operators of facilities with any of the following activities are exempt from compliance with this article:

(1) NAICS Code 92811.

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.

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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, except for CO_2 that is verified to be sequestered or utilized through use of a Board-approved carbon capture, utilization, and sequestration quantification methodology that ensures that the emissions reductions are real, permanent to at least a 100-year permanence standard, quantifiable, verifiable, and enforceable. Any methodology must be consistent with Section 39741.1 of the Health and Safety Code. The Board-approved quantification methodology must be incorporated into the Cap-and-Invest Regulation before it can be used to reduce a CO_2 supplier's compliance obligation.

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.

§ 95853. Calculation of Covered Entity's Full Compliance Period Compliance Obligation.

(a) A covered entity that exceeds the threshold in section 95812 in any of the four data years preceding the start of a compliance period is a covered entity for the entire compliance period. The covered entity's full compliance period compliance obligation in this situation is calculated as the total of the emissions with a compliance obligation that received a positive or qualified positive emissions data verification statement, or were assigned emissions pursuant to section 95131 of MRR from all data years of the compliance period.

(b) A covered entity that initially exceeds the threshold in section 95812 in the first year of a compliance period is a covered entity for the entire compliance period. The covered entity's full compliance period compliance obligation in this situation is calculated as the total of the emissions that received a positive or qualified positive emissions data verification statement, or were assigned emissions pursuant to section 95131 of MRR from all data years of the compliance period.

(c) A covered entity that initially exceeds the threshold in section 95812 in the second year of a compliance period is a covered entity for the second and any remaining years of this compliance period. The covered entity's full compliance period compliance obligation in this situation is calculated as the total of the emissions that received a positive or qualified positive emissions data verification statement, or were assigned emissions pursuant to section 95131 of MRR for the second and any remaining data years of the compliance period.

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(d) A covered entity that initially exceeds the threshold in section 95812 in the final year of a later compliance period has a compliance obligation for its emissions that received a positive or qualified positive emissions data verification statement, or were assigned emissions pursuant to section 95131 of MRR for that year, but the entity's full compliance period compliance obligation for the current compliance period is not due the following year. Instead the entity's reported and verified or assigned emissions for this year will be added to the entity's full compliance period obligation for the subsequent compliance period.

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.

§ 95854. Quantitative Usage Limit on Designated Compliance Instruments--Including Offset Credits.

(a) Compliance instruments identified in section 95820(b) and sections 95821(b), (c), and (d) are subject to a quantitative usage limit when used to meet a compliance obligation.

(b) Except as otherwise specified in section 95854(c), the total number of compliance instruments identified in section 95854(a) that each covered entity may surrender to fulfill the entity's compliance obligation for a compliance period must conform to the following limit:

O_o/S must be less than or equal to L_o

In which:

"O_o" is the total number of compliance instruments identified in section 95854(a) submitted to fulfill the entity's compliance obligation for the compliance period.

"S" is the covered entity's compliance obligation.

"L_o" is the quantitative usage limit on compliance instruments identified in section 95854(a) set at 0.08 for the first, second, and the third compliance periods as defined in section 95840(a)-(c); 0.04 for the fourth compliance period as defined in section 95840(e); and 0.06 for the sixth and subsequent compliance periods, as defined in section 95840(e).

(c) For the fifth compliance period as defined in section 95840(e), covering data years 2024-2026, the total number of compliance instruments identified in section 95854(a) that each covered entity may surrender to fulfill the entity's compliance obligation must not exceed the quantitative usage limit (L_o) of 0.04 for data years 2024 and 2025 and 0.06 for data year 2026.

(d) The number of sector-based offset credits that each covered entity may surrender to meet the entity's compliance obligation for a compliance period must not be greater than 0.25 of the L_o for the first and second compliance periods and not more than 0.50 of the L_o for subsequent compliance periods.

(e) Direct Environmental Benefits in the State. Beginning with offsets surrendered to meet compliance obligations for emissions from data years 2021-2030, no more than one-half of the L_o may be sourced from projects that do not provide direct environmental benefits in the state, as defined in section 95802. In order to demonstrate that an offset project provides these direct environmental benefits in the state, the Offset Project Operator or Authorized Project Designee, or the holder of offset credits, must comply with section 95989.

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.

§ 95855. Annual Compliance Obligation.

(a) An entity has an annual compliance obligation for any year when the entity is a covered entity except for the condition specified in section 95853(d); and

(b) The annual compliance obligation for a covered entity equals 30 percent of emissions with a compliance obligation reported from the previous data year that received a positive or qualified positive emissions data verification statement, or were assigned emissions pursuant to section 95131 of MRR.

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.

§ 95856. Timely Surrender of Compliance Instruments by a Covered Entity.

(a) A covered entity must surrender one compliance instrument for each metric ton of CO_2e of GHG emissions for the annual and full compliance period compliance obligations calculated pursuant to this subarticle beginning with the emissions data report for 2013 emissions and each subsequent year in which the covered entity has a compliance obligation.

(b) Compliance Instruments Valid for Surrender.

(1) A compliance instrument listed in subarticle 4 may be used to satisfy a compliance obligation.

(2) To fulfill a compliance obligation, a compliance instrument issued pursuant to sections 95820(a) and 95821(a) must be issued from an allowance budget year within or before the year for which an annual compliance obligation is calculated or the last year of a compliance period for which a full compliance period compliance obligation is calculated, unless:

(A) The allowance is a Reserve Allowance or a non-vintage allowance issued by a program approved by ARB pursuant to section 95941 as specified in section 95821(a);

(B) The allowance is used to satisfy an excess emissions obligation; or

(C) The allowance is eligible for compliance use pursuant to sections 95856(h)(1)(D) and 95856(h)(2)(D).

(c) A covered entity must transfer from its holding account to its compliance account a sufficient number of valid compliance instruments to meet the compliance obligation set forth in sections 95853 and 95855.

(d) Deadline for Surrender of Annual Compliance Obligations. For any year in which a covered entity has an annual compliance obligation pursuant to section 95855, it must fulfill that obligation:

(1) By November 1, 5 p.m. Pacific Standard Time (or Pacific Daylight Time, when in effect), of the calendar year following the year for which the obligation is calculated if the entity reports by April 10 pursuant to section 95103 of MRR; or

(2) By November 1, 5 p.m. Pacific Standard Time (or Pacific Daylight Time, when in effect), of the calendar year following the year for which the obligation is calculated if the entity reports by June 1 pursuant to section 95103 of MRR.

(3) In years 2015, 2018, and 2021 there is no annual compliance obligation for the preceding compliance period, only a full compliance period compliance obligation.

(4) Transfers to compliance accounts may be restricted during the time the tracking system is processing the surrender of the annual compliance obligation.

(e) Determination of Full Compliance Period Compliance Obligation.

(1) When a positive or qualified positive emissions data verification statement or assigned emissions for any year is received by ARB, then those

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emissions for the source categories in section 95852 contribute to the full compliance period compliance obligation pursuant to section 95853.

(2) If a positive or qualified positive emissions data verification statement for any year of the compliance period is not received by ARB by the applicable verification deadline as set forth in MRR, ARB will assign emissions according to the requirements set forth in section 95103(g) of MRR for the emissions for the source categories in section 95852. The assigned emissions value then contributes to the full compliance period compliance obligation pursuant to section 95853.

(f) Surrender of Full Compliance Period Compliance Obligation.

(1) The covered entity must transfer sufficient valid compliance instruments to its compliance account to fulfill its full compliance period compliance obligation by November 1, 5 p.m. Pacific Standard Time (or Pacific Daylight Time, when in effect), of the calendar year following the final year of the compliance period. Transfers to compliance accounts may be restricted during the time the tracking system is processing the surrender of the full compliance period compliance obligation.

(2) The total number of compliance instruments submitted to fulfill the full compliance period compliance obligation is subject to the quantitative use limit pursuant to section 95854.

(3) The surrender of compliance instruments must equal the full compliance period compliance obligation calculated pursuant to section 95853 less compliance instruments surrendered to fulfill the annual compliance obligation for the years in the compliance period.

(A) An entity with a covered facility that is an Independent Merchant Refinery must fulfill its annual compliance obligation for that facility calculated pursuant to section 95855 by November 1, 2027, and may opt to fulfill its full compliance period compliance obligation for an Independent Merchant Refinery facility that would otherwise be due November 1, 2027 by November 1, 2029. The delayed full compliance period compliance obligation due November 1, 2029, will be calculated pursuant to section 95853, accounting for the compliance instruments surrendered to fulfill the annual compliance obligations for 2024, 2025, 2026, and 2027. To opt into this provision, an entity must provide notice to the Executive Officer by January 4, 2027.

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(g) In determining whether the covered entity has fulfilled its compliance obligations, the Executive Officer shall:

(1) In the case of annual and full compliance period compliance obligations, determine the status of compliance with the annual or full compliance period compliance obligation by evaluating the number and types of compliance instruments in the Compliance Account; and

(A) Retire the compliance instruments surrendered; and

(B) Inform programs to which California is linked or recognizes, pursuant to subarticles 12 and 14, of the retirements, including the serial numbers of the compliance instruments retired.

(h) Annual and Full Compliance Period Compliance Instrument Requirements.

(1) When a covered entity or opt-in covered entity surrenders compliance instruments to meet its annual compliance obligation pursuant to section 95856(d), the Executive Officer will retire them from the Compliance Account in the following order:

(A) Offset credits specified in section 95820(b) and sections 95821(b) through (d) with oldest credits retired first and subject to the quantitative usage limit set forth in section 95854. The limit is set at four percent for the data year 2025 of the fifth compliance period, six percent for the data year 2026 of the fifth compliance period, and six percent for the sixth and subsequent compliance periods as defined in section 95840(f) through (i);

(B) Reserve Allowances followed by non-vintage allowances issued by a program approved by ARB pursuant to section 95941 as specified in section 95821(a);

(C) Allowances specified in sections 95820(a) and 95821(a) with earlier vintage allowances retired first;

(D) The current calendar year's vintage allowances and allowances allocated just before the annual surrender deadline up to the true-up allowance amount as determined in sections 95891(b), 95891(c), 95891(c)(2)(B), 95891(f)(1), 95893(a)(1), or 95894(c)-(e) if an entity was eligible to receive true up allowances pursuant to section 95891(b), 95891(c), 95891(c)(2)(B), 95891(f)(1), 95893(a)(1), or 95894(c)-(e); and

(E) Price ceiling units specified in section 95915.

(2) When a covered entity or opt-in covered entity surrenders compliance instruments to meet its full compliance period compliance obligation pursuant to section 95856(f), the Executive Officer will retire them from the Compliance Account in the following order:

(A) Offset credits specified in section 95820(b) and sections 95821(b) through (d) with oldest credits retired first and subject to the quantitative usage limit set forth in section 95854;

(B) Reserve Allowances followed by non-vintage allowances issued by a program approved by ARB pursuant to section 95941 as specified in section 95821(a);

(C) Allowances specified in sections 95820(a) and 95821(a) with earlier vintage allowances retired first;

(D) The current calendar year's vintage allowances and allowances allocated just before the full compliance period surrender deadline up to the true-up allowance amount as determined in section 95891(b), 95891(c), 95891(c)(2)(B), 95891(f)(1), 95893(a)(1), or 95894(c)-(e) if an entity was eligible to receive true up allowances pursuant to section 95891(b), 95891(c), 95891(c)(2)(B), 95891(f)(1), 95893(a)(1), or 95894(c)-(e); and

(E) Price ceiling units specified in section 95915.

(3) An entity that is not eligible to receive true up allowances pursuant to section 95891(b), 95891(c), 95891(c)(2)(B), 95891(f)(1) or 95894(c)-(e) cannot use the current calendar year's vintage allowances or allowances allocated just before the current surrender deadline to meet the timely surrender of compliance instrument requirements in section 95856.

(4) An electric distribution utility will not be in violation of section 95892(d)(7) when the Executive Officer retires compliance instruments if the electric distribution utility has a quantity of eligible compliance instruments not allocated pursuant to section 95870(d) in its compliance account at the time the timely surrender of compliance instruments by a covered entity is due, pursuant to section 95856, that is at least equal to its compliance obligation for any transactions for which the use of allocated allowance value is prohibited under section 95892(d)(7).

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.

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§ 95857. Untimely Surrender of Compliance Instruments by a Covered Entity.

(a) Applicability.

(1) A covered entity or opt-in covered entity that does not meet the compliance deadline for surrendering its annual or full compliance period compliance obligation pursuant to section 95856 is subject to the compliance obligation for untimely surrender as described in this section; and

(2) The compliance obligation for untimely surrender ("excess emissions") will not apply to a covered entity or opt-in covered entity which is determined to have transferred insufficient instruments to meet the compliance obligations of section 95856 solely because of the invalidation of an ARB offset credit by the Executive Officer pursuant to section 95985 until six months after notice of invalidation.

(b) Calculation of the Untimely Surrender Obligation. The untimely surrender obligation is the number of compliance instruments that an entity must surrender if it does not meet its original annual or full compliance period compliance obligation. The untimely surrender obligation replaces any unfulfilled portion of an entity's annual or full compliance period compliance obligation.

(1) The quantity of excess emissions is the difference between the compliance obligation calculated pursuant to this section and any compliance instruments timely surrendered by the entity;

(2) The entity's compliance obligation for untimely surrender is calculated as four times the entity's excess emissions;

(3) At least three-fourths of an entity's compliance obligation for untimely surrender may only be fulfilled with CA GHG allowances or allowances issued by a GHG ETS pursuant to subarticle 12;

(4) Up to one-fourth of an entity's compliance obligation for untimely surrender may be fulfilled with ARB offset credits or compliance instruments listed in sections 95821(b), (c), and (d);

(5) The sum of the offset credits submitted by the entity in a timely manner to fulfill its full compliance period compliance obligation plus any offset credits submitted as part of the untimely surrender obligation must be less than or equal to the number of offsets that the entity is allowed to submit when the quantitative usage limit on offset credits is applied to the entity's full compliance period obligation; and

(6) The untimely surrender obligation is due within five days of settlement of the first auction or reserve sale conducted by ARB following the applicable surrender date, whichever is the latter, and for which the registration deadline has not passed when the untimely surrender obligation is assessed. Future vintage allowances are eligible for complying with the untimely surrender obligation.

(c) If an entity with an untimely surrender obligation fails to satisfy this obligation pursuant to section 95857(b)(6) then:

(1) ARB will determine the number of violations pursuant to section 96014;

(2) If a portion of the untimely surrender obligation is not surrendered as required, the entity will have a new untimely surrender obligation equal to the amount of the previous untimely surrender obligation which was not satisfied by the deadline stated in section 95857(b)(6) upon which the number of violations will be calculated pursuant to section 96014. The new untimely surrender obligation is due immediately; and

(3) There will be no additional untimely surrender obligation amount assessed beyond the new untimely surrender obligation determined pursuant to section 95857(c)(2).

(d) When the covered entity or opt-in covered entity meets its untimely surrender obligations pursuant to sections 95857(a) through (c), the Executive Officer shall:

(1) Transfer the compliance instruments used to fulfill the untimely surrender obligation in the following manner:

(A) At least three fourths of the compliance instruments to the Auction Holding Account. The three fourths of the compliance instruments transferred to the Auction Holding Account shall only be comprised of allowances; and

(B) The remaining one fourth of compliance instruments to the Retirement Account.

(2) Inform programs to which California is linked or recognizes, pursuant to subarticles 12 and 14, of the retirements, including the serial numbers of the compliance instruments retired.

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.

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§ 95858. Compliance Obligation for Under-Reporting in a Previous Compliance Period.

If, after an entity has surrendered its compliance instruments to fulfill a compliance obligation pursuant to sections 95856 or 95857, the Executive Officer determines, through an audit or other information, that the entity under-reported its emissions under MRR for any emissions sources that form the basis for the entity's compliance obligation, then the following shall apply:

(a) If the difference between the emissions used to calculate the compliance obligation and subsequently used to calculate the number of compliance instruments surrendered pursuant to sections 95855 or 95856 and the emissions determined by the Executive Officer to be under-reported for the sum of those emissions is less than five percent of the emissions number used to calculate the compliance obligation and subsequently used to calculate the number of compliance instruments surrendered pursuant to sections 95855 or 95856, then the entity is not required to take any further action.

(b) If the difference between the emissions used to calculate the compliance obligation and subsequently calculate the number of compliance instruments surrendered pursuant to sections 95855 or 95856 and the emissions determined by the Executive Officer to be under-reported for the sum of those emissions is more than five percent of the emissions number used to calculate the compliance obligation and subsequently used to calculate the number of compliance instruments surrendered pursuant to sections 95855 or 95856, then the entity must surrender compliance instruments in the following amount:

$$Cla = EMd - CO - (CO * 0.05)$$

Where:

"*Cla*" is the number of additional compliance instruments that must be surrendered to ARB to cover under-reported emissions;

"*CO*" is the emissions number used to determine the compliance obligation surrendered pursuant to sections 95855 or 95856; and

"*EMd*" is the number of the emissions determined by the Executive Officer for the sum of the emissions sources subject to a compliance obligation.

(c) The entity must surrender additional compliance instruments as determined pursuant to this section for under-reporting emissions under MRR at the next compliance event scheduled pursuant to section 95856. The provisions of sections 95857 and 96014 shall not apply until after the date of that compliance event. The entity may use any compliance instruments acceptable for that compliance event to meet these requirements.

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(d) Any determination that an entity under-reported its emissions shall be made by the Executive Officer no later than eight years from the applicable verification deadline for the emissions data report which contained the under-reporting of emissions.

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.

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Subarticle 8. Disposition of Allowances

§ 95870. Disposition of Vintage 2013-2020 Allowances.

(a) Allowance Price Containment Reserve. Upon creation of the Allowance Price Containment Reserve Account, the Executive Officer shall transfer allowances to the Allowance Price Containment Reserve, as follows:

(1) One percent of the allowances from budget years 2013-2014;

(2) Four percent of the allowances from budget years 2015-2017; and

(3) Seven percent of the allowances from budget years 2018-2020.

(b) Advance Auction. Upon creation of the Auction Holding Account, the Executive Officer shall transfer 10 percent of the allowances from budget years 2015-2020 to the Auction Holding Account.

(1) These allowances will be eligible to be sold pursuant to section 95910(c)(2).

(2) All Advance Auction allowances not sold pursuant to section 95910(c)(2) will be auctioned pursuant to section 95910.

(3) The proceeds from the sale of these allowances will be deposited into the Greenhouse Gas Reduction Fund created pursuant to Government Code section 16428.8, and will be available for appropriation by the Legislature for the purposes designated in California Health and Safety Code sections 38500 et seq. and consistent with the requirements of Chapter 4.1 (commencing with Section 39710) of Part 2 of Division 26 of the California Health and Safety Code and Article 9.7 (commencing with Section 16428.8) of Chapter 2 of Part 2 of Division 4 of Title 2 of the Government Code.

(c) Upon creation of the Voluntary Renewable Electricity Reserve Account, the Executive Officer shall transfer allowances to the Voluntary Renewable Electricity Reserve Account, as follows:

(1) 0.5 percent of the allowances from budget years 2013-2014; and

(2) 0.25 percent of the allowances from budget years 2015-2020.

(d) Electricity Related Allocation.

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(1) Electrical Distribution Utility Sector Allocation for Budget Years 2013-2020. Allowances available for allocation to electrical distribution utilities each budget year shall be 97.7 million metric tons multiplied by the cap adjustment factor in Table 9-2 for each budget year 2013-2020. The Executive Officer will allocate to the limited use holding account and allowance allocation holding account pursuant to sections 95892(b) and 95831(a)(6) for each electrical distribution utility by October 24 of each calendar year from 2013-2019 for allocations from 2014-2020 annual allowance budgets.

(2) Allocation to Public Wholesale Water Agencies. The Executive Officer will place an annual individual allocation in the annual allocation holding account, pursuant to sections 95895 and 95831(a)(6), of a public wholesale water agency by October 24 of each calendar year from 2014-2019 for allocations from 2015-2020 annual allowance budgets.

(e) Allocation to Industrial Covered Entities. Allowances allocated for the purposes of industry assistance shall be transferred to annual allocation holding accounts for industrial sectors listed in Table 8-1. Allowances in the annual allocation holding account are transferred to the Holding Account on January 1 of the vintage year of the allowances.

(1) The Executive Officer will allocate allowances to each eligible covered entity by October 24 of each calendar year 2014-2019 for allocations from 2015-2020 annual allowance budgets.

(2) Allocation to eligible covered entities shall be conducted using the assistance factors specified for each listed industrial activity found in Table 8-1 and the methodology set forth in section 95891.

(3) The total amount of allowances allocated for the purposes of industry assistance shall not exceed the available amount of allowances after accounting for allocations made pursuant to sections 95870(a) through (d) and sections 95870(f) and (h). If the amount calculated under the methodology set forth in section 95891 exceeds the amount of allowances available, the number of allowances available will be prorated equally across all eligible industrial covered entities. The proration will be calculated using the share of allowances available after accounting for all allocations made pursuant to sections 95870(a) through (d) and sections 95870(f) and (h) compared to total allowances that would be distributed according to the methodology set forth in section 95891.

(4) Industrial entities that purchase electricity or legacy contract qualified thermal output pursuant to a legacy contract and who receive allocation

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under this section shall have their allocation reduced as specified in section 95891(e).

(f) Allocation to University Covered Entities and Public Service Facilities. The Executive Officer will place an annual individual allocation in the annual allocation holding account of each eligible university covered entity and public service facility by October 24 of each calendar year from 2015-2019 for allocations from 2016-2020 annual allowance budgets. A public service facility providing steam to a publicly owned educational facility is not eligible for any allocation of allowances provided under other provisions of this regulation. In the event a publicly owned educational facility that receives qualified thermal output from a public service facility becomes an opt-in covered entity and receives allowances for the emissions from qualified thermal output sold to the university by the public service facility pursuant to section 95891(d), the publicly owned educational facility shall unconditionally transfer to the public service facility allowances relating to the qualified thermal output provided by such public service facility. So long as the publicly owned educational facility remains an opt-in covered entity and provides such allowances to the public service facility, such public service facility will not be eligible for any disposition of allowances provided under this section.

(g) Allocation to Legacy Contract Generators. Allowances will be allocated to legacy contract generators with an industrial counterparty pursuant to section 95894 for the term of the contract. The Executive Officer will transfer allowance allocations into each eligible generator's annual allocation holding account by October 24 of each calendar year for eligible legacy contract emissions pursuant to the methodology set forth in section 95894.

(h) Natural Gas Supplier Sector Allocation. Allowances available for allocation to natural gas suppliers each budget year shall be calculated as set forth in section 95893. The Executive Officer will transfer allowances into each eligible natural gas supplier's allowance allocation holding account and/or limited use holding account pursuant to sections 95893(b) and 95831(a)(6) by October 24 of each calendar year from 2014 through 2019 for allocations from 2015 through 2020 annual allowance budgets.

(i) Auction Proceeds for AB 32 Statutory Objectives. All remaining allowances not allocated for uses specified in sections 95870(a) through (h), section 95870(j), or section 95911(h) will be designated for sale at auction. The proceeds from the sale of these allowances will be deposited into the Greenhouse Gas Reduction Fund created pursuant to Government Code section 16428.8, and will be available for appropriation by the Legislature for the purposes designated in California Health and Safety Code sections 38500 et seq. and consistent with the

requirements of Chapter 4.1 (commencing with Section 39710) of Part 2 of Division 26 of the California Health and Safety Code and Article 9.7 (commencing with Section 16428.8) of Chapter 2 of Part 2 of Division 4 of Title 2 of the Government Code.

(j) Allocation to Waste-to-Energy Facilities. Vintage 2020 allowances available for allocation to waste-to-energy facilities shall be calculated as set forth in section 95891(f)(1). The Executive Officer will place vintage 2020 allowances in the annual allocation holding account of each eligible waste-to-energy facility by October 24, 2019. An amount of vintage 2020 true-up allowances will be placed in the annual allocation holding account of each eligible waste-to-energy facility by October 24, 2019 to account for 2018 and 2019 emissions.

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 and Section 16428.8, Government Code.

§ 95871. Disposition of Allowances from Vintage Year 2021 and Beyond.

(a) Allowance Price Containment Reserve. The Executive Officer shall transfer the number of California GHG allowances from budget years 2021 to 2031 to the Allowance Price Containment Reserve as specified in Table 8-2. The Executive Officer shall transfer the number of California GHG allowances from budget years 2031 through 2045 to the Allowance Price Containment Reserve as specified in Table 8-3.

(b) Advance Auction. The Executive Officer shall transfer 10 percent of the allowances from budget years 2021 and beyond to the Auction Holding Account.

(1) These allowances will be eligible to be sold pursuant to section 95910(c)(2).

(2) All Advance Auction allowances not sold pursuant to section 95910(c)(2) will be auctioned pursuant to section 95910.

(3) The proceeds from the sale of these allowances will be deposited into the Greenhouse Gas Reduction Fund created pursuant to Government Code section 16428.8, and will be available for appropriation by the Legislature for the purposes designated in California Health and Safety Code sections 38500 et seq. and consistent with the requirements of Chapter 4.1 (commencing with Section 39710) of Part 2 of Division 26 of the California Health and Safety Code and Article 9.7 (commencing with Section

16428.8) of Chapter 2 of Part 2 of Division 4 of Title 2 of the Government Code.

(c) Electricity Related Allocation.

(1) Electrical Distribution Utility Sector Allocation. Allowance amounts allocated to each eligible electrical distribution utility will be determined pursuant to section 95892(a). The Executive Officer will allocate to the limited use holding account and/or allowance allocation holding account pursuant to sections 95892(a), 95892(b) and 95831(a)(6) for each electrical distribution utility by October 24, of each calendar year beginning in 2020 for allocation from the 2021 annual allowance budget.

(2) Allocation to Public Wholesale Water Agencies. The Executive Officer will place an annual individual allowance allocation in the allowance allocation holding account, pursuant to sections 95895 and 95831(a)(6), of a public wholesale water agency by October 24 of each calendar year beginning in 2020 for allocation from the 2021 annual allowance budget.

(d) Allocation to Industrial Covered Entities. Allowances allocated for the purposes of industry assistance shall be transferred to annual allocation holding accounts for industrial sectors listed in Table 8-1. Allowances in the annual allocation holding account are transferred to the holding account on January 1 of the vintage year of the allowances.

(1) The Executive Officer will allocate allowances to each eligible covered entity by October 24 of each calendar year beginning in 2020 for allocation from the 2021 annual allowance budget.

(2) Allocation to eligible covered entities shall be conducted using the assistance factors specified for each listed industrial activity found in Table 8-1 and the methodology set forth in section 95891.

(3) The total amount of allowances allocated for the purposes of industry assistance shall not exceed the available amount of allowances after accounting for allocations made pursuant to sections 95871(a) through (c) and sections 95871(e) and (g). If the amount calculated under the methodology set forth in section 95891 exceeds the amount of allowances available, the number of allowances available will be prorated equally across all eligible industrial covered entities. The proration will be calculated using the share of allowances available after accounting for all allocations made pursuant to sections 95871(a) through (c) and sections 95871(e) and (g) compared to total allowances that would be distributed according to the methodology set forth in section 95891.

(4) Industrial entities that purchase electricity or legacy contract qualified thermal output pursuant to a legacy contract and who receive allocation under this section shall have their allocation reduced as specified in section 95891(e).

(e) Allocation to University Covered Entities and Public Service Facilities. The Executive Officer will place an annual individual allocation in the annual allocation holding account of each eligible university covered entity and public service facility by October 24 of each calendar year beginning in 2020 for allocation from the 2021 annual allowance budget. A public service facility providing steam to a publicly owned educational facility is not eligible for any allocation of allowances provided under other provisions of this regulation. In the event a publicly owned educational facility that receives qualified thermal output from a public service facility becomes an opt-in covered entity and receives allowances for the emissions from qualified thermal output sold to the university by the public service facility pursuant to section 95891(d), the publicly owned educational facility shall unconditionally transfer to the public service facility allowances relating to the qualified thermal output provided by such public service facility. So long as the publicly owned educational facility remains an opt-in covered entity and provides such allowances to the public service facility, such public service facility will not be eligible for any disposition of allowances provided under this section.

(f) Allocation to Legacy Contract Generators. Allowances will be allocated to legacy contract generators with an industrial counterparty and legacy contract generators without an industrial counterparty pursuant to section 95894 for the term of the contract. The Executive Officer will transfer allowance allocations into each eligible generator's annual allocation holding account by October 24 of each calendar year during the term of the contract for eligible legacy contract emissions pursuant to the methodology set forth in section 95894 beginning in 2020 for allocation from the 2021 annual allowance budget.

(g) Natural Gas Supplier Sector Allocation. Allowances available for allocation to natural gas suppliers each budget year shall be calculated as set forth in section 95893. The Executive Officer will transfer allowances into each eligible natural gas supplier's allowance allocation holding account and/or limited use holding account pursuant to sections 95893(b) and 95831(a)(6) by October 24 of each calendar year beginning in 2020 for allocation from the 2021 annual allowance budget.

(h) Auction Proceeds for AB 32 Statutory Objectives. All remaining allowances not allocated for uses specified in sections 95871(a)-(g), sections 95871(i)-(k), or section 95911(h) will be designated for sale at auction. The proceeds from the

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sale of these allowances will be deposited into the Greenhouse Gas Reduction Fund created pursuant to Government Code section 16428.8, and will be available for appropriation by the Legislature for the purposes designated in California Health and Safety Code sections 38500 et seq. and consistent with the requirements of Chapter 4.1 (commencing with Section 39710) of Part 2 of Division 26 of the California Health and Safety Code and Article 9.7 (commencing with Section 16428.8) of Chapter 2 of Part 2 of Division 4 of Title 2 of the Government Code.

(i) Allocation to Waste-to-Energy Facilities. Allowances available for allocation to waste-to-energy facilities each budget year shall only be calculated as set forth in section 95891(f). The Executive Officer will place an annual individual allocation in the annual allocation holding account of each eligible waste-to-energy facility by October 24 of each calendar year beginning in 2020 for allocation from the 2021 annual allowance budget and ending in 2023 for allocation from the 2024 annual allowance budget.

(j) Allowance Removals for Offset Use. By December 31 of each year, beginning with December 31, 2027, for the 2028 annual allowance budget, the Executive Officer shall transfer a number of allowances from the subsequent year's budget from the Issuance Account to the Allowance Removal for Offset Use Account as specified in this subsection. By December 31 of the year following the last year of a compliance period, beginning with December 31, 2029, the Executive Officer shall transfer allowances from the Allowance Removal for Offset Use Account to the Retirement Account and to the Auction Account as specified in this subsection. The number and applicable budget years of allowances transferred shall be determined by the following:

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(1) The number of allowances "A" from subsequent budget year "t" transferred from the Issuance Account to the Allowance Removal for Offset Use Account by December 31 of the preceding year "t-1" shall be calculated in the following manner:

$$A = E_{t-2} * L_{O,t-2}$$

Where:

E_{t-2} = total covered emissions across all covered entities as reported and verified pursuant to MRR for year "t–2;" and

$L_{o,t-2}$ = the quantitative usage limit for year "t–2" on compliance instruments identified in section 95854(b);

(2) For each year "t-1" following the last year of a compliance period, beginning with December 31, 2029, and after calculating the annual transfer of allowances for vintage year "t" under subsection (1), the Executive Officer shall calculate the difference "D" between the total number of allowances in the Allowance Removal for Offset Use Account and the cumulative number of offsets surrendered for compliance obligations in the previous compliance period, less the following:

(A) The number of compliance offsets used to fulfill a compliance obligation for covered emissions prior to the 2026 emissions year; and

(B) The number of offsets that had been surrendered to fulfill a compliance obligation for covered emissions from emissions year 2026 or later and that were subsequently invalidated pursuant to section 95985 during the previous compliance period.

(3) The difference "D" calculated in subsection (2) shall be transferred from the Allowance Removal for Offset Use Account to the Auction Account. These allowances shall be designated for sale in equal amounts at each Current Auction during the calendar years "t," "t+1," and "t+2."

(4) After the transfer of allowances pursuant to subsection (3) is initiated, the Executive Officer shall transfer all remaining allowances in the Allowance Removal for Offset Use Account to the Retirement Account.

(k) Manufacturing Decarbonization Incentive Allocation. The Executive Officer shall populate the Build Up California Reserve Account with 118.3 million Manufacturing Decarbonization Incentive Allocation Allowances created for providing Manufacturing Decarbonization Incentive Allocation pursuant to section 95891(g). The Executive Officer shall assign a current vintage to these

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allowances at the time when the Build Up California Reserve Account is created pursuant to section 95831(b)(10).

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Table 8-1: Assistance Factors and Covered Industrial Sectors

				Assistance Factor (*AFa*) by Budget Year			
Leakage Risk Classification	**NAICS Sector Definition**	**NAICS Code**	**Activity (a)**	**2013-2014**	**2015-2017**	**2018-2020**	**2021-2030**
High	Crude Petroleum and Natural Gas Extraction	211111	Thermal EOR Crude Oil Extraction	100%	100%	100%	100%
High	Crude Petroleum and Natural Gas Extraction	211111	Non-Thermal Crude Oil Extraction	100%	100%	100%	100%
High	Crude Petroleum and Natural Gas Extraction	211111	Crude Oil Extraction	100%	100%	100%	100%
High	Crude Petroleum and Natural Gas Extraction	211111	Natural Gas Processing > 25 MMscf/day	100%	100%	100%	100%
High	Natural Gas Liquid Extraction	211112	Natural Gas Liquid Processing	100%	100%	100%	100%
High	All Other Metal Ore Mining	212299	Rare Earth Production	100%	100%	100%	100%
High	Potash, Soda, and Borate Mineral Mining	212391	Mining and Manufacturing of Soda Ash and Related Products	100%	100%	100%	100%
High	Potash, Soda, and Borate Mineral Mining	212391	Mining and Manufacturing of Borates	100%	100%	100%	100%
High	All Other Nonmetallic Mineral Mining	212399	Diatomaceous Earth Mining	100%	100%	100%	100%
High	All Other Nonmetallic Mineral Mining	212399	Freshwater Diatomite Filter Aids Manufacturing	100%	100%	100%	100%
High	Wet Corn Milling	311221	Wet Corn Milling	100%	100%	100%	100%
High	Paper (except Newsprint) Mills	322121	Paper (except Newsprint) Mills	100%	100%	100%	100%
High	Paperboard Mills	322130	Recycled Boxboard Manufacturing	100%	100%	100%	100%

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				Assistance Factor (*AFa*) by Budget Year			
Leakage Risk Classification	**NAICS Sector Definition**	**NAICS Code**	**Activity (a)**	**2013-2014**	**2015-2017**	**2018-2020**	**2021-2030**
High	Paperboard Mills	322130	Recycled Linerboard (Testliner) Manufacturing	100%	100%	100%	100%
High	Paperboard Mills	322130	Recycled Medium (Fluting) Manufacturing	100%	100%	100%	100%
High	All Other Petroleum and Coal Products Manufacturing	324199	Coke Calcining	100%	100%	100%	100%
High	All Other Basic Inorganic Chemical Manufacturing	325188	Sulfuric Acid Regeneration	100%	100%	100%	100%
High	Cyclic Crude, Intermediate, and Gum and Wood Chemical Manufacturing	325194	Cyclic Crude, Intermediate, and Gum and Wood Chemical Manufacturing	100%	100%	100%	100%
High	All Other Basic Organic Chemical Manufacturing	325199	All Other Basic Organic Chemical Manufacturing	100%	100%	100%	100%
High	Nitrogenous Fertilizer Manufacturing	325311	Nitrogenous Fertilizer Manufacturing	100%	100%	100%	100%
High	Nitrogenous Fertilizer Manufacturing	325311	Nitric Acid Production	100%	100%	100%	100%
High	Nitrogenous Fertilizer Manufacturing	325311	Calcium Ammonium Nitrate Solution Production	100%	100%	100%	100%
High	Flat Glass Manufacturing	327211	Flat Glass Manufacturing	100%	100%	100%	100%
High	Glass Container Manufacturing	327213	Container Glass Manufacturing	100%	100%	100%	100%
High	Cement Manufacturing	327310	Cement Manufacturing	100%	100%	100%	100%

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				Assistance Factor (*AFa*) by Budget Year			
Leakage Risk Classification	**NAICS Sector Definition**	**NAICS Code**	**Activity (a)**	**2013-2014**	**2015-2017**	**2018-2020**	**2021-2030**
High	Cement Manufacturing	212	Mining (except oil and gas) for Supplementary Cementitious Materials	100%	100%	100%	100%
High	Cement Manufacturing	327	Nonmetallic Mineral Product Manufacturing for Supplementary Cementitious Materials	100%	100%	100%	100%
High	Lime Manufacturing	327410	Lime Manufacturing	100%	100%	100%	100%
High	Lime Manufacturing	327410	Dolime Manufacturing	100%	100%	100%	100%
High	Mineral Wool Manufacturing	327993	Fiber Glass Manufacturing	100%	100%	100%	100%
High	Iron and Steel Mills	331111	Steel Production Using an Electric Arc Furnace	100%	100%	100%	100%
High	Rolled Steel Shape Manufacturing	331221	Hot Rolled Steel Sheet Production	100%	100%	100%	100%
Medium	Other Food Crops Grown Under Cover	111419	Other Food Crops Grown Under Cover	100%	100%	100%	100%
Medium	Food Manufacturing	311	Food Manufacturing	100%	100%	100%	100%
Medium	Fruit and vegetable canning	311421	Aseptic Tomato Paste Processing	100%	100%	100%	100%
Medium	Fruit and vegetable canning	311421	Aseptic Whole and Diced Tomato Processing	100%	100%	100%	100%
Medium	Fruit and vegetable canning	311421	Non-Aseptic Tomato Paste and Tomato Puree Processing	100%	100%	100%	100%
Medium	Fruit and vegetable canning	311421	Non-Aseptic Whole and Diced Tomato Processing	100%	100%	100%	100%
Medium	Fruit and vegetable canning	311421	Non-Aseptic Tomato Juice Processing	100%	100%	100%	100%

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				Assistance Factor (*AFa*) by Budget Year			
Leakage Risk Classification	**NAICS Sector Definition**	**NAICS Code**	**Activity (a)**	**2013-2014**	**2015-2017**	**2018-2020**	**2021-2030**
Medium	Poultry Processing	311615	Whole Chicken and Chicken Parts Processing	100%	100%	100%	100%
Medium	Poultry Processing	311615	Poultry Deli Product Processing	100%	100%	100%	100%
Medium	Poultry Processing	311615	Protein Meal and Fat Processing	100%	100%	100%	100%
Medium	Dried and Dehydrated Food Manufacturing	311423	Dehydrated Garlic Processing	100%	100%	100%	100%
Medium	Dried and Dehydrated Food Manufacturing	311423	Dehydrated Onion Processing	100%	100%	100%	100%
Medium	Dried and Dehydrated Food Manufacturing	311423	Dehydrated Chili Pepper Processing	100%	100%	100%	100%
Medium	Dried and Dehydrated Food Manufacturing	311423	Dehydrated Spinach Processing	100%	100%	100%	100%
Medium	Dried and Dehydrated Food Manufacturing	311423	Dehydrated Parsley Processing	100%	100%	100%	100%
Medium	Dairy Product Manufacturing	31151	Fluid Milk Product Processing	100%	100%	100%	100%
Medium	Dairy Product Manufacturing	31151	Butter Processing	100%	100%	100%	100%
Medium	Dairy Product Manufacturing	31151	Condensed Milk Processing	100%	100%	100%	100%
Medium	Dairy Product Manufacturing	31151	Milk Powder (Low Heat) Processing	100%	100%	100%	100%
Medium	Dairy Product Manufacturing	31151	Milk Powder (Medium Heat and High Heat) Processing	100%	100%	100%	100%
Medium	Dairy Product Manufacturing	31151	Buttermilk Powder Processing	100%	100%	100%	100%

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				Assistance Factor (*AFa*) by Budget Year			
Leakage Risk Classification	**NAICS Sector Definition**	**NAICS Code**	**Activity (a)**	**2013-2014**	**2015-2017**	**2018-2020**	**2021-2030**
Medium	Dairy Product Manufacturing	31151	Intermediate Dairy Ingredients Processing	100%	100%	100%	100%
Medium	Dairy Product Manufacturing	31151	Anhydrous Milkfat Processing	100%	100%	100%	100%
Medium	Dairy Product Manufacturing	31151	Cheese Processing	100%	100%	100%	100%
Medium	Dairy Product Manufacturing	31151	Lactose Processing	100%	100%	100%	100%
Medium	Dairy Product Manufacturing	31151	Whey Protein Concentrate Processing	100%	100%	100%	100%
Medium	Dairy Product Manufacturing	31151	Deproteinized Whey and Sweet Whey Powder Processing	100%	100%	100%	100%
Medium	Roasted Nuts and Peanut Butter Manufacturing	311911	Almond Blanching	100%	100%	100%	100%
Medium	Roasted Nuts and Peanut Butter Manufacturing	311911	Almond Flavoring	100%	100%	100%	100%
Medium	Roasted Nuts and Peanut Butter Manufacturing	311911	Almond Pasteurizing	100%	100%	100%	100%
Medium	Roasted Nuts and Peanut Butter Manufacturing	311911	Pistachio Flavoring	100%	100%	100%	100%
Medium	Roasted Nuts and Peanut Butter Manufacturing	311911	Pistachio Hulling and Drying	100%	100%	100%	100%

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				Assistance Factor (*AFa*) by Budget Year			
Leakage Risk Classification	**NAICS Sector Definition**	**NAICS Code**	**Activity (a)**	**2013-2014**	**2015-2017**	**2018-2020**	**2021-2030**
Medium	Snack Food Manufacturing	31191	Fried Potato Chips Processing	100%	100%	100%	100%
Medium	Snack Food Manufacturing	31191	Baked Potato Chips Processing	100%	100%	100%	100%
Medium	Snack Food Manufacturing	31191	Corn Chips Processing	100%	100%	100%	100%
Medium	Snack Food Manufacturing	31191	Corn Curls Processing	100%	100%	100%	100%
Medium	Snack Food Manufacturing	31191	Pretzel Processing	100%	100%	100%	100%
Medium	Beet Sugar Manufacturing	311313	Beet Sugar Manufacturing	100%	100%	100%	100%
Medium	Breweries	312120	Brewing	100%	100%	100%	100%
Medium	Breweries	312120	Lager Beer Manufacturing	100%	100%	100%	100%
Medium	Wineries	312130	Distilled Spirits Production	100%	100%	100%	100%
Medium	Wineries	312130	Dry Color Concentrate Production	100%	100%	100%	100%
Medium	Wineries	312130	Grape Juice Concentrate Production	100%	100%	100%	100%
Medium	Wineries	312130	Grape Seed Extract Production	100%	100%	100%	100%
Medium	Wineries	312130	Liquid Color Concentrate Production	100%	100%	100%	100%
Medium	Textile Mills	313	Textile Processing	100%	100%	100%	100%
Medium	Cut and Sew Apparel Manufacturing	3152	Cut and Sew Apparel Manufacturing	100%	100%	100%	100%
Medium	Petroleum Refineries	324110	Petroleum Refining	100%	100%	100%	100%

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				Assistance Factor (*AFa*) by Budget Year			
Leakage Risk Classification	**NAICS Sector Definition**	**NAICS Code**	**Activity (a)**	**2013-2014**	**2015-2017**	**2018-2020**	**2021-2030**
Medium	All Other Basic Organic Chemical Manufacturing	325199	Liquid Hydrocarbon Fuel Production	100%	100%	100%	100%
Medium	Petroleum Refineries	324110	Asphalt Production	100%	100%	100%	100%
Medium	Asphalt Paving Mixture and Block Manufacturing	324121	Asphalt Paving Mixture and Block Manufacturing	100%	100%	100%	100%
Medium	Industrial Gas Manufacturing	325120	On-Purpose Hydrogen Gas Production	100%	100%	100%	100%
Medium	Industrial Gas Manufacturing	325120	Liquid Hydrogen Production	100%	100%	100%	100%
Medium	Ethyl Alcohol Manufacturing	325193	Ethyl Alcohol Manufacturing	100%	100%	100%	100%
Medium	Biological Product (Except Diagnostic) Manufacturing	325414	Biological Product (Except Diagnostic) Manufacturing	100%	100%	100%	100%
Medium	Gypsum Product Manufacturing	327420	Plaster Manufacturing	100%	100%	100%	100%
Medium	Gypsum Product Manufacturing	327420	Stucco Manufacturing	100%	100%	100%	100%
Medium	Ground or Treated Mineral and Earth Manufacturing	327992	Ground or Treated Mineral and Earth Manufacturing	100%	100%	100%	100%
Medium	Rolled Steel Shape Manufacturing	331221	Pickled Steel Sheet Production	100%	100%	100%	100%
Medium	Rolled Steel Shape Manufacturing	331221	Cold Rolled and Annealed Steel Sheet Production	100%	100%	100%	100%
Medium	Rolled Steel Shape Manufacturing	331221	Galvanized Steel Sheet Production	100%	100%	100%	100%

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				Assistance Factor (*AFa*) by Budget Year			
Leakage Risk Classification	**NAICS Sector Definition**	**NAICS Code**	**Activity (a)**	**2013-2014**	**2015-2017**	**2018-2020**	**2021-2030**
Medium	Rolled Steel Shape Manufacturing	331221	Tin Steel Plate Production	100%	100%	100%	100%
Medium	Secondary Smelting and Alloying of Aluminum	331314	Aluminum and Aluminum Alloy Billet Manufacturing	100%	100%	100%	100%
Medium	Secondary Smelting, Refining, and Alloying of Nonferrous Metal (Except Copper and Aluminum)	331492	Lead Acid Battery Recycling	100%	100%	100%	100%
Medium	Iron Foundries	331511	Iron Foundries	100%	100%	100%	100%
Medium	Iron Foundries	331511	Ductile Iron Pipe Manufacturing	100%	100%	100%	100%
Medium	Hardware Manufacturing	332510	Hardware Manufacturing	100%	100%	100%	100%
Medium	Turbine and Turbine Generator Set Units Manufacturing	333611	Testing of Turbines and Turbine Generator Sets	100%	100%	100%	100%
Low	Pharmaceutical and Medicine Manufacturing	325412	Pharmaceutical and Medicine Manufacturing	100%	100%	100%	100%
Low	Nonferrous Forging	332112	Nonferrous Metal Forging	100%	100%	100%	100%
Low	Nonferrous Forging	332112	Seamless Rolled Ring	100%	100%	100%	100%
Low	Automobile Manufacturing	336111	Automobile Manufacturing	100%	100%	100%	100%
Low	Aircraft Manufacturing	336411	Aircraft Manufacturing	100%	100%	100%	100%
Low	Guided Missile and Space Vehicle Manufacturing	336414	Guided Missile and Space Vehicle Manufacturing	100%	100%	100%	100%

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				Assistance Factor (*AFa*) by Budget Year			
Leakage Risk Classification	**NAICS Sector Definition**	**NAICS Code**	**Activity (a)**	**2013-2014**	**2015-2017**	**2018-2020**	**2021-2030**
Low	Support Activities for Air Transportation	4881	Support Activities for Air Transportation	100%	100%	100%	100%

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Table 8-2: Number of California GHG Allowances Allocated to the APCR for Budget Years 2021 to 2030

Budget year	Number of California GHG Allowances Allocated to the APCR
2021	12,772,600
2022	11,572,600
2023	10,372,600
2024	9,272,600
2025	8,072,600
2026	6,972,600
2027	5,772,600
2028	4,572,600
2029	3,472,600
2030	2,272,600

Table 8-3: Number of California GHG Allowances Allocated to the APCR for Budget Years 2031 to 2045

Budget year	Number of California GHG Allowances Allocated to the APCR
2031	1,473,000
2032	1,368,000
2033	1,271,000
2034	1,181,000
2035	1,096,000
2036	1,015,000
2037	937,000
2038	860,000
2039	784,000
2040	708,000
2041	631,000
2042	553,000
2043	473,000
2044	390,000
2045	303,000

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 and Section 16428.8, Government Code.

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Subarticle 9. Direct Allocations of California GHG Allowances

§ 95890. General Provisions for Direct Allocations.

(a) Eligibility Requirements for Industrial Facilities. A covered entity or opt-in covered entity from the industrial sectors listed in Table 8-1 shall be eligible for direct allocations of California GHG allowances if it has complied with the requirements of MRR and has obtained a positive or qualified positive product data verification statement for the prior year pursuant to MRR.

(b) Eligibility Requirements for Electrical Distribution Utilities. An electrical distribution utility that is a covered entity shall be eligible for direct allocation of California GHG allowances if it has complied with the requirements of MRR and has obtained a positive or qualified positive emissions data verification statement for the prior year pursuant to MRR.

(c) Electrical Distribution Utilities that are not covered entities but are listed in Table 9-3 must register pursuant to section 95830 to receive allowances.

(d) Eligibility Requirements for University Covered Entities and Public Service Facilities. A university covered entity or public service facility that is a covered entity that had a compliance obligation in 2013 and/or 2014, or a university or public service facility that is an opt-in covered entity that submitted its request to opt in pursuant to 95813 by July 31, 2014, shall be eligible for direct allocations of California GHG allowances if it has complied with the requirements of MRR and has obtained a positive or qualified positive emissions data verification statement for the prior year pursuant to MRR. A university or public service facility shall not be eligible for any direct allocation of allowances for any data year for which it is not a covered entity or an opt-in covered entity.

(e) Eligibility Requirements for Legacy Contract Generators. A legacy contract generator with an industrial counterparty or legacy contract generator without an industrial counterparty that has demonstrated its eligibility to the satisfaction of the Executive Officer pursuant to section 95894 shall be eligible for direct allocation of allowances if it has complied with the requirements of MRR and has obtained a positive or a qualified positive emissions data verification statement pursuant to MRR.

(f) Eligibility Requirements for Natural Gas Suppliers. A natural gas supplier that is a covered entity shall be eligible for direct allocation of California GHG allowances if it has complied with the requirements of MRR and has obtained a positive or qualified positive emissions data verification statement for the prior year pursuant to MRR.

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(g) Eligibility Requirements for Public Wholesale Water Agencies. A public wholesale water agency shall be eligible for direct allocations of California GHG allowances if it has complied with the requirements of MRR and has obtained a positive or qualified positive emissions data verification statement for the prior year pursuant to MRR.

(h) No facility receiving allowances pursuant to section 95870(f) may also receive allowances pursuant to section 95870(g), and no facility receiving allowances pursuant to section 95871(e) may also receive allowances pursuant to section 95871(f).

(i) No facility that qualifies for a limited exemption pursuant to section 95852(j) may also receive allowances pursuant to sections 95870, 95871, 95890, 95891, or 95894 for the same budget year.

(j) Negative Allowance Allocation. If the calculation of a covered entity or opt-in covered entity's annual allowance allocation is negative pursuant to section 95891, 95892, or 95894 and the entity has a consolidated tracking system account with any other covered or opt-in covered entity that was eligible for allocation pursuant to sections 95891, 95892, or 95894, then the negative amount shall be applied to that covered entity or opt-in covered entity sharing the consolidated tracking system account. If negative allowance allocation remains, then that amount shall be applied to the allowance allocation that is distributed the following calendar year to the covered entity or opt-in covered entity or the covered entity or opt-in covered entity sharing a consolidated tracking system account.

(k) Return of Allocation. If a covered entity or opt-in covered entity received an allocation of allowances for a year in which it incurred no compliance obligation, or if an entity previously eligible for allocation pursuant to section 95870(e) or section 95871(d) ceased to operate under the industrial sector or perform an activity listed in Table 8-1, the entity must fulfill the following requirements. The entity must return allowances by November 1 of the calendar year t + 1, where t is the year for which the entity received an allowance allocation but did not incur a compliance obligation or did not operate under the industrial sector or perform an activity listed in Table 8-1.

(1) The entity must return to the Executive Officer a number of allowances equal to the initial allowance allocation for every budget year for which the entity incurred no compliance obligation or did not operate under the industrial sector or perform an activity listed in Table 8-1.

(2) If eligible for true-up allowance allocation for any data year, the entity shall receive the true-up allowance allocation by the allocation date for that

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year. If the true-up allocation value is positive, then the Executive Officer will allocate true-up allowances to the entity. If the true-up allocation value is negative, then the entity must return to the Executive Officer a number of allowances that is equal to the absolute value of the negative true-up allowance allocation according to the schedule in section 95890(k).

(3) If the entity has a negative allowance allocation balance pursuant to section 95890(j) or any other section of this article, then the entity must return a number of allowances to the Executive Officer that is equal to the absolute value of the negative balance according to the schedule in section 95890(k).

(4) To return allowances to the Executive Officer, an entity must place the appropriate number of allowances into its holding or compliance account and notify the Executive Officer. The allowances are considered to be returned only after they have been removed from the holding or compliance account by the Executive Officer. If an entity fails to return allowances, then ARB will determine the number of violations pursuant to section 96014.

(l) Eligibility Requirements for Waste-to-Energy Facilities. A waste-to-energy facility that is a covered entity shall be eligible for direct allocations of California GHG allowances if it has a compliance obligation for the year for which it is receiving allocation, has complied with the requirements of MRR, and has obtained a positive or qualified positive emissions data verification statement for the prior year pursuant to MRR. A waste-to-energy facility shall not be eligible for any direct allocation of allowances for any data year for which it is not a covered entity or an opt-in covered entity.

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.

§ 95891. Allocation for Transition Assistance and Leakage Minimization.

(a) The Executive Officer shall determine the amount of allowances directly allocated to each eligible covered entity or opt-in covered entity using the product output-based allocation calculation methodology specified in section 95891(b) if the entity conducts an activity listed in both Table 8-1 and Table 9-1. The Executive Officer shall determine the amount of allowances directly allocated to each eligible covered entity or opt-in covered entity using the energy-based allocation calculation methodology specified in section 95891(c) if the entity conducts an activity listed in Table 8-1 but not listed in Table 9-1.

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(1) New Entrant Industrial Allocation Without Leakage Risk. Covered facilities that do not have a leakage risk in Table 8-1 are eligible to receive allocated allowances under the new entrant energy-based allocation methodology pursuant to section 95891(c)(2) if the first three digits of the facility NAICS code matches a NAICS code in Table 8-1. The leakage risk classification for these new entrant facilities shall be low until a leakage risk classification is added to Table 8-1 for the industrial activity in which the facility operates. Food processors that are only classified by a three digit NAICS code are exempt from this classification and shall have the same leakage risk as the general 311 food processing NAICS code in Table 8-1.

(b) Product Output-Based Allocation Calculation Methodology. The Executive Officer shall calculate the amount of California GHG Allowances directly allocated under a product output-based methodology annually using the following formula:

$$A_t = InitialAllocation_t + TrueUp_t + ElecInitialAllocation_t + ElecTrueup_t$$

Where:

"A_t" is the amount of California GHG allowances directly allocated to the operator of an industrial facility for all activities with a product output-based allocation from budget year "t";

"*InitialAllocation*$_t$" is the amount of allowances allocated to an entity in advance of budget year "t" for budget year "t" industry assistance. This amount is calculated using previously reported production at the facility from year "t-2," which is an estimate of year "t" production. If the entity will not be performing activity "a" listed in Table 8-1 in year "t", then the entity is not eligible for *InitialAllocation*$_t$; and

"t" is the budget year from which the direct allocation occurs.

$$InitialAllocation_t = \left(\sum_{a=1}^{n} O_{a,t-2} * B_a * AF_{a,t} * c_{a,t} \right)$$

Where:

"t-2" is the year two years prior to year "t";

"a" is each eligible activity as defined in Table 9-1;

"n" is the number of eligible activities at a facility;

"$O_{a,\,t-2}$" for all eligible activities except for Finished Cement for activities "Mining (except oil and gas) for Supplementary Cementitious Materials for In-state Mines" and "Nonmetallic Mineral Product Manufacturing for Supplementary Cementitious Materials

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Using Minerals Mined In-state," "$O_{a, t-2}$" will be calculated by the Executive Officer as the output for activity "a" in year "t-2" as reported to CARB;

"$O_{a, t-2}$" for Finished Cement for activities "Mining (except oil and gas) for Supplementary Cementitious Materials for In-state Mines" and "Nonmetallic Mineral Product Manufacturing for Supplementary Cementitious Materials Using Minerals Mined In-state," "$O_{a, t-2}$" is the amount of SCMs produced by covered or opt-in covered entities and used to make Finished Cement in year "t-2" as reported to CARB. For SCMs used by a cement manufacturer to make Finished Cement, "$O_{a, t-2}$" includes the quantity of SCMs reported to be used to make Finished Cement by the cement manufacturer. Allocation for SCMs in Finished Cement used by the cement manufacturer will only be provided to the cement manufacturer. For SCMs used by a non-cement manufacturing facility to make Finished Cement, "$O_{a, t-2}$" includes the quantity of SCMs reported by the SCM producer minus the quantity of SCMs reported by cement manufacturers to make Finished Cement. The Executive Officer shall reconcile the verified data such that allocation for any unit of SCM in Finished Cement is provided to only one entity.

"B_a" is the emissions efficiency benchmark per unit of output for activity "a" defined in Table 9-1;

"$AF_{a,t}$" is the assistance factor for budget year "t" assigned to each activity "a" as specified in Table 8-1;

"$c_{a,t}$" is the adjustment factor for budget year "t" assigned to each activity "a" to account for cap decline as specified in Table 9-2 plus, if eligible, the cap adjustment factor modifier defined in section 95891(g); and

"$TrueUp_t$" is the amount of true-up allowances allocated to account for changes in production or allocation not properly accounted for in prior allocations. This value shall only be calculated if the entity was covered under the Cap-and-Invest Program in year "t-2" or if the entity received an initial allocation of vintage t-2 allowances but was not a covered entity in year "t-2." In the latter case, a negative true-up will be calculated. These true-up allowances from budget year "t" may be used for compliance for budget year "t-2" or subsequent budget years pursuant to sections 95856(h)(1)(D) and (h)(2)(D). This value is calculated using the following formula:

$$TrueUp_t = \left(\sum_{a=1}^{n} O_{a,t-2} * B_a * AF_{a,t-2} * c_{a,t-2} \right) - InitialAllocation_{t-2}$$

Where:

"$O_{a,t-2}$" will be calculated by the Executive Officer as the output for activity "a" in year "t-2" as reported to ARB;

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"$AF_{a,t-2}$" is the assistance factor for budget year "t-2" assigned to each activity "a" as specified in Table 8-1;

"$c_{a,t-2}$" is the adjustment factor for budget year "t-2" assigned to each activity "a" to account for cap decline as specified in Table 9-2;

"$ElecInitialAllocation_t$" is the amount of allowances allocated to an entity in advance of budget year "t" for budget year "t" industry assistance pertaining to electricity purchases beginning with budget year 2027. This amount is calculated using previously reported production at the facility from year "t-2," which is an estimate of year "t" production. If the entity will not perform activity "a" listed in Table 8-1 in year "t", then the entity is not eligible for $ElecInitialAllocation_t$;

$$ElecInitialAllocation_t = \left(\sum_{a=1}^{n} O_{a,t-2} * BEP_a * B_{Grid} * AF_{a,t} * c_{a,t}\right)$$

Where:

"BEP_a" is the electricity efficiency benchmark per unit of output for activity "a" defined in Table 9-1;

"B_{Grid}" is the electricity grid emission factor benchmark equal to 0.212 $MTCO_2e/MWh$; and

"$ElecTrueUp_t$" is the amount of true-up allowances allocated to account for changes in production or allocation not accounted for in prior allocations. This value shall be calculated beginning with budget year 2029. This value shall only be calculated if the entity was covered under the Cap-and-Invest Program in year "t-2" or if the entity received an electricity purchases initial allocation of vintage t-2 allowances but was not a covered entity in year "t-2." In the latter case, a negative true-up will be calculated. These true-up allowances from budget year "t" may be used for compliance for budget year "t-2" or subsequent budget years pursuant to sections 95856(h)(1)(D) and 95856(h)(2)(D). This value is calculated using the following formula:

$$ElecTrueUp_t = \left(\sum_{a=1}^{n} O_{a,t-2} * BEP_a * B_{Grid} * AF_{a,t-2} * c_{a,t-2}\right) - ElectInitialAllocation_{t-2}$$

(1) One-time New Product True-up Allocation for Products Newly Covered by this article. The Executive Officer shall allocate a one-time new product true-up allocation for a newly covered product or a product with a new definition. A facility is eligible for this one-time allowance allocation if it has produced a product with a benchmark that is newly listed in Table 9-1 or with a new definition but it has not received product-based allocation for producing the product in year "t-3" or prior. To receive this one-time new product allocation, an entity must comply with section 95891(b)(1)(A)-(C).

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This one-time new product true-up allocation occurs for budget year "t." A facility must be eligible to receive an allowance allocation under the product-based allocation methodology pursuant to section 95891(b) for the budget year that the facility requests to receive new product allocation. These true-up allowances from budget year "t" may be used for compliance for budget year "t-2" or subsequent budget years pursuant to section 95856(h)(1)(D) and 95856(h)(2)(D). The Executive Officer shall calculate the amount of allowances directly allocated using the following equation:

$$OneTimeNewProductAllocation_t = \sum_{i=y}^{t-3} AnnualNewProductAllocation_i + \sum_{i=y}^{t-3} AnnualElecNewProductAllocation_i - \sum_{i=y}^{t-3} AnnualEnergyBasedAllocation_i$$

Where:

"y" is the first year during which the facility produced a newly covered product listed in Table 9-1 or year t-7, whichever year is later;

"AnnualNewProductAllocation$_i$" is the portion of the one-time new product true-up allocation associated with direct on-site emissions for each new product and each historical year of production "i"; and

"AnnualEnergyBasedAllocation$_i$" is the number of allowances allocated to the industrial facility by an energy-based allocation method pursuant to section 95891(c) for year "i."

$$AnnualNewProductAllocation_i = \sum_{a=1}^{n} O_{a,i} * B_a * AF_{a,i} * c_{a,i}$$

Where:

"a" is each eligible activity for which a new benchmark has been added to Table 9-1, or a new product definition has been added in year "t-1";

"n" is the number of newly listed activities at a facility;

"$O_{a,i}$" will be calculated by the Executive Officer as the output for activity "a" in year "i," which was reported to CARB and verified;

"B_a" is the emissions efficiency benchmark per unit of output for activity "a" defined in Table 9-1;

"$AF_{a,i}$" is the assistance factor for budget year "i" assigned to each activity "a" as specified in Table 8-1;

"$c_{a,i}$" is the adjustment factor for budget year "i" assigned to each activity "a" to account for cap decline as specified in Table 9-2; and

"$AnnualElecNewProductAllocation_i$" is the portion of the one-time true-up allocation associated with electricity purchases for each new product "a" and each historical year of production "i." This value is only calculated beginning with budget year 2030 using the following equation.

$$AnnualElecNewProductAllocation_i = \sum_{a=1}^{n} O_{a,i} * BEP_a * B_{Grid} * AF_{a,i} * c_{a,i}$$

Where:

"BEP_a" is the electricity efficiency benchmark per unit of output for activity "a" defined in Table 9-1;

"B_{Grid}" is the electricity grid emission factor benchmark equal to 0.212 $MTCO_2e/MWh$.

(A) To receive budget year 2028 one-time new product true-up allocation, an entity must report under MRR the annual production quantities of the new covered product for each prior year the entity requests to receive allocation by the 2027 reporting deadline in MRR section 95103(e) and meet the requirements of section 95891(b)(1)(B). An entity may receive one-time new product true-up allocation from budget year 2028 for up to five prior years: 2021 through 2025. To receive budget year 2029 one-time new product true-up allocation, an entity must report under MRR the annual production quantities of the new covered products for each year the entity requests to receive allocation by the 2028 reporting deadline in MRR section 95103(e) and as specified in section 95891(b)(1)(B). An entity may receive one-time new product allocation from budget year 2029 for up to five prior years: 2022 through 2026.

(B) An entity must have the reported annual production amounts of a new covered product verified by the verification deadline in MRR section 95103(f) per the requirements of MRR section 95103(l)(1).

(C) A facility that operated under NAICS code 324110 and received allocation under the Complexity Weighted Barrel benchmark in

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Table 9-1 in year "i" is ineligible to receive one-time new product true-up allocation for output of "liquid hydrocarbon fuel" in year "i" if it continues to operate under NAICS code 324110 when the one-time new product true-up allocation could otherwise occur. A facility that received allocation under the Complexity Weighted Barrel benchmark in Table 9-1 in year "i" is ineligible to receive one-time new product true-up allocation for activity output of "asphalt" in year "i."

(2) CPUC California Industry Assistance True-up Deficit Allocation. For allocations from budget years 2027 and 2028, the Executive Officer shall deduct the number of allowances calculated by CPUC as determined by Decision 21-08-026 (2021), herein incorporated by reference. This deduction shall only be calculated if the entity is eligible for true-up allocation for budget years 2027 and 2028 pursuant to section 95891(b) and shall be zero for all budget years except for 2027 and 2028.

(3) For allocation provided in any budget year, a facility receiving allocation for output of "complexity weighted barrel" may not also receive allocation for output of "barrel of liquid hydrocarbon fuel" or for output of "barrel of asphalt." A facility may not receive allocation for output of "complexity weighted barrel" if the facility has received allocation for output of "barrel of liquid hydrocarbon fuel" or for output of "barrel of asphalt" in any previous budget year.

(4) Prior to vintage 2033 allocation, to irreversibly switch from allocation under the complexity weighted barrel benchmark to allocation under the LHF and asphalt benchmarks in Table 9-1, a facility shall notify the Executive Officer by December 1 of the calendar year immediately preceding the first year in which the facility voluntarily elects to be covered by the new benchmarks.

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Table 9-1: Product-Based Efficiency Benchmarks

NAICS Sector Definition	NAICS code	Activity (a)	Benchmark (B_a) (Allowances/ Benchmark Units)	Electricity Benchmark (BEPa) (MWh / Benchmark Units)	Benchmark Units
Crude Petroleum and Natural Gas Extraction	211111	Thermal EOR Crude Oil Extraction (through vintage 2032 allocation)	0.0811	0.00515	Barrel of Oil Eqv. Produced Using Thermal EOR
		Non Thermal Crude Oil Extraction (through vintage 2032 allocation)	0.0076	0.0168	Barrel of Non Thermal Crude Oil Eqv.
		Crude Oil Extraction (vintage 2033 allocation and beyond)	0.0463	0.0112	Barrel of Crude Oil Eqv.
		Natural Gas Processing ≥ 25 MMscf/day	0.022	0.0132	Barrel of Gas Processed Eqv.
Natural Gas Liquid Extraction	211112	Natural Gas Liquid Processing	0.0118	0.00286	Barrel of Natural Gas Liquids Produced

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NAICS Sector Definition	NAICS code	Activity (a)	Benchmark (B_a) (Allowances/ Benchmark Units)	Electricity Benchmark (BEPa) (MWh / Benchmark Units)	Benchmark Units
Potash, Soda, and Borate Mineral Mining	212391	Mining and Manufacturing of Soda Ash and Related Products	1.13	0.0692	Short Ton of Soda Ash Equivalent
		Mining and Manufacturing of Borates	0.595	0.0632	Short Ton of Boric Oxide Equivalent
All Other Nonmetallic Mineral Mining	212399	Freshwater Diatomite Filter Aids Manufacturing	0.418	0.102	Short Ton of Freshwater Diatomite Filter Aids
Fruit and vegetable canning	311421	Aseptic Tomato Paste Processing	0.353	0.0468	Short Ton of 31% NTSS Aseptic Tomato Paste
		Aseptic Whole and Diced Tomato Processing	0.179	0.0452	Short Ton of Aseptic Whole and Diced Tomatoes
		Non-Aseptic Tomato Paste and Tomato Puree Processing	0.315	0.0632	Short Ton of 24% NTSS Non-Aseptic Tomato Paste and Tomato Puree

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NAICS Sector Definition	NAICS code	Activity (a)	Benchmark (B_a) (Allowances/ Benchmark Units)	Electricity Benchmark (BEPa) (MWh / Benchmark Units)	Benchmark Units
Fruit and vegetable canning	311421	Non-Aseptic Whole and Diced Tomato Processing	0.135	0.0663	Short Ton of Non-Aseptic Whole and Diced Tomatoes
		Non-Aseptic Tomato Juice Processing	0.163	0.0973	Short Ton of Non-Aseptic Tomato Juice
Poultry Processing	311615	Whole Chicken and Chicken Parts Processing	0.033	0.242	Short Ton of Whole Chicken and Chicken Parts
		Poultry Deli Product Processing	0.0353	0.242	Short Ton of Poultry Deli Product
		Protein Meal and Fat Processing	0.396	0.241	Short Ton of Protein Meal and Fat

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NAICS Sector Definition	NAICS code	Activity (a)	Benchmark (B_a) (Allowances/ Benchmark Units)	Electricity Benchmark (BEPa) (MWh / Benchmark Units)	Benchmark Units
Dried and Dehydrated Food Manufacturing	311423	Dehydrated Garlic Processing	0.824	0.489	Short Ton of Dehydrated Garlic
		Dehydrated Onion Processing	1.01	0.486	Short Ton of Dehydrated Onion
		Dehydrated Chili Pepper Processing	1.29	0.460	Short Ton of Dehydrated Chili Pepper
		Dehydrated Spinach Processing	5.56	0.464	Short Ton of Dehydrated Spinach
		Dehydrated Parsley Processing	3.21	0.464	Short Ton of Dehydrated Parsley

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NAICS Sector Definition	NAICS code	Activity (a)	Benchmark (B_a) (Allowances/ Benchmark Units)	Electricity Benchmark (BEPa) (MWh / Benchmark Units)	Benchmark Units
Dairy Product Manufacturing	31151	Fluid Milk Product Processing	0.0149	0.0339	Short Ton of Fluid Milk Product
		Butter Processing	0.0415	0.192	Short Ton of Butter
		Condensed Milk Processing	0.0426	0.196	Short Ton of Condensed Milk
		Milk Powder (Low Heat) Processing	0.376	0.196	Short Ton of Milk Powder (Low Heat)
		Milk Powder (Medium Heat and High Heat) Processing	0.423	0.176	Short Ton of Milk Powder (Medium Heat and High Heat)
		Buttermilk Powder Processing	0.469	0.252	Short Ton of Buttermilk Powder

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NAICS Sector Definition	NAICS code	Activity (a)	Benchmark (B_a) (Allowances/ Benchmark Units)	Electricity Benchmark (BEPa) (MWh / Benchmark Units)	Benchmark Units
Dairy Product Manufacturing	31151	Intermediate Dairy Ingredients Processing	0.076	0.152	Short Ton of Intermediate Dairy Ingredients
		Anhydrous Milkfat Processing	0.335	0.247	Short Ton of Anhydrous Milkfat
		Cheese Processing	0.114	0.411	Short Ton of Cheese
		Lactose Processing	0.272	0.421	Short Ton of Lactose
		Whey Protein Concentrate Processing	1.28	0.415	Short Ton of Whey Protein Concentrate
		Deproteinized Whey and Sweet Whey Powder Processing	0.764	0.453	Short Ton of Deproteinized Whey and Sweet Whey Powder

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NAICS Sector Definition	NAICS code	Activity (a)	Benchmark (B_a) (Allowances/ Benchmark Units)	Electricity Benchmark (BEPa) (MWh / Benchmark Units)	Benchmark Units
Roasted Nuts and Peanut Butter Manufacturing	311911	Almond Blanching	0.0704	0.212	Short Ton of Blanched Almonds
		Almond Flavoring	0.127	0.212	Short Ton of Flavored Almonds
		Almond Pasteurization	0.042	0.212	Short Ton of Pasteurized Almonds
		Pistachio Flavoring	0.071	0.212	Short Ton of Flavored Pistachios
		Pistachio Hulling and Drying	0.187	0.212	Short Ton of Adjusted Hulled and Dried Pistachios

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NAICS Sector Definition	NAICS code	Activity (a)	Benchmark (B_a) (Allowances/ Benchmark Units)	Electricity Benchmark (BEPa) (MWh / Benchmark Units)	Benchmark Units
Snack Food Manufacturing	31191	Fried Potato Chips Processing	0.834	0.0381	Short Ton of Fried Potato Chips
		Baked Potato Chips Processing	0.517	0.0381	Short Ton of Baked Potato Chips
		Corn Chips Processing	0.580	0.0382	Short Ton of Corn Chips
		Corn Curls Processing	0.446	0.0382	Short Ton of Corn Curls
		Pretzel Processing	0.633	0.0380	Short Ton of Pretzels
Beet sugar manufacturing	311313	Beet sugar manufacturing	0.611	0.0155	Short Ton Granulated-Refined Sugar

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NAICS Sector Definition	NAICS code	Activity (a)	Benchmark (B_a) (Allowances/ Benchmark Units)	Electricity Benchmark (BEPa) (MWh / Benchmark Units)	Benchmark Units
Breweries	312120	Lager Beer Manufacturing	0.178	0.273	Thousand Gallons of Lager Beer
Wineries	312130	Distilled Spirits Production	$1.13x10^{-3}$	0.000469	Proof Gallons of Distilled Spirits
		Dry Color Concentrate Production	12	0.540	Short Ton of Dry Color Concentrate
		Grape Juice Concentrate Production	$1.59x10^{-3}$	0.00241	Gallons of Grape Juice Concentrate
		Grape Seed Extract Production	9.48	0.440	Short Ton of Grape Seed Extract
		Liquid Color Concentrate Production	$6.95x10^{-3}$	0.00259	Gallons of Liquid Color Concentrate

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NAICS Sector Definition	NAICS code	Activity (a)	Benchmark (B_a) (Allowances/ Benchmark Units)	Electricity Benchmark (BEPa) (MWh / Benchmark Units)	Benchmark Units
Paperboard Mills	322130	Recycled Boxboard Manufacturing	0.516	0.0121	Air Dried Short Ton of Recycled Boxboard
		Recycled Linerboard (Testliner) Manufacturing	0.562	0.00859	Air Dried Short Ton of Recycled Linerboard
		Recycled Medium (Fluting) Manufacturing	0.392	0.00594	Air Dried Short Ton of Recycled Medium
Petroleum Refineries	324110	Petroleum Refining (through vintage 2032 allocation)	3.89	0.325	Complexity Weighted Barrel
		Petroleum Refining	0.0319	0.00361	Barrel of Liquid Hydrocarbon Fuel
		Asphalt Production	0.0185	0.00493	Barrel of Asphalt and Road Oil

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NAICS Sector Definition	NAICS code	Activity (a)	Benchmark (B_a) (Allowances/ Benchmark Units)	Electricity Benchmark (BEPa) (MWh / Benchmark Units)	Benchmark Units
All Other Basic Organic Chemical Manufacturing	325199	Liquid Hydrocarbon Fuel Production	0.0319	0.00361	Barrel of Liquid Hydrocarbon Fuel
All Other Petroleum and Coal Products Manufacturing	324199	Coke Calcining	0.632	0.00314	Metric Ton Calcined Coke
Industrial Gas Manufacturing	325120	On-Purpose Hydrogen Gas Production	8.94	0.681	Metric Ton of On-Purpose Hydrogen Gas
		Liquid Hydrogen Production	11.9	10.4	Metric Ton of Liquid Hydrogen Sold
All Other Basic Inorganic Chemical Manufacturing	325188	Sulfuric Acid Regeneration	0.147	0.0128	Short Ton of Sulfuric Acid Produced

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NAICS Sector Definition	NAICS code	Activity (a)	Benchmark (B_a) (Allowances/ Benchmark Units)	Electricity Benchmark (BEPa) (MWh / Benchmark Units)	Benchmark Units
Nitrogenous Fertilizer Manufacturing	325311	Nitric Acid Production	0.0957	0.0725	Short Ton of nitric acid (HNO_3 100%)
		Calcium Ammonium Nitrate Solution Production	0	0.00594	Short Ton of Calcium Ammonium Nitrate Solution
Flat Glass Manufacturing	327211	Flat glass Manufacturing	0.495	0.216	Short Ton of Flat Glass Pulled
Glass Container Manufacturing	327213	Container Glass Manufacturing	0.27	0.338	Short Ton of Container Glass Pulled
Mineral Wool Manufacturing	327993	Fiber Glass Manufacturing	0.394	1.13	Short Ton of Fiberglass Pulled

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NAICS Sector Definition	NAICS code	Activity (a)	Benchmark (B_a) (Allowances/ Benchmark Units)	Electricity Benchmark (BEPa) (MWh / Benchmark Units)	Benchmark Units
Cement Manufacturing	327310	Cement Manufacturing	0.742	0.132	Short Ton of Finished Cement
	212	Mining (except oil and gas) for Supplementary Cementitious Materials for In-state Mines	0.742	0.132	Short Ton of Finished Cement
	327	Nonmetallic Mineral Product Manufacturing for Supplementary Cementitious Materials Using Materials Mined In-state	0.742	0.132	Short Ton of Finished Cement
Lime Manufacturing	327410	Dolime Manufacturing	1.4	0	Short Ton of Dolime Produced
Gypsum Product Manufacturing	327420	Plaster Manufacturing	0.0454	0.0442	Short Ton of Plaster Sold as a Separate Finished Product
		Stucco Manufacturing	0.134	0.049	Short Ton of Stucco used to produce saleable plasterboard

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NAICS Sector Definition	NAICS code	Activity (a)	Benchmark (B_a) (Allowances/ Benchmark Units)	Electricity Benchmark (BEPa) (MWh / Benchmark Units)	Benchmark Units
Iron and Steel Mills	331111	Steel Production Using an Electric Arc Furnace	0.170	0.567	Short Ton of Steel produced using EAF
Secondary smelting and alloying of aluminum	331314	Aluminum and Aluminum Alloy Billet Manufacturing	0.371	0.154	Short Ton of Aluminum and Aluminum alloy Billet
Secondary smelting, refining, and alloying of nonferrous metal (except copper and aluminum)	331492	Lead Acid Battery Recycling	0.511	0.359	Short Ton of Lead and Lead Alloys
Iron Foundries	331511	Ductile Iron Pipe Manufacturing	0.561	0.212	Short Ton of Ductile Iron Pipes
Nonferrous Forging	332112	Seamless Rolled Ring	3.14	1.71	Short Ton of Seamless Rolled Ring

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NAICS Sector Definition	NAICS code	Activity (a)	Benchmark (B_a) (Allowances/ Benchmark Units)	Electricity Benchmark (BEPa) (MWh / Benchmark Units)	Benchmark Units
Rolled Steel Shape Manufacturing	331221	Hot Rolled Steel Sheet Production	0.0843	0.100	Short Ton of hot rolled steel sheet
		Pickled Steel Sheet Production	0.0123	0.0852	Short Ton of pickled steel sheet
		Cold Rolled and Annealed Steel Sheet Production	0.052	0.0635	Short Ton of cold rolled and annealed steel sheet
		Galvanized Steel Sheet Production	0.0504	0.0547	Short Ton of galvanized steel sheet
		Tin Steel Plate Production	0.111	0.201	Short Ton of tin plate

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NAICS Sector Definition	NAICS code	Activity (a)	Benchmark (B_a) (Allowances/ Benchmark Units)	Electricity Benchmark (BEPa) (MWh / Benchmark Units)	Benchmark Units
Turbine and Turbine Generator Set Units Manufacturing	333611	Testing of Turbines and Turbine Generator Sets	0.00782	0.00482	Horsepower tested
Automobile and Light-Duty Vehicle Manufacturing	336110	Light-duty Vehicle Assembly	0.0852	0.582	Light-duty Vehicle

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(c) Energy-Based Allocation Calculation Methodology. The Executive Officer shall calculate the amount of California GHG Allowances directly allocated under the energy-based methodology annually using the following formula:

$$A_t = (S_{Consumed} * B_{Steam} + F_{Consumed} * B_{Fuel} + e_{purchases} * B_{Grid} - e_{Sold} * B_{Electricity} + ProcessEmissions) * AF_{a,t} * c_{a,t}$$

Where:

"A_t" is the amount of California GHG allowances directly allocated to the operator of an industrial facility with an energy-based allocation from budget year "t";

"t" is the budget year from which the direct allocation occurs;

"$S_{Consumed}$" is the historical baseline annual arithmetic mean amount of steam consumed, measured in MMBtu, at the industrial facility for any industrial process, including heating or cooling applications. This value shall exclude any steam used to produce electricity. This value shall exclude steam produced from an onsite cogeneration unit;

"B_{Steam}" is the emissions efficiency benchmark per unit of steam, 0.06244 California GHG Allowances/MMBtu Steam;

"$F_{Consumed}$" is the historical baseline annual arithmetic mean amount of energy produced due to fuel combustion at the facility, measured in MMBtu. The Executive Officer shall calculate this value based on measured higher heating values or the default higher heating value of the applicable fuel in Table C-1 of subpart C, title 40, Code of Federal Regulations, Part 98 (October 20, 2009). This value shall include any energy from fuel combusted in an onsite electricity generation or cogeneration unit. This value shall exclude energy to generate the steam accounted for in the "$S_{Consumed}$" term;

"B_{Fuel}" is the emissions efficiency benchmark per unit of energy from fuel combustion, 0.05307 California GHG Allowances/MMBtu;

"$e_{Purchased}$" is the historical baseline annual arithmetic mean amount of electricity purchased or acquired from an off-site generation facility, measured in MWh;

"B_{Grid}" is the electricity grid emission factor benchmark of 0.212 $MTCO_2e$/MWh;

"e_{Sold}" is the historical baseline annual arithmetic mean amount of electricity sold or provided for off-site use, measured in MWh;

"$B_{Electricity}$" is the emissions efficiency benchmark per unit of electricity sold or provided to off-site end users, 0.431 California GHG Allowances/MWh;

"ProcessEmissions" is the historical baseline annual arithmetic mean process emissions, as defined in section 95802(a), for the industrial facility, measured in metric tons of CO_2 equivalent;

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"$AF_{a,t}$" is the assistance factor for budget year "t" assigned to the facility for activity "a" as specified in Table 8-1; and

"$c_{a,t}$" is the cap adjustment factor for budget year "t" assigned to the facility for activity "a" to account for cap decline as specified in Table 9-2 plus if eligible, the cap adjustment factor modifier defined in section 95891(g).

(1) Data Sources.

(A) In determining the appropriate baseline values, the Executive Officer may employ all available data reported to ARB under MRR for data years 2008-2010. If necessary, the Executive Officer will solicit additional data to establish a representative baseline allocation.

(B) Recognition of California Climate Action Registry membership. If a facility reported facility level, third-party verified, greenhouse gas emissions data to the California Climate Action Registry for data years 2000-2007, the Executive Officer may consider these years in determining the representative annual baseline value. If necessary the Executive Officer will solicit additional data for these data years.

(2) New Entrants Energy-Based Allocation Methodology. For covered facilities that are eligible for free allocation pursuant to section 95891(c) and either were not allocated Initial Allocation from budget year t-1 or were allocated pursuant to section 95891(c)(2) from budget year t-1, allowance allocation shall be determined by the Executive Officer using the following methodology.

(A) Entities with Transitional Emissions Data. For covered entities or opt-in covered entities that are classified as transitional in the stability formula in section 95891(c)(2)(C), the Executive Officer shall calculate the amount of California GHG Allowances directly allocated under the energy-based methodology annually using the following formula:

$$A_{a,t} = InitialAllocation_t + TrueUp_t + ElecInitialAllocation_t + ElecTrueUp_t$$

Where:

"$A_{a,t}$" is the amount of California GHG Allowances directly allocated to the operator of an industrial facility with activity "a" with an energy-based allocation from budget year "t";

"$InitialAllocation_t$" is the amount of allowances allocated to an entity in advance of budget year "t" for industry assistance for budget year "t." This amount is based on

energy use in year "t-2," which is an estimate of year "t" energy use. These allowances shall be returned to the Executive Officer pursuant to section 95890(k) if the entity does not incur a compliance obligation for year "t" or does not perform activity "a" listed in Table 8-1, in year "t"; and "t" is the budget year from which the direct allocation occurs.

$$InitialAllocation_t = (F_{t-2} * 0.05307 + (S_{Purchased,t-2} - S_{Sold,t-2}) * 0.06244 - e_{Sold,t-2} * 0.431 + ProcessEmissions_{t-2}) * AF_{a,t} * c_{a,t}$$

Where:

"t-2" is the year two years prior to year "t";

"F_{t-2}" is the annual amount of energy produced due to fuel combustion at the facility for year "t-2", measured in MMBtu. The Executive Officer shall calculate this value based on measured higher heating values or the default higher heating value of the applicable fuel in Table C-1 of subpart C, title 40, Code of Federal Regulations, Part 98 (November 29, 2013). This value shall include any energy from fuel combusted in an onsite electricity generation or cogeneration unit;

"$S_{Purchased,t-2}$" is the annual amount of steam purchased for year "t-2" by the facility in MMBtu as reported to ARB under MRR;

"$S_{Sold,t-2}$" is the annual amount of steam provided or sold for year "t-2" from the facility in MMBtu as reported to ARB under MRR;

"$e_{Sold,t-2}$" is the annual amount of electricity sold for year "t-2" from the facility in MWh as reported to ARB under MRR;

"$ProcessEmissions_{t-2}$" is the annual process emissions, as defined in section 95802(a), in year "t-2" for the industrial facility measured in metric tons of CO2 equivalent;

"$AF_{a,t}$" is the assistance factor for budget year "t" assigned to the facility activity "a" as specified in Table 8-1;

"$c_{a,t}$" is the cap adjustment factor for budget year "t" assigned to the facility activity "a" to account for cap decline as specified in Table 9-2 plus if eligible, the cap adjustment factor modifier defined in section 95891(g); and

"$TrueUp_t$" is the amount of true-up allowances allocated to account for changes in production or allocation not properly accounted for in prior allocations. This value shall only be calculated if the entity was covered under the Cap-and-Invest Program in year "t-2" or if the entity received an initial allocation of vintage t-2 allowances but was not a covered entity in year "t-2." In the latter case, a negative true-up will be calculated. This value of allowances for budget year "t" shall be allowed to be used for compliance for budget year "t-2" or subsequent budget years pursuant to section 95856(h)(1)(D) and 95856(h)(2)(D). This value is calculated using the following formula:

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$$TrueUp_t = BE_{t-2} * AF_{a,t-2} * c_{a,t-2} - InitialAllocation_{t-2}$$

Where:

"t-2" is the year two years prior to year "t";

"$AF_{a,t-2}$" is the assistance factor for budget year "t-2" assigned to the facility activity "a" as specified in Table 8-1;

"$c_{a,t-2}$" is the cap adjustment factor for budget year "t-2" assigned to the facility activity "a" to account for cap decline as specified in Table 9-2;

"BE_{t-2}" is the baseline annual greenhouse gas emissions for year "t-2" adjusted for steam purchases and sales and electricity sales using the following equation:

$$BE_{t-2} = F_{t-2} * 0.05307 + (S_{Purchased,t-2} - S_{Sold,t-2}) * 0.06244 - e_{Sold,t-2} * 0.431 + ProcessEmissions_{t-2}$$

Where:

"F_{t-2}" is the annual amount of energy produced due to fuel combustion in year "t-2" at the facility, measured in MMBtu. The Executive Officer shall calculate this value based on measured higher heating values or the default higher heating value of the applicable fuel in Table C-1 of subpart C, title 40, Code of Federal Regulations, Part 98 (November 29, 2013). This value shall include any energy from fuel combusted in an onsite electricity generation or cogeneration unit;

"$S_{Purchased,t-2}$" is the annual amount of steam purchased for year "t-2" by the facility in MMBtu;

"$S_{Sold,t-2}$" is the annual amount of steam sold for year "t-2" from the facility in MMBtu;

"$e_{Sold,t-2}$" is the annual amount of electricity sold for year "t-2" from the facility in MWh;

"$ProcessEmissions_{t-2}$" is the annual process emissions, as defined in section 95802(a), in year "t-2" for the industrial facility measured in metric tons of CO_2 equivalent;

"$ElectricityAllocation_t$" is the amount of allowances allocated to an entity in advance of budget year "t" for budget year "t" industry assistance pertaining to electricity purchases beginning with budget year 2027. This amount is calculated using electricity purchases at the facility from year "t-2," which is an estimate of year "t" production. If the entity will not be performing activity listed in Table 8-1 in year "t", then the entity is not eligible for $ElectricityAllocation_t$;

$$ElecInitialAllocation_t = e_{Purchases,t-2} * B_{Grid}$$

Where:

"$e_{Purchases,t-2}$" is the annual amount of electricity purchased or acquired from an off-site generation facility as reported to CARB under MRR for year "t-2", measured in MWh;

"B_{Grid}" is the electricity grid emission factor benchmark of 0.212 $MTCO_2e/MWh$; and

"$ElectricityTrueUp_t$" is the amount of true-up allowances allocated to account for changes in production or allocation not properly accounted for in prior allocations. This value shall be calculated for budget years t ≥ 2029. This value shall only be calculated if the entity was covered under the Cap-and-Invest Program in year "t-2" or if the entity received an initial allocation of vintage t-2 allowances but was not a covered entity in year "t-2." In the latter case, a negative true-up will be calculated. These true-up allowances from budget year "t" may be used for compliance for budget year "t-2" or subsequent budget years pursuant to sections 95856(h)(1)(D) and 95856(h)(2)(D). This value is calculated using the following formula:

$$ElecTrueupAllocation_t = \left(e_{Purchases,t-2} * B_{Grid}\right) - ElectInitialAllocation_{t-2}$$

(B) Entities with Stable Emissions Data. For covered entities or opt-in covered entities classified as stable in the stability formula in 95891(c)(2)(C), the Executive Officer shall calculate the amount of California GHG Allowances directly allocated under the energy-based methodology annually using the methodology in 95891(c). The allocation for all subsequent years shall be determined using this methodology.

1. Data Years. The data years used in determining the appropriate baseline values shall match "t-2", "t-3", and "t-4" used in the stability formula when the emissions were first classified stable. The Executive Officer may employ all available data reported to ARB under MRR. If necessary, the Executive Officer will solicit additional data to establish a representative baseline allocation.

(C) Stability Formula for New Entrants. The following formula classifies the allocation methodology for budget year "t":

$$0.10 \geq \frac{BE_{t-2} - \frac{BE_{t-4}+BE_{t-3}}{2}}{BE_{t-2}} \text{ (Stable)}$$

$$0.10 < \frac{BE_{t-2} - \frac{BE_{t-4}+BE_{t-3}}{2}}{BE_{t-2}} \text{ (Transitional)}$$

Where:

"t" is the budget year from which the direct allocation occurs;

"t-2" is the year two years prior to year "t";

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"t-3" is the year three years prior to year "t";

"t-4" is the year four years prior to year "t"; and

"BE_t" is the baseline annual greenhouse gas emissions for year "t" adjusted for steam purchases and sales and electricity sales. If the new entrant was not a covered entity in year "t" and conducted an activity that during year "t" was listed in Table 8-1, then BE_t is equal to zero for year "t." If the new entrant either was a covered entity in year "t" or was both not a covered entity and conducted an activity that during year "t" was not listed in Table 8-1, then BE_t for year "t" is calculated using the following equation:

$$BE_t = F_t * 0.05307 + (S_{Purchased,t} - S_{Sold,t}) * 0.06244 - e_{Sold,t} * 0.431 + ProcessEmissions_t$$

Where:

"F_t" is the annual amount of energy produced due to fuel combustion in year "t" at the facility, measured in MMBtu. The Executive Officer shall calculate this value based on measured higher heating values or the default higher heating value of the applicable fuel in Table C-1 of subpart C, title 40, Code of Federal Regulations, Part 98 (November 29, 2013). This value shall include any energy from fuel combusted in an onsite electricity generation or cogeneration unit;

"$S_{Purchased,t}$" is the annual amount of steam purchased for year "t" by the facility in MMBtu;

"$S_{Sold,t}$" is the annual amount of steam sold for year "t" from the facility in MMBtu;

"$e_{Sold,t}$" is the annual amount of electricity sold for year "t" from the facility in MWh; and

"$ProcessEmissions_t$" is the annual process emissions, as defined in section 95802(a), in year "t" for the industrial facility measured in metric tons of CO_2 equivalent.

(3) Facilities Newly Eligible for Allocation. Only for allowance allocation that occurs in the first calendar year, "t-1," in which a covered entity that meets all the criteria set forth in sections 95891(c)(3)(A) through (c)(3)(C), the Executive Officer shall calculate the amount of California GHG allowances directly allocated under an energy-based methodology using the following equation. All subsequent allocation shall be calculated pursuant to section 95891, excluding section 95891(c)(3).

$$TA_t = A_{EB,t} + \sum_{n}^{t-1} TrueUp_n$$

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Where:

"TA_t" is the total amount of California GHG allowances from budget year "t" directly allocated to the operator of an industrial facility;

"$A_{EB,t}$" is the amount of California GHG allowances from budget year "t" calculated by the energy-based allocation methodology in section 95891(c);

"n" is the first year in which the entity incurred a compliance obligation and in which the entity performed an activity and reported a NAICS code listed in Table 8-1; and

"$TrueUp_n$" is the amount of true-up allowances allocated to account for allocation not properly accounted for in prior allocations. This value of allowances from budget year "t" shall be allowed to be used for compliance for budget year t-2 and subsequent years pursuant to sections 95856(h)(1)(D) and 95856(h)(2)(D). This value is calculated by the following equation:

$$TrueUp_n = A_{EB,t} * \frac{c_{a,n}}{c_{a,t}} \frac{AF_{a,n}}{AF_{a,t}}$$

Where:

"$AF_{a,t}$" is the assistance factor for budget year "t" assigned to each activity "a" as specified in Table 8-1;

"$AF_{a,n}$" is the assistance factor for budget year "n" assigned to each activity "a" as specified in Table 8-1;

"$c_{a,t}$" is the adjustment factor for budget year "t" assigned to each activity "a" as specified in Table 9-2.

"$c_{a,n}$" is the adjustment factor for budget year "n" assigned to each activity "a" as specified in Table 9-2.

(A) The facility conducted an activity that was not listed in Table 8-1 prior to year "t-1;"

(B) The facility is eligible to receive an allowance allocation under the energy-based allocation methodology pursuant to 95891(c) for budget year "t;" and

(C) The facility is classified as stable pursuant to the stability formula in section 95891(c)(2)(C).

(4) If an entity receiving allocation pursuant to section 95891(c) does not perform activity "a" in a year for which it was allocated allowances, and is not otherwise subject to true-up allocation pursuant to section 95891(c),

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the entity must return to the Executive Officer all allowances allocated for that year, pursuant to section 95890(k). Further, if an entity receiving allocation pursuant to section 95891(c) shuts down and therefore ceases to perform activity "a" part way through a year for which it was allocated allowances, and the entity is not otherwise subject to true-up allocation under section 95891(c), the entity must return to the Executive Officer allowances equivalent to the proportion of the year during which activity "a" was not performed. These allowances must be returned pursuant to section 95890(k).

(d) Allocation to University Covered Entities and Public Service Facilities. The Executive Officer shall calculate the amount of allowances directly allocated to a university covered entity or a public service facility using the following methods.

(1) Allocation for Budget Years 2016 and Beyond. For budget years 2016 and subsequent years, the Executive Officer shall calculate the amount of California GHG Allowances directly allocated to eligible university covered entities or public service facilities using the following formula:

$$A_t = (F_{Consumed} * B_{Fuel} + (Q_{Purchased} - Q_{Sold}) * 0.06244 - e_{Sold} * B_{Electricity}) * c_t$$

Where:

"A_t" is the amount of California GHG allowances directly allocated to a university covered entity or public service facility for budget year "t" from 2016 and beyond.

"$F_{Consumed}$" is the historical baseline annual arithmetic mean amount of energy produced due to fuel combustion at the facility, measured in MMBtu. The Executive Officer shall calculate this value based on measured higher heating values or the default higher heating value of the applicable fuel in Table C-1 of subpart C, title 40, Code of Federal Regulations, Part 98. This value shall include any energy from fuel combusted in an onsite electricity generation or cogeneration unit;

"B_{Fuel}" is the emissions efficiency benchmark per unit of energy from fuel combustion, 0.05307 allowances/MMBtu;

"$Q_{Purchased}$" is the quantity of qualified thermal output purchased by a university opt-in covered entity that purchases qualified thermal output from a public service facility;

"Q_{Sold}" is the quantity of qualified thermal output sold or provided to an entity other than the university or local government which owns the facility, or which takes service from the public service facility;

"e_{Sold}" is the historical baseline annual arithmetic mean amount of electricity sold or provided to an entity other than the university or local government which owns or takes service from the public service facility, measured in MWh;

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"$B_{Electricity}$" is the emissions efficiency benchmark per unit of electricity sold or provided to off-site end users, 0.431 allowances/MWh; and

"c_t" is the adjustment factor for budget year "t" to account for cap decline as specified in Table 9-2.

(2) Data Sources. In determining the appropriate baseline values, the Executive Officer may employ all available data reported to ARB under MRR for data years 2008 through 2013. If a facility ownership change causes an entity to change from an opt-in covered entity to a covered entity, the Executive Officer may employ all data reported to ARB pursuant to MRR to determine the appropriate baseline values.

(3) Requirements for the use of allocated allowance value. The monetary value of allowances allocated to a university or public service facility received pursuant to this section must be used for activities that reduce the university or public service facility's GHG emissions, consistent with the goals of AB 32. Universities that receive allowance allocation on behalf of multiple covered campuses may choose how to use allocated allowance value across those campuses.

(A) For the purposes of this section, the university or public service facility shall calculate the value of allocated allowances based on the average settlement price of the four Current Auctions held in the same vintage year from which the allowances are allocated, rounded down to the nearest cent.

(B) For allocated allowances received on or after September 1, 2026, the value of these allowances must be spent by December 31 of the year ten years following the vintage year of the allowances and cannot be applied to expenditures of allowance value accrued prior to January 1, 2027. The remaining value of allocated allowances received prior to September 1, 2026, must be spent by December 31, 2037.

(C) Prohibited Use of Allocated Allowance Value. Use of the value of any allowance allocated to a university or public service facility other than to reduce the university or public service facility's GHG emissions, consistent with the goals of AB 32, is prohibited. Prohibited uses include:

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1. Use of allocated allowance value to pay for the costs of complying with MRR, the AB 32 Cost of Implementation Fee Regulation (California Code of Regulations, sections 95200-95207), or the Cap-and-Invest Regulation, such as the purchase of compliance instruments;

2. Use of allocated allowance value to purchase voluntary carbon offsets or participate in any voluntary carbon market or external greenhouse gas emissions trading system; and

3. Use of allocated allowance value to pay for lobbying costs, employee bonuses, or costs, penalties, or activities mandated by any legal settlement, administrative enforcement action, or court order.

(4) Reporting on the Use of Allowance Value. No later than June 30, 2016, and June 30 of each calendar year thereafter, each university and public service facility shall submit a report to the Executive Officer describing the disposition of all allowance value during the previous calendar year. This report shall include:

(A) The monetary value of any unspent allocated allowance value remaining from prior years at the start of the previous calendar year;

(B) The monetary value of allowances received by the university or public service facility during the previous calendar year;

(C) The monetary value of allowances spent during the previous calendar year and the monetary value of allowances remaining unspent at the end of the previous calendar year; and

(D) A description of the nature and purpose of each use of allocated allowance value during the previous calendar year. The description shall specify the amount of allowance value spent on that use and how the use reduced the university or public service facility's GHG emissions, in accordance with the requirements of California Health and Safety Code sections 38500 et seq.

(e) Adjustment of Allowance Allocation to a Legacy Contract Counterparty. Industrial entities that receive an allowance allocation pursuant to section 95891 and are designated as a legacy contract counterparty shall have an adjustment to their allowance allocation. The Executive Officer shall subtract the allowances from the number of California GHG Allowances directly allocated to the legacy

contract counterparty pursuant to 95891(b) or (c). If the legacy contract counterparty was not eligible for allocation pursuant to sections 95891(b) or (c) and the legacy contract counterparty has a direct corporate association pursuant to section 95833 with any other covered or opt-in covered entity that was eligible for allocation pursuant to sections 95891(b) or (c) then the entity with a direct corporate association who received industrial allocation pursuant to sections 95891(b) or (c) shall have its allowance allocation adjusted by the equations in this section.

(1) For each budget year after 2015, the allocation adjustment formula is as follows:

$$Adj_t = A_{LC,t}$$

Where:

"Adj_t" is the allocation adjustment for budget year "t". This number shall be subtracted from the number of California GHG allowances directly allocated to the Legacy Contract Counterparty or the entity with a direct corporate association for budget year "t"; and

"$A_{LC,t}$" is the allocation received by the legacy contract generator with an industrial counterparty in year "t" pursuant to section 95894.

(2) If the allocation adjustment is greater than the number of California GHG Allowances directly allocated to a legacy contract counterparty pursuant to sections 95891(b) and (c), then the legacy contract counterparty will have a negative allowance allocation. If this occurs and the legacy contract counterparty has a direct corporate association pursuant to section 95833 with any other covered or opt-in covered entity that was eligible for allocation pursuant to sections 95891(b) or (c), then after the legacy contract counterparty's allowance allocation has been adjusted to zero, the entity with the direct corporate association that received allocation pursuant to section 95891(b) or (c) shall have its allowance allocation adjusted by the remainder of the adjustment as calculated earlier in this section.

(f) Allocation to Waste-to-Energy Facilities. The Executive Officer shall calculate the amount of allowances directly allocated to waste-to-energy facilities using the following methods.

(1) Allocation for Budget Year 2020. For budget year 2020, the Executive Officer shall calculate the amount of California GHG Allowances directly allocated to waste-to-energy covered facilities using the following equation:

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$$A_{2020} = BaselineAllocation \times c_t + \sum_{t=2018}^{2019} TrueUp_t$$

Where:

"A_{2020}" is the amount of California GHG allowances directly allocated to a facility for budget year 2020;

"BaselineAllocation" is the historical arithmetic mean of annual covered emissions, as defined in MRR, for the facility based on a positive or qualified positive emissions data verification statement. This value is calculated by the following equation:

$$BaselineAllocation = GHG$$

Where:

"GHG" is the historical arithmetic mean of annual covered emissions, as defined in MRR, for the facility based on a positive or qualified positive emissions data verification statement;

"c_t" is the cap adjustment factor for budget year "t" to account for cap decline as specified in Table 9-2;

"t" is the budget year from which the direct allocation occurs; and

"$TrueUp_t$" is the amount of true-up allowances allocated to account for allocation not properly accounted for in prior allocations. This value of allowances from budget year "t" shall be allowed to be used for compliance for budget year t-2 and subsequent years pursuant to sections 95856(h)(1)(D) and 95856(h)(2)(D). This value is calculated by the following equation:

$$Trueup_t = BaselineAllocation\ x\ c_t$$

(2) Allocation for Budget Years 2021 and beyond. For budget years 2021 and beyond, the Executive Officer shall calculate the amount of California GHG Allowances directly allocated to eligible waste-to-energy covered entities using the following formula:

$$A_t = BaselineAllocation\ x\ c_t$$

Where:

"A_t" is the amount of California GHG allowances directly allocated to a facility for budget year "t";

"t" is the budget year from which the direct allocation occurs;

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"BaselineAllocation" is the historical arithmetic mean of annual covered emissions, as defined in MRR, for the facility based on a positive or qualified positive emissions data verification statement. This value is calculated by the following equation:

$$BaselineAllocation = GHG$$

"GHG" is the historical arithmetic mean of annual covered emissions, as defined in MRR, for the facility based on a positive or qualified positive emissions data verification statement; and

"c_t" is the cap adjustment factor for budget year "t" to account for cap decline as specified in Table 9-2.

(3) Data Sources. To determine the appropriate baseline values, the Executive Officer employed data reported to ARB pursuant to MRR for the data years 2011-2017. The Executive Officer may solicit additional data as needed.

(g) Manufacturing Decarbonization Incentive Allocation. For budget year 2028 through budget year 2035, each facility eligible for manufacturing decarbonization incentive allocation may request to receive a cap adjustment factor modifier of up to 0.8 for the duration of a compliance period. If the facility is eligible pursuant to the requirements of this section, the cap adjustment factor modifier will be added to the applicable cap adjustment factor by budget year and sector as listed in Table 9-2, as applied when calculating the facility's industrial allowance allocation pursuant to section 95891(b) or (c). The cap adjustment factor modifier does not apply when calculating the $TrueUp_t$ or $ElecTrueup_t$ variables for determining a facility's industrial allowance allocation pursuant to section 95891(b) or (c).

The number of allowances available for manufacturing decarbonization incentive allocation is specified by sector in section 95891(g)(9). The cap adjustment factor modifier will only be applied for an eligible facility if sufficient allowances are available for its sector in the Build Up California Reserve Account pursuant to section 95891(g)(9). Manufacturing decarbonization incentive allocation provided to an eligible facility will be prorated in any budget year where the number of allowances available for its sector would be exhausted pursuant to section 95891(g)(9).

Allowances provided due to application of the cap adjustment factor modifier will be transferred to the eligible facility from the Build Up California Reserve Account established in section 95831(b)(10) by October 24 of the year preceding each budget year of eligibility, as determined below.

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(1) Eligibility for Manufacturing Decarbonization Incentive Allocation. A covered facility or opt-in covered facility will be provided manufacturing decarbonization incentive allocation for budget year *t*, provided all of the following requirements are met:

(A) It is eligible to receive allowance allocation pursuant to section 95891(b) or (c).

(B) Pursuant to MRR for year *t-2*, it reported and verified operating in an industrial sector covered under a NAICS code identified in Table 8-1 and is not listed in Table 9-1a, except for sectors listed in Table 9-1a that submit an application for manufacturing decarbonization incentive allocation for eligible facility GHG emissions reduction activities pursuant to section 95891(g)(2)(H).

(C) The facility submits an application for manufacturing decarbonization incentive allocation that meets the requirements of section 95891(g)(5)-(6).

(D) Allowances are available in the Build Up California Reserve Account for the facility's sector as specified in section 95891(g)(9).

(2) An eligible facility pursuant to section 95891(g)(1) must use the value of the manufacturing decarbonization incentive allocation for expenditures occurring on or after September 1, 2026, that achieve facility GHG emissions reductions through one or more of the following activities:

(A) Exempt biomass-derived fuels use or methane emissions reductions. An eligible manufacturing facility may use the value of manufacturing decarbonization incentive allocation allowances to cover capital costs to enable use of the exempt biomass-derived fuel or reduce facility methane emissions, and up to 50% of the fuel cost for biomass-derived fuels use that is fully exempt from a compliance obligation and not claimed as partially exempt due to the biogenic fraction of a fuel, as identified in sections 95852.1 and 95852.2. Any capital expenditures or eligible biomass-derived fuel purchased using the value of manufacturing decarbonization incentive allocation allowances must be used to reduce the facility's covered emissions, as reported under MRR.

(B) Electrified equipment. An eligible manufacturing facility may use the value of manufacturing decarbonization incentive allocation allowances to cover capital costs or electricity costs of new equipment powered by electricity, and associated costs of design,

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engineering, and permitting necessary to support deployment of the capital, provided that the newly installed equipment results in a reduction or avoidance of onsite fossil fuel combustion.

(C) Low-carbon hydrogen. An eligible facility may use the value of manufacturing decarbonization incentive allocation allowances to purchase low-carbon hydrogen that meets at least one of the following requirements:

1. The hydrogen is produced through a process that has received or meets the eligibility criteria for a tax credit pursuant to 26 U.S.C. § 45V(b)(2)(A)-(D): Credit For Production of Clean Hydrogen (August 2022), herein incorporated by reference.

2. The hydrogen is produced from fully exempt biomass-derived feedstocks as defined in section 95852.2(a).

3. The hydrogen is produced from the electrolysis of water using 100 percent renewable electricity generated by an Eligible Renewable Energy Resource.

    a. The renewable electricity used to produce the hydrogen must be supplied to the grid or directly to the facility producing the hydrogen from within the local balancing authority where the electricity is consumed or delivered to that local balancing authority without substitution, consistent with the requirements of California Public Utilities Code section 399.16, subdivision (b)(1).

    b. The renewable electricity utilized must be generated in the same month as the electricity utilized by the hydrogen production facility.

(D) Renewable electricity generation or storage. An eligible manufacturing facility may use the value of manufacturing decarbonization incentive allocation allowances to cover capital costs of equipment that generates or stores renewable electricity, and associated costs of design, engineering, and permitting necessary to support deployment of the capital, which results in reduced or avoided onsite combustion of fossil fuels.

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(E) Solar thermal or geothermal energy generation. An eligible manufacturing facility may use the value of manufacturing decarbonization incentive allocation allowances to cover capital costs of equipment that generates thermal energy from sunlight or geothermal resources, and associated costs of design, engineering, and permitting necessary to support deployment of the capital, which results in reduced or avoided onsite combustion of fossil fuels.

(F) Electrified thermal energy procurement. An eligible manufacturing facility may use the value of manufacturing decarbonization incentive allocation allowances to purchase thermal energy that was generated using electricity, which results in reduced or avoided onsite combustion of fossil fuels.

(G) Use of alternative materials to avoid process emissions. An eligible manufacturing facility may use the value of manufacturing decarbonization incentive allocation allowances to cover capital costs and associated costs of design, engineering, and permitting necessary to support the installation or modification of equipment to produce a covered product in Table 9-1 by using new or increased amounts of alternative materials that reduce process emissions relative to the materials included in the product's benchmark in Table 9-1.

(H) Sequestered or utilized captured carbon dioxide. An eligible manufacturing facility, and facilities in sectors listed in Table 9-1a that are otherwise ineligible for manufacturing decarbonization incentive allocation for GHG emissions reduction activities under sections 95891(g)(2)(A)-(G), may use the value of manufacturing decarbonization incentive allocation allowances to cover capital costs and electricity costs, and associated costs of design, engineering, and permitting necessary to support deployment of the capital, for equipment that captures or stores CO2 emissions. For this use to be allowable, a Board-approved quantification methodology must be incorporated into the Regulation pursuant to the requirements of section 95852.3.

(3) For purposes of this section, the value of manufacturing decarbonization incentive allocation allowances is determined as the number of additional allowances allocated to the eligible facility due to the cap adjustment factor modifier, multiplied by the average auction settlement price,

rounded down to the nearest cent, of the four Current Auctions held in the year for which the allowances are allocated.

(4) Other limitations on the use of manufacturing decarbonization incentive allocation allowance value:

(A) The value of manufacturing decarbonization incentive allocation allowances may not be used to pay for administrative or overhead costs; and

(B) The value of manufacturing decarbonization incentive allocation allowances may not be used to pay for lobbying costs, employee bonuses, shareholder dividends, or costs, penalties, or activities mandated by any legal settlement, administrative enforcement action, or court order.

(5) Application Deadlines. The facility must apply to the Executive Officer on or before the following dates to be eligible to receive the cap adjustment factor modifier for the following budget years:

(A) June 1, 2027, for budget year 2028.

(B) June 1, 2028, for budget years 2029 and 2030.

(C) June 1, 2030, for budget years 2031 through 2033.

(D) June 1, 2033, for budget years 2034 and 2035.

(6) Application Requirements. An application submitted by the deadline specified in section 95891(g)(5) for eligible uses of manufacturing decarbonization incentive allocation allowance value pursuant to section 95891(g)(2) will be approved by the Executive Officer by September 1 of the year the application is submitted if it includes the following information:

(A) Identification of which allowable activity(ies) in section 95891(g)(2) the facility will implement and a description of how the planned decarbonization project(s) meets the applicable requirements of section 95891(g)(2). This shall include a description of equipment or fuels purchased, project timeline with major milestones, and cost estimates; and

(B) Expected annual reductions of combustion GHG emissions and process GHG emissions once the project is implemented, and corresponding projected changes in the facility's use of fossil fuels, eligible biomass-derived fuel, low-carbon hydrogen fuel, alternative

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materials pursuant to section 95891(g)(2)(G), electricity, and thermal energy, as applicable.

(7) Reporting on the Use of Manufacturing Decarbonization Incentive Allocation Allowance Value. No later than June 30 of the year following the end of a compliance period in which a facility received manufacturing decarbonization incentive allocation, and June 30 following each subsequent compliance period until the manufacturing decarbonization incentive allocation allowance value is fully spent or unused allowances are returned pursuant to section 95891(g)(8), each facility receiving manufacturing decarbonization incentive allocation shall submit a report to the Executive Officer describing the project progress, resulting changes in facility energy use and reductions in GHG emissions, and the status of all manufacturing decarbonization incentive allocation allowance value during the compliance period. This report shall include:

(A) An assessment of the project relative to the approved project application. The assessment shall describe changes to the project timeline, current cost estimates, and project milestones achieved in the compliance period.

(B) The monetary value of any unspent manufacturing decarbonization incentive allocation allowance value remaining from prior years at the beginning of the compliance period.

(C) The monetary value of manufacturing decarbonization incentive allocation allowances received by the facility during the compliance period, as calculated pursuant to section 95891(g)(3).

(D) The monetary value of manufacturing decarbonization incentive allocation allowances spent during the compliance period and the monetary value of incentive allocation allowances remaining unspent at the end of the compliance period.

1. The report must include contract or procurement documentation that demonstrates the eligible uses of manufacturing decarbonization incentive allocation allowance value during the compliance period and the amount of allowance value spent on those uses.

(E) How each use of the manufacturing decarbonization incentive allocation allowance value during the compliance period complies with the requirements of section 95891(g), as demonstrated by the following:

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1. Describing the nature and purpose of each use of manufacturing decarbonization incentive allocation allowance value. The description shall specify how each use complies with the criteria for eligible projects listed in section 95891(g)(2), as applicable, and specify the amount of incentive allowance value spent on each use.

2. For purchase of eligible biomass-derived fuels, low-carbon hydrogen, or eligible thermal energy pursuant to section 95891(g)(2), documentation of one or more contracts in place to procure eligible fuels or thermal energy during the compliance period.

    a. For low-carbon hydrogen use, documentation to demonstrate that the hydrogen met the tax credit eligibility criteria under 26 U.S.C. § 45V(b)(2)(A)-(D): Credit For Production of Clean Hydrogen (August 2022), herein incorporated by reference, or was produced using fully exempt biomass-derived feedstocks or electrolysis of water using 100 percent renewable electricity, pursuant to the eligibility criteria in section 95891(g)(2)(C).

3. For facilities with at least one full compliance period of reported and verified GHG emissions data through MRR, an estimate of the GHG emissions reductions from each use of manufacturing decarbonization incentive allocation allowance value allowed pursuant to section 95891(g)(2). The portion of total GHG emission reductions attributable to the use of the incentive allowance value shall be based on the percentage of total project costs covered by the use of the incentive allowance value. The total GHG emission reductions shall be based on comparing the expected GHG emissions with and without the use of the manufacturing decarbonization incentive allocation allowance value. The calculation shall use the following:

    a. Use-specific information on the amount of avoided fossil fuel use, the MMBtu of any avoided natural gas use, and the amount of increased use of electricity and all fuels used at the facility;

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b. GHG emission factors for any increased or decreased use of all fuels used at the facility, as reflected in the facility's MRR reporting for the same reporting year;

c. Quantification of facility process emissions reductions, as defined in section 95802, due to the use of alternative materials pursuant to section 95891(g)(2)(G);

d. The expected time frame over which the emissions reductions will occur; and

e. The percentage of total project costs covered by the use of the incentive allowance value.

(8) Spending Deadline and Return of manufacturing decarbonization incentive allocation allowances. Beginning with allocation by October 24, 2027, the value of manufacturing decarbonization incentive allocation allowances received by a facility must be spent on eligible activities pursuant to section 95891(g)(2) and achieve GHG emissions reductions by December 31 of the final year of compliance period CP_{n+2}, where n is the compliance period specified in section 95840 of the budget year for which the manufacturing decarbonization incentive allocation allowances were provided. For any value of manufacturing decarbonization incentive allocation allowances that remains unspent on eligible activities pursuant to section 95891(g)(2) as of this spending deadline, or upon meeting the requirements for return of allocation in section 95890(k), the facility must return an equivalent number of allowances to the Executive Officer by November 1 of the following calendar year. The number of allowances that must be returned is calculated by dividing all unspent manufacturing decarbonization incentive allocation allowance value by the dollar value of each allowance as determined pursuant to section 95891(g)(3), rounded down to the nearest whole allowance.

(A) To return allowances to the Executive Officer, an entity must place the appropriate number of allowances into its compliance account and notify the Executive Officer. The allowances are considered to be returned only after they have been removed from the compliance account by the Executive Officer. Allowances returned pursuant to this section shall be transferred to the Retirement Account. If an entity fails to return the required allowances, then CARB will determine the number of violations pursuant to section 96014.

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(B) The amount of unspent manufacturing decarbonization incentive allocation allowance value is determined based on the project information and documentation included in reporting submitted after each applicable compliance period as required by section 95891(g)(7). If the reporting requirements in section 95891(g)(7) are not met for a compliance period in which a facility received manufacturing decarbonization incentive allocation allowances, then the full value of those allowances is considered unspent.

(9) Availability of Manufacturing Decarbonization Incentive Allocation Allowances. The total number of Manufacturing Decarbonization Incentive Allocation Allowances in the Build Up California Reserve Account available to provide Manufacturing Decarbonization Incentive Allocation to eligible facilities shall be determined by sector in the following manner:

(A) Up to 59,150,000 allowances for industrial activities with NAICS codes of 324110, 324121, 324199, 325120, and 325199.

(B) Up to 59,150,000 allowances for all other eligible industrial activities.

(C) For any budget year where the number of Manufacturing Decarbonization Incentive Allocation Allowances in the Build Up California Reserve Account that would be provided to eligible facilities with an approved application pursuant to sections 95891(g)(5)-(6) is greater than the number of remaining allowances available by sector in sections 95891(g)(9)(A)-(B), the remaining allowances will be distributed to each eligible facility in those sectors in proportion to the number of allowances it would be eligible to receive if sufficient allowances were available for those sectors in the Build Up California Reserve Account, rounded to the nearest whole allowance.

Table 9-1a: NAICS Codes Ineligible for Manufacturing Decarbonization Incentive Allocation, Except for Eligible GHG Emissions Reduction Activities Pursuant to Section 95891(g)(2)(H).

Industrial Sector	NAICS Code
Crude Petroleum and Natural Gas Extraction	211111
Natural Gas Liquid Extraction	211112

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Table 9-2: Cap Adjustment Factors for Allowance Allocation

Budget Year	Cap Adjustment Factor, c		
	Standard Activities	Industrial Activities with NAICS codes 325311, 327310, and 327410#	
2013	0.981	0.991	
2014	0.963	0.981	
2015	0.944	0.972	
2016	0.925	0.963	
2017	0.907	0.953	
2018	0.888	0.944	
2019	0.869	0.935	
2020	0.851	0.925	
Budget Year	**Cap Adjustment Factor, c**		
	Standard Activities	**Industrial Activities with NAICS codes 324199 (coke calcining only), 325311, 327310, 327410#**	**Universities and Public Service Facilities, Legacy Contracts, Natural Gas Suppliers, and Industrial Activities with NAICS codes 211111 and 211112**
2021	0.817	0.909	---
2022	0.783	0.892	---
2023	0.749	0.875	---
2024	0.715	0.858	---
2025	0.681	0.841	---
2026	0.647	0.824	---
2027	0.807	0.807	0.613
2028	0.782	0.799	0.579
2029	0.756	0.790	0.545
2030	0.731	0.782	0.511

#These are activities with over 50 percent of total emissions from process emissions, high emissions intensity and a high leakage risk classification in Table 8-1. The

activities are coke calcining under the NAICS code 324199, activities under the NAICS code 325311, activities under the NAICS code 327310, and the activities under the NAICS code 327410.

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.

§ 95892. Allocation to Electrical Distribution Utilities for Protection of Electricity Ratepayers.

(a) Allocation to Individual Electrical Distribution Utilities

(1) 2021-2030 Allocation. The number of allowances allocated to each electrical distribution utility from each budget year 2021 through 2030 shall be the amount shown in Table 9-3.

(2) Allowance Allocation Designated for CAISO Markets Purchaser Emissions. For allowance allocation from budget year 2021 and subsequent years to electrical distribution utilities that are CAISO Markets Purchasers, the Executive Officer shall directly retire a portion of the allowance allocation for each electrical distribution utility in the amount of its CAISO Markets Purchaser Emissions for the most recent data year, pursuant to sections 95852(I)(1).

(3) Additional Allocation. The additional allowances allocated to electrical distribution utilities from the investor-owned natural gas supplier allocation pursuant to section 95893(b)(1)(A)1. shall be provided to electrical distribution utilities that have residential ratepayers and that are not also a publicly owned utility natural gas supplier. The portion of the total additional allowances shall be provided to each eligible electrical distribution utility based on its share of total residential retail sales by all eligible electrical distribution utilities for the most recent data year, as required to be reported to CARB by section 95111 of MRR. For each electrical distribution utility, the Executive Officer will place all of its additional allowances in its limited use holding account.

(b) Transfer to Utility Accounts.

(1) Investor Owned Utilities. The Executive Officer will place allowances in the limited use holding account created for each electrical corporation.

(2) Publicly Owned Electric Utilities or Electrical Cooperatives. When a publicly owned electric utility or electrical cooperative is eligible for a direct allowance allocation, it shall inform the Executive Officer of the allowance

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amounts to be placed into the compliance account of an electrical generating facility, the compliance account of an electric power entity, and the limited use holding account of the publicly owned electric utility or electrical cooperative. The Executive Officer shall place the amount of allowances not destined for the publicly owned electric utility or electrical cooperative's own limited use holding account into the publicly owned electric utility or electrical cooperative's annual allocation holding account, and these allowances shall be transferred by the Executive Officer into the requested compliance accounts pursuant to section 95831(a)(6). Allowances may be placed into the compliance account of an electrical generating facility or electric power entity only if the electrical generating facility or electric power entity is:

(A) Operated by the publicly owned electric utility, the electrical cooperative, or a Joint Powers Authority in which the publicly owned electric utility or electrical cooperative is a member and with which it has a power purchase agreement; or

(B) Operated by a federal power marketing administration with which the publicly owned utility or electrical cooperative has an agreement to purchase imported electricity or a power purchase agreement, including a custom product contract.

(3) Publicly owned electric utilities or electrical cooperatives receiving a direct allocation must inform the Executive Officer by September 1 of the accounts in which the allocations are to be placed. If an entity fails to submit its distribution preference by September 1, ARB will automatically place all directly allocated allowances for the following budget year in the entity's limited use holding account.

(c) Monetization Requirement. Within each calendar year, an electrical distribution utility must offer for sale at auction all allowances in its limited use holding account that were issued:

(1) From budget years that correspond to the current calendar year; and

(2) From budget years prior to the current calendar year.

(d) Limitations on the Use of Allowance Value.

(1) Value obtained from the monetization of allowances directly allocated to a publicly owned electric utility or electrical cooperative shall be subject to any limitations imposed by the governing body of the utility and to the additional requirements set forth in sections 95892(d)(3)-(8) and 95892(e).

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(2) Value obtained from the monetization of allowances directly allocated to investor owned utilities shall be subject to any limitations imposed by the California Public Utilities Commission and to the additional requirements set forth in sections 95892(d)(3)-(8) and 95892(e).

(3) Allocated Allowance Value obtained by an electrical distribution utility must be used for the primary benefit of California retail electricity ratepayers of each electrical distribution utility, consistent with the goals of AB 32, and may not be used for the primary benefit of entities or persons other than such ratepayers. Allocated allowance value must be used to reduce greenhouse gas emissions or returned to ratepayers using one or more of the approaches described in sections 95892(d)(3)(A)-(D) and may also be used to pay for administrative and outreach costs and educational programs described in section 95892(d)(4).

(A) Renewable Energy or Integration of Renewable Energy. Funding programs or activities in the following categories:

1. Construction of eligible renewable energy resources that will directly deliver electricity to California and meet the requirements of Public Utilities Code section 399.16(b)(1), or purchase of generation from eligible renewable energy resources directly delivered to California that meet the requirements of Public Utilities Code section 399.16(b)(1) or under Public Utilities Code section 399.16(d);

2. Support for renewable energy resources, as defined by Public Resources Code section 25741(a)(1), that are ratepayer-owned or located within the electrical distribution utility's service territory; or

3. Construction or support of energy storage projects designed to support the electrical distribution utility's integration of renewable electricity.

(B) Energy Efficiency and Fuel-Switching. Funding programs or activities designed to reduce greenhouse gas emissions through reductions in energy use or changes to lower emission intensity energy sources in the following categories:

1. Energy-efficient equipment rebates;

2. Energy-efficient building retrofits;

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3. Other projects that reduce energy demand;

4. Public or private electric vehicle infrastructure;

5. Switching from natural gas, propane, or diesel to electric equipment; or

6. Infrastructure projects or other projects supporting active transportation, zero-emission vehicles, or public transportation.

(C) Other GHG Emission Reduction Activities. Funding programs or activities other than renewable energy, integration of renewable energy, energy efficiency, or fuel-switching, for which the electrical distribution utility can demonstrate GHG emission reductions per section 95892(d)(5). This includes funding:

1. Projects or activities that reduce emissions of sulfur hexafluoride or hydrofluorocarbons; and

2. Only after CARB adopts a standardized system for quantifying GHG emissions reductions from fuel reduction activities pursuant to section 38535 of the Health and Safety Code, wildfire risk reduction or forest carbon sequestration activities will be an allowable use of allocated allowance proceeds, provided that the risk reduction or carbon sequestration activities are in conformance with section 8386 or 8387 of the Public Utilities Code, as applicable, as modified by SB 901 (Dodd; 2018).

(D) Return to Ratepayers. Distribution of allocated allowance value to some or all ratepayers either on- or off-bill.

(4) Administrative and Outreach Costs and Educational Programs. Allocated allowance value may be used for administrative costs only in so far as those costs are solely limited to necessary costs to administer the projects and activities funded pursuant to sections 95892(d)(3)(A)-(D). Allocated allowance value may be used for outreach that directly supports the implementation of the projects or activities funded pursuant to sections 95892(d)(3)(A)-(D). Up to $100,000 or one percent of the total allocated allowance value expended by the utility in a data year, whichever is larger, may be used in that data year for public educational programs that have the primary purpose of reducing the GHG emissions of the electrical distribution utility's ratepayers, but for which expected GHG emission

reductions, pursuant to sections 95892(d)(5) and 95892(e)(5)(B), cannot be demonstrated.

(5) Electrical distribution utilities must demonstrate the expected GHG emissions reductions, pursuant to section 95892(e)(5)(B), for each use of allocated allowance value described in sections 95892(d)(3)(A)-(C) that is undertaken.

(6) Investor owned utilities shall ensure equal treatment of their own customers and customers of electricity service providers and community choice aggregators.

(7) Prohibited Uses of Allocated Allowance Value. Use of the value of any allowance allocated to an electrical distribution utility other than for the primary benefit of retail electricity ratepayers consistent with the goals of AB 32 is prohibited. Prohibited uses include:

(A) The use of allocated allowances to meet compliance obligations for electricity sold into the California Independent System Operator markets;

(B) Use of allocated allowance value to pay for the costs of complying with MRR, the AB 32 Cost of Implementation Fee Regulation (California Code of Regulations, sections 95200-95207), or the Cap-and-Invest Regulation, such as the purchase of compliance instruments, except for the costs allowable pursuant to sections 95892(d)(3)-(4);

(C) Use of allocated allowance value to purchase voluntary carbon offsets or participate in any voluntary carbon market or external greenhouse gas emissions trading system; and

(D) Use of allocated allowance value to pay for lobbying costs, employee bonuses, shareholder dividends, or costs, penalties, or activities mandated by any legal settlement, administrative enforcement action, or court order.

(8) Deadline for Use of Allocated Allowance Value. For allocated allowances received on or after October 1, 2017, the value received from the sale of allowances allocated to an EDU must be spent by December 31 of the year ten years after the vintage year of the allowances, and the value of allocated allowances received prior to October 1, 2017 must be spent by December 31, 2027. To be spent, the allocated allowance value must not remain in any account owned or controlled by the EDU, its corporate

associates, or a third-party program administrator overseeing the use of the allocated allowance value on behalf of the EDU. If the allocated allowance value has not been spent within ten years, it must be returned to ratepayers in accordance with the requirements of section 95892(d) by December 31 of the year eleven years after the vintage year of the allowances.

(9) Value obtained from the monetization of the additional allowances allocated pursuant to section 95892(a)(3) shall be provided to residential ratepayers as a direct return to ratepayers pursuant to the requirements of section 95892(d)(3)(D). Publicly owned utilities and electrical cooperatives shall provide the allocated allowance value to residential ratepayers by December 31 of the year three years after the vintage year of the allowances.

(e) Reporting on the Use of Allocated Allowance Value. No later than June 30, 2014, and June 30 of each calendar year thereafter, each electrical distribution utility shall submit a report to the Executive Officer describing the disposition of all allocated allowance value during the previous calendar year. This report shall include:

(1) The monetary value of any unspent allocated allowance auction proceeds remaining from prior years at the start of the previous calendar year, and any accrued interest on those proceeds.

(2) The monetary value of allocated allowance auction proceeds received by the electrical distribution utility from the sale of allowances during the previous calendar year;

(3) The monetary value of auction proceeds and interest spent during the previous calendar year and the monetary value of auction proceeds and interest remaining unspent at the end of the previous calendar year;

(4) For investor owned utilities, the monetary value of auction proceeds and interest that were encumbered for clean energy, energy efficiency, or transmission projects during the previous calendar year; and

(5) How each use of the allocated allowance value during the previous calendar year complies with the requirements of this section and the requirements of California Health and Safety Code sections 38500 et seq. This includes:

(A) Describing the nature and purpose of each use of allocated allowance value and how it benefits ratepayers, specifying the

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amount of allocated allowance value spent on that use, and describing the GHG reduction purpose of any educational programs and the number of ratepayers that received a direct return of allocated allowance value.

(B) Estimating the GHG emission reductions from each use of allocated allowance value allowed pursuant to sections 95892(d)(3)(A)-(C). The portion of total GHG emission reductions attributable to the use of the allowance value shall be based on the percentage of total project costs covered by the use of the allowance value. The total GHG emission reductions shall be based on comparing the expected GHG emissions with and without the use of the allowance value. The calculation shall use the following, as applicable:

1. Use-specific information on equipment efficiency, kilowatt hours of electricity generated or saved, MMBtu of fuel saved, and vehicle miles travelled, as applicable.

2. GHG emission factors applicable to the fuel used or saved or vehicle miles travelled, calculated as follows:

a. GHG Emission Factors for Non-Transportation Fuels. The GHG emission factor for each fuel used or saved, if the fuel is not used to produce electricity, shall be as listed in Table C-1 of Subpart C of 40 CFR Part 98 (December 2010), which is hereby incorporated by reference, or calculated by means that can be demonstrated to the Executive Officer to be comparably accurate.

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b. GHG Emission Factors for Vehicle Miles Travelled. If the use of allocated allowance value reduces transportation-related GHG emissions, the GHG emission factor for the vehicles used with and without the use of value shall be calculated using the methods in CARB's California Climate Investments Quantification Methodology Emission Factor Database Documentation and Appendix A: Sustainable Communities and Clean Transportation (January 26, 2024), which is hereby incorporated by reference, or by comparable means that can be demonstrated to the Executive Officer to be consistent with these methods. Active transportation may be assumed to have zero GHG emissions.

3. The expected time frame over which the emissions reductions will occur.

4. The percentage of total project costs covered by the use of allocated allowance value.

(C) Itemizing any use of allocated allowance value on administrative and outreach costs and educational programs described in section 95892(d)(4).

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Table 9-3: Annual Allowances Allocated to Each Electrical Distribution Utility from 2021 through 2030

	Annual Allocation to Each Electrical Distribution Utility									
Utility	**2021**	**2022**	**2023**	**2024**	**2025**	**2026**	**2027**	**2028**	**2029**	**2030**
Alameda Municipal Power	79,765	77,930	74,823	71,708	68,615	66,991	92,538	94,529	97,000	99,635
Anza Electric Cooperative, Inc.	18,910	18,751	18,353	17,950	17,545	17,376	25,508	25,993	26,549	27,147
Bear Valley Electric Service, Inc.	44,894	44,649	43,482	42,631	41,455	40,867	43,669	44,295	44,764	45,287
City and County of San Francisco, SF Public Utilities Commission	24,905	25,101	25,275	25,384	25,358	25,463	27,192	27,854	28,507	29,334
City of Anaheim, Public Utilities Department	1,568,268	1,577,179	1,537,495	1,495,687	1,456,438	1,435,129	654,333	655,586	659,179	662,183
City of Azusa	73,918	73,116	71,144	69,158	67,156	66,479	62,202	61,372	60,261	58,886
City of Banning	38,581	38,159	37,112	36,055	34,989	34,542	37,754	37,226	36,460	35,531
City of Biggs	2,795	2,726	2,594	2,463	2,333	2,267	3,899	3,863	3,824	3,792
City of Burbank	572,818	571,290	562,290	553,356	544,626	540,529	304,968	309,169	314,532	321,715
City of Cerritos	26,066	25,852	25,130	24,543	23,957	23,741	17,523	16,854	16,178	15,495
City of Colton	109,201	108,010	105,323	102,623	99,907	98,975	92,445	92,873	92,754	92,693
City of Corona Dept. of Water & Power	43,645	43,118	42,047	40,825	39,748	39,351	33,149	31,973	38,775	38,275
City of Glendale	438,169	436,728	428,337	419,730	411,183	406,742	254,229	260,904	270,271	282,028
City of Healdsburg	20,986	20,724	20,256	19,685	19,214	19,095	18,430	17,419	19,184	19,787
City of Industry	11,938	11,832	11,570	11,306	11,039	10,928	12,710	12,656	12,622	12,595
City of Lodi	116,168	114,782	111,917	109,138	106,344	105,530	91,498	104,144	104,903	106,016

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	Annual Allocation to Each Electrical Distribution Utility									
Utility	**2021**	**2022**	**2023**	**2024**	**2025**	**2026**	**2027**	**2028**	**2029**	**2030**
City of Lompoc a Municipal Corporation	36,365	35,792	34,740	33,660	32,603	32,128	37,676	38,493	39,430	40,519
City of Moreno Valley	47,450	47,030	45,989	44,939	43,879	43,434	66,853	66,313	65,396	64,278
City of Needles	6,953	6,788	6,510	6,082	5,800	5,767	14,523	14,623	27,557	27,606
City of Oakland Acting By and Through Its Board of Port Commissioners	23,436	23,354	22,916	22,504	22,055	21,959	26,240	25,938	25,588	25,257
City of Palo Alto	167,771	162,988	154,859	146,764	138,189	133,797	218,177	228,260	224,026	250,504
City of Rancho Cucamonga	24,559	24,342	23,803	23,260	22,711	22,481	29,044	28,702	28,455	28,173
City of Riverside Public Utilities	1,060,927	1,056,559	1,039,042	1,015,558	1,000,815	991,145	601,344	604,509	610,748	616,765
City of Roseville	341,483	342,046	334,821	326,772	319,452	317,415	262,860	255,073	250,800	247,200
City of Shasta Lake	65,092	64,709	64,004	62,828	61,618	61,269	53,652	52,008	50,327	48,690
City of Ukiah	30,101	29,715	28,749	27,732	26,858	26,333	27,954	28,525	29,345	30,317
City of Vernon, Vernon Gas & Electric	365,766	362,830	353,029	342,878	332,947	327,688	364,646	398,239	392,814	385,622
City of Victorville	24,531	24,331	23,783	23,083	22,528	22,325	30,676	29,513	28,370	27,228
Eastside Power Authority	1,206	1,134	957	778	597	573	2,128	2,361	1,837	1,588
Gridley Electric Utility	6,517	6,392	6,118	5,846	5,573	5,451	9,203	8,716	9,243	9,308
Imperial Irrigation District	1,199,715	1,208,295	1,200,777	1,187,233	1,174,397	1,175,503	1,039,386	1,035,311	1,077,552	1,072,544
Kirkwood Meadows PUD	2,226	2,236	2,216	2,197	2,178	2,191	2,153	2,345	2,381	2,422
Lassen Municipal Utility District	33,810	33,365	32,316	31,403	30,330	30,012	35,817	35,812	35,976	36,165

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	Annual Allocation to Each Electrical Distribution Utility									
Utility	**2021**	**2022**	**2023**	**2024**	**2025**	**2026**	**2027**	**2028**	**2029**	**2030**
Lathrop Irrigation District							9,883	9,951	10,012	10,064
Liberty Utilities (CalPeco Electric) LLC	189,367	188,590	185,284	181,575	177,489	175,880	173,382	177,767	181,143	184,110
Los Angeles Department of Water & Power	10,440,249	10,278,898	9,920,930	9,569,498	9,653,515	9,622,159	5,359,013	5,429,291	5,542,469	5,722,850
Merced Irrigation District	134,002	134,112	132,626	130,630	128,256	127,984	120,141	120,878	121,768	122,793
Modesto Irrigation District	714,695	713,743	700,645	686,193	673,058	669,670	638,021	626,769	616,542	607,613
Pacific Gas and Electric Company	17,599,777	17,460,185	16,921,166	16,757,499	21,426,107	23,023,113	16,164,766	17,991,864	19,158,381	22,165,137
PacifiCorp	551,045	550,696	544,824	529,519	523,766	518,466	344,238	332,795	326,389	282,179
Pasadena Water and Power	662,521	647,114	640,632	635,705	618,698	608,140	280,715	283,151	286,243	289,217
Pittsburg Power Company	5,215	5,171	5,036	4,901	4,766	4,723	8,091	7,727	7,343	6,924
Plumas-Sierra Rural Electric Cooperative	30,445	29,699	28,229	26,757	25,391	24,508	41,409	41,187	41,147	41,153
Power and Water Resources Pooling Authority	101,080	98,833	94,340	89,848	85,355	83,109	39,104	36,036	32,969	29,901
Redding Electric Utility	155,878	155,281	151,053	146,233	141,257	140,090	148,082	145,163	142,795	140,984
Sacramento Municipal Utility District (SMUD)	2,809,902	2,792,687	2,721,959	2,650,543	2,574,500	2,547,876	2,243,387	2,242,574	2,255,028	2,278,380
San Diego Gas & Electric Company	6,766,147	6,737,256	6,586,708	6,435,664	6,279,487	6,208,750	4,312,349	4,462,125	4,541,926	5,040,624
Silicon Valley Power (SVP), City of Santa Clara	771,858	761,415	735,843	710,042	684,010	672,959	1,490,333	1,558,779	1,723,791	1,753,089

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	Annual Allocation to Each Electrical Distribution Utility									
Utility	**2021**	**2022**	**2023**	**2024**	**2025**	**2026**	**2027**	**2028**	**2029**	**2030**
Southern California Edison Company	25,183,597	24,999,282	24,357,709	23,681,594	23,035,309	22,687,800	16,733,510	17,104,829	17,306,976	19,274,578
Stockton Port District	6,945	6,900	6,768	6,635	6,503	6,293	6,779	6,762	6,787	6,826
Surprise Valley Electrification Corp.	2,770	2,790	2,811	2,831	2,852	2,873	2,345	2,477	2,602	2,729
Trinity Public Utility District							2,834	2,834	2,834	2,834
Truckee Donner Public Utilities District	53,342	53,088	52,168	51,234	50,287	50,001	49,287	54,437	55,457	56,351
Turlock Irrigation District	447,309	446,613	437,740	427,721	415,607	413,210	491,956	495,888	477,071	475,093
Valley Electric Association, Inc.	3,162	3,114	2,875	2,770	3,101	3,049	2,204	2,127	2,078	2,028
WAPA - Sierra Nevada Region	224,481	220,784	208,828	194,591	180,305	174,523	310,453	305,606	300,330	294,609

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.

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§ 95893. Allocation to Natural Gas Suppliers for Protection of Natural Gas Ratepayers.

(a) Allocation to Individual Natural Gas Suppliers. For each budget year, each natural gas supplier's allocation will be calculated as follows. Any allowances allocated to natural gas suppliers must be used for the primary benefit of California retail ratepayers of each such natural gas supplier, consistent with the goals of AB 32, and may not be used for the benefit of entities or persons other than such ratepayers.

$$A_{s,t} = E_{2011} * c_t$$

Where:

"$A_{s,t}$" is the amount of California GHG allowances directly allocated to the natural gas supplier "S" from budget year "t";

"E_{2011}" is the emissions for natural gas supplier "S" for data year 2011, as calculated using the compliance obligation calculation methods under section 95852(c); and

"c_t" is the adjustment factor for natural gas suppliers for budget year "t" to account for cap decline as specified in Table 9-2.

(1) A natural gas supplier that becomes newly eligible for allowance allocation pursuant to section 95890(f) shall receive a true-up allocation in its first year of eligibility that is calculated as follows:

$$TrueUp_{s,t} = E_{2011} * c_{t-1} + E_{2011} * c_{t-2}$$

Where:

"$TrueUp_{s,t}$" is the amount of true-up allowances allocated from budget year "t" to a newly eligible natural gas supplier to account for a compliance obligation incurred for data years "t–1" and "t–2," if applicable. The true-up allocation shall only be calculated for years in which the entity was covered by the Cap-and-Invest Program. These true-up allowances from budget year "t" may be used for compliance for year "t-2" or subsequent years pursuant to sections 95856(h)(1)(D) and 95856(h)(2)(D);

"E_{2011}" is the emissions for natural gas supplier "S" for data year 2011, as calculated using the compliance obligation calculation methods under section 95852(c);

"c_t" is the adjustment factor for natural gas suppliers for budget year "t" to account for cap decline as specified in Table 9-2;

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"c_{t-1}" is the adjustment factor for natural gas suppliers for budget year "t–1" to account for cap decline as specified in Table 9-2. This value shall be set to zero if the newly eligible natural gas supplier did not incur a compliance obligation for data year "t–1.";

"c_{t-2}" is the adjustment factor for natural gas suppliers for budget year "t–2" to account for cap decline as specified in Table 9-2. This value shall be set to zero if the newly eligible natural gas supplier did not incur a compliance obligation for data year "t–2."

(b) Transfer to Natural Gas Supplier Accounts.

(1) When a natural gas supplier as defined in section 95811(c) is eligible for a direct allocation, it shall inform the Executive Officer by September 1 of the amount of allowances to be placed into its compliance account and limited use holding account with the following constraints. If an entity fails to submit its distribution preference by this deadline, ARB will automatically place all directly allocated allowances for the following budget year in the entity's limited use holding account:

(A) The quantity of allowances placed into the limited use holding account will equal at least the amount of allowances provided in section 95893(a) multiplied by the applicable percentage in Table 9-5 or Table 9-6, rounded down to the nearest whole allowance, less the number of allowances provided to electrical distribution utilities in accordance with the following:

1. For public utility gas corporations, a quantity of the natural gas supplier allocated allowances will be provided to electrical distribution utilities, equal to the amount of allowances determined in section 95893(a) multiplied by the applicable percentage in Table 9-6A, annually, rounded down to the nearest whole allowance.

(B) The remaining allowances from the total allowances allocated in section 95893(a) which are not placed into the limited use holding account will be placed into the entity's annual allocation holding account to be transferred by the Executive Officer into the entity's compliance account pursuant to section 95831(a)(6).

(c) Monetization Requirement. Within each calendar year beginning in 2015 and after, a natural gas supplier must offer for sale at auction all allowances in its limited use holding account that were issued from budget years that correspond

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to the current calendar year and from budget years prior to the current calendar year.

(d) Limitations on the Use of Allowance Value.

(1) Value obtained from the monetization of allowances directly allocated to a publicly owned natural gas utility shall be subject to any limitations imposed by the governing body of the utility and to the additional requirements set forth in sections 95893(d)(3) through 95893(d)(9) and 95893(e).

(2) Value obtained from the monetization of allowances directly allocated to public utility gas corporations shall be subject to any limitations imposed by the California Public Utilities Commission and to the additional requirements set forth in sections 95893(d)(3) through 95893(d)(9) and 95893(e).

(3) Allocated allowance value obtained by a natural gas supplier must be used for the primary benefit of California retail natural gas ratepayers of each natural gas supplier, consistent with the goals of AB 32, and may not be used for the benefit of entities or persons other than such ratepayers. Other than as specified in section 95893(d)(7)-(8), allocated allowance value must be used to reduce greenhouse gas emissions or returned to ratepayers using one or more of the approaches described in sections 95893(d)(3)(A)-(C) and may also be used to pay for administrative and outreach costs and educational programs described in section 95893(d)(4).

(A) Energy Efficiency and Fuel Switching. Funding programs or activities designed to reduce greenhouse gas emissions in the following manner:

1. Incentives or direct installation of equipment that substitutes electricity for natural gas or other fossil fuels; or

2. Energy-efficient building retrofits, excluding new equipment that combusts natural gas or other fossil fuels.

(B) For allowance value received prior to September 1, 2026, expenditures that were previously eligible under this article for other projects that reduce energy demand or other GHG reduction activities and were authorized either by the California Public Utilities Commission or by the board of a publicly owned natural gas utility prior to September 1, 2026.

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(C) Non-Volumetric Return to Ratepayers. Distribution of allocated allowance value to some or all ratepayers in a non-volumetric manner, either on- or off-bill.

(4) Administrative and Outreach Costs and Educational Programs. Allocated allowance value may be used for administrative costs only in so far as those costs are solely limited to necessary costs to administer the projects and activities funded pursuant to sections 95893(d)(3)(A)-(C). Allocated allowance value may be used for outreach that supports the implementation of the projects and activities funded pursuant to sections 95893(d)(3)(A)-(C). Up to $100,000 or one percent of the total allocated allowance value expended by the supplier in a data year, whichever is larger, may be used in that data year for public educational programs that have the primary purpose of reducing the GHG emissions of the natural gas supplier's ratepayers, but for which expected GHG emissions reductions, pursuant to sections 95893(d)(5) and 95893(e)(5)(B), cannot be demonstrated.

(5) Natural gas suppliers must demonstrate the expected GHG emissions reductions, pursuant to section 95893(e)(5)(B), for each use of allocated allowance value described in sections 95893(d)(3)(A)-(B) that is undertaken.

(6) Public utility gas corporations shall ensure equal treatment of their procurement and delivery customers and delivery-only customers.

(7) Prohibited Use of Allocated Allowance Value. Use of the value of any allowance allocated to a natural gas supplier other than for the primary benefit of retail natural gas ratepayers consistent with the goals of AB 32 is prohibited. Prohibited uses include:

(A) Use of allocated allowance value to pay for the costs of complying with MRR, the AB 32 Cost of Implementation Fee Regulation (California Code of Regulations, sections 95200-95207), or the Cap-and-Invest Regulation, such as the purchase of compliance instruments, except for the costs allowable pursuant to sections 95893(d)(3)-(4);

(B) Use of allocated allowance value to purchase voluntary carbon offsets or participate in any voluntary carbon market or external greenhouse gas emissions trading system;

(C) Use of allocated allowance value to pay for lobbying costs, employee bonuses, shareholder dividends, or costs, penalties, or

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activities mandated by any legal settlement, administrative enforcement action, or court order; and

(D) Returning allocated allowance auction proceeds and interest to ratepayers in a volumetric manner.

(8) Beginning January 1, 2028, public utility gas corporations must annually use the value from 30% of the total allowances calculated in section 95893(a) to provide a non-volumetric return to residential ratepayers either on- or off-bill that primarily benefits low-income ratepayers as directed by the California Public Utilities Commission.

(9) Deadline for Use of Allocated Allowance Value. For allocated allowances received on or after October 1, 2017, the value received from the sale of allowances allocated to a natural gas supplier must be spent by December 31 of the year ten years after the vintage year of the allowances, and the value of allocated allowances received prior to October 1, 2017 must be spent by December 31, 2027. To be spent, the allocated allowance value must not remain in any account owned or controlled by the natural gas supplier, its corporate associates, or a third-party program administrator overseeing the use of the allocated allowance value on behalf of the natural gas supplier. If the allocated allowance value has not been spent within ten years, it must be returned to ratepayers in a non-volumetric manner by December 31 of the year eleven years after the vintage year of the allowances.

(e) Reporting on the Use of Allowance Value. No later than June 30, 2016, and June 30 of each calendar year thereafter, each natural gas supplier shall submit a report to the Executive Officer describing the disposition of all allocated allowance value during the previous calendar year. This report shall include:

(1) The monetary value of any unspent allocated allowance auction proceeds remaining from prior years at the start of the previous calendar year, and any accrued interest on those proceeds.

(2) The monetary value of auction proceeds received by the natural gas supplier from the sale of allowances during the previous calendar year;

(3) The monetary value of auction proceeds and interest spent during the previous calendar year and the monetary value of auction proceeds and interest remaining unspent at the end of the previous calendar year;

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(4) For public utility gas corporations, the monetary value of auction proceeds and interest that were encumbered for GHG reduction projects during the previous calendar year; and

(5) How each use of allocated allowance value during the previous calendar year complies with the requirements of this section and the requirements of California Health and Safety Code sections 38500 et seq. This includes:

(A) Describing the nature and purpose of each use of allocated allowance value and how it benefits ratepayers, specifying the amount of allocated allowance value spent on that use, and describing the GHG reduction purpose of any educational programs and the number of ratepayers that received a non-volumetric return.

(B) Estimating the GHG emission reductions from each use of allocated allowance value allowed pursuant to sections 95893(d)(3)(A)-(B). The portion of total GHG emission reductions attributable to the use of the allowance value shall be based on the percentage of total project costs covered by the use of the allowance value. The total GHG emission reductions shall be based on comparing the expected GHG emissions with and without the use of the allowance value. The calculation shall use the following, as applicable:

1. Use-specific information on equipment efficiency, MMBtu of fuel saved, and vehicle miles travelled, as applicable.

2. GHG emissions factors applicable to the fuel used or saved, vehicle miles travelled or electricity saved, calculated as follows:

a. GHG Emission Factor for Natural Gas Saved. The GHG emission factor for natural gas shall be calculated using the emission factor and annual average high heating value used in the natural gas supplier's MRR reporting for the same reporting year, or calculated by means that can be demonstrated to the Executive Officer to be comparably accurate.

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b. GHG Emission Factors for Non-Transportation Fuels. The GHG emission factor for each fuel used or saved, other than natural gas, shall be as listed in Table C-1 of Subpart C of 40 CFR Part 98 (December 2010), which is hereby incorporated by reference, or calculated by means that can be demonstrated to the Executive Officer to be comparably accurate.

c. GHG Emission Factors for Vehicle Miles Travelled. If the use of allocated allowance value reduces transportation-related GHG emissions, the GHG emission factor for the vehicles used with and without the use of value shall be calculated using the methods in ARB's California Climate Investments Quantification Methodology Emission Factor Database Documentation and Appendix A: Sustainable Communities and Clean Transportation (January 26, 2024), which is hereby incorporated by reference, or by comparable means that can be demonstrated to the Executive Officer to be consistent with these methods. Active transportation may be assumed to have zero GHG emissions.

3. The expected time frame over which the emissions reductions will occur.

4. The percentage of total project costs covered by the use of allocated allowance value.

(C) Itemizing any use of allocated allowance value on administrative and outreach costs and educational programs described in section 95893(d)(4).

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Table 9-5: Minimum Annual Percentage Consignment Requirements for Natural Gas Utilities for 2015-2020

Year	2015	2016	2017	2018	2019	2020
Minimum Percentage Consigned	25%	30%	35%	40%	45%	50%

Table 9-6: Minimum Annual Percentage Consignment Requirements for Natural Gas Suppliers for 2021 and Subsequent Years

Year	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030 and beyond
Minimum Percentage Consigned	55%	60%	65%	70%	75%	80%	85%	90%	95%	100%

Table 9-6A: Annual Percentage of Public Utility Gas Corporation Allocation Transitioned to Electrical Distribution Utilities for 2028 and Subsequent Years

Year	2028	2029	2030	2031
Percentage	17.5%	35%	52.5%	70%

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.

§ 95894. Allocation to Legacy Contract Generators for Transition Assistance.

(a) Demonstration of Eligibility. Opt-in covered entities are not eligible for transition assistance due to legacy contract emissions. To be eligible to receive a direct allocation of allowances under this section, the primary or alternate account representative of a legacy contract generator with an industrial counterparty or a legacy contract generator without an industrial counterparty shall submit the following to the Executive Officer by June 1 of each year as applicable:

(1) A letter to ARB stating covered entity's name and ARB ID, identity of legacy contract counterparty, and statement requesting transition assistance for the previous data year's legacy contract emissions.

(A) Previous data year's legacy contract emissions, pursuant to section 95894(c).

(B) 2012 data year's legacy contract emissions, pursuant to section 95894(d).

(2) Copy of the following portions from the legacy contract for which it is seeking an allocation;

(A) Dates of effective commencement and cessation of terms of contract.

(B) Terms governing price per unit of product.

(C) Signature page.

(3) An attestation under penalty of perjury under the laws of the State of California that:

(A) Each legacy contract does not allow the covered entity to recover the cost of legacy contract emissions from the legacy contract counterparty purchasing electricity and/or legacy contract qualified thermal output from the unit or facility;

(B) The legacy contract was originally executed prior to September 1, 2006, remains in effect, and has not been amended since that date to change the terms governing the price or amount of electricity or legacy contract qualified thermal output sold, the GHG costs, or the expiration date; and

(C) The operator of the legacy contract generator with an industrial counterparty or the legacy contract generator without an industrial counterparty made a good faith effort, but failed to renegotiate the legacy contract with the counterparty to address recovery of the costs of compliance with this Regulation. The renegotiation effort began at least 60 days, but no earlier than a year, before the date of this attestation.

(4) Data requested pursuant to Section 95894.

(5) If, subsequent to the submittal of the foregoing information and supporting documentation, there is any material change in the information and statements provided to the Executive Officer, the party who submitted such information and statements shall submit a supplemental attestation

and supporting materials addressing any such material change to the Executive Officer within 30 days after the change occurs.

(b) Determination of Eligibility. Upon receipt of the information required by paragraph (a) of this section, the Executive Officer shall determine whether the party submitting such information has demonstrated that it is eligible to receive a direct allocation of allowances pursuant to this section and shall notify that party by October 10 each year if it is eligible to receive an allocation calculated pursuant to section 95894(c) or 95894(d) for the following compliance year.

(c) Allocation to Legacy Contract Generators with an Industrial Counterparty. If the counterparty (or entity in a direct corporate association with the counterparty) is a covered entity or opt-in covered entity that is in a sector listed in Table 8-1, the following formulae apply based on the type of generation facility:

(1) For stand-alone generation facilities that are legacy contract generators with an industrial counterparty, the following equations apply:

$$A_t = (EE_{mlc,t-2} * c_{a,t} * AF_{lcc,t}) + TrueUp_t$$

Where:

"A_t" is the amount of California GHG allowances directly allocated to the legacy contract generator with an industrial counterparty for legacy contract emissions from budget year "t". This value shall only be calculated if the entity meets the eligibility requirements, pursuant to section 95894(a) and 95894(b), and is covered under the Cap-and-Invest Program during budget year "t";

"$EE_{mlc,t-2}$" is the emissions reported, in $MTCO_2e$, associated with electricity sold under the legacy contract in the data years two years before year "t";

"$c_{a,t}$" is the cap adjustment factor for the legacy contract counterparty or entity in a direct corporate association with the legacy contract counterparty for budget year "t" as specified in Table 9-2. The subscript "a" designates the activity conducted by the legacy contract counterparty or the entity in a direct corporate association with the legacy contract counterparty;

"$AF_{lcc,t}$" is the assistance factor associated with the legacy contract counterparty or entity in a direct corporate association with the legacy contract counterparty for budget year "t"; and

$$TrueUp_t = (EE_{mlc,t-2} * c_{a,t-2} * AF_{lcc,t-2}) - A_{t-2,no\ trueup}$$

Where:

"$TrueUp_t$" is the amount of true-up allowances allocated to account for the emissions reported for data year "t" and allowed to be used for compliance for the budget year two

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years prior to year "t" and subsequent years pursuant to sections 95856(h)(1)(D) and 95856(h)(2)(D);

"$EE_{mlc,t-2}$" is the emissions reported, in $MTCO_2e$, associated with electricity sold under the legacy contract in the data years two years before year "t";

"$C_{a,t-2}$" is the cap adjustment factor for the legacy contract counterparty or entity in a direct corporate association with the legacy contract counterparty for the year two years prior to year "t" as specified in Table 9-2. The subscript "a" designates the activity conducted by the legacy contract counterparty or the entity in a direct corporate association with the legacy contract counterparty;

"$AF_{lcc,t-2}$" is the assistance factor associated with the legacy contract counterparty or entity in a direct corporate association with the legacy contract counterparty for two years before budget year "t"; and

"$A_{t-2,no\ trueup}$" is the amount of California GHG allowances directly allocated to the legacy contract generator with an industrial counterparty for legacy contract emissions from the budget year two years prior to year "t," not including the true-up for that budget year.

(2) For legacy contract generators with an industrial counterparty subject to section 95894(c), but not covered by section 95894(c)(1), the following equations apply:

$$A_t = ((Q_{lc,t-2} * B_s + E_{lc,t-2} * B_e) * AF_{lcc,t} * c_{a,t}) + TrueUp_t$$

Where:

"A_t" is the amount of California GHG allowances directly allocated to the legacy contract generator with an industrial counterparty for legacy contract emissions from budget year "t". This value shall only be calculated if the entity meets the eligibility requirements, pursuant to section 94894(a), and 95894(b), and is covered under the Cap-and-Invest Program during budget year "t";

"$Q_{lc,t-2}$" is the legacy contract qualified thermal output, in MMBtu, sold under a legacy contract in the data year two years prior to year "t," as reported under MRR;

"$E_{lc,t-2}$" is the electricity, in MWh, sold under the legacy contract in the data year two years prior to year "t," as reported under MRR;

"B_e" is the emissions efficiency benchmark per unit of electricity sold or provided to off-site end users, 0.431 California GHG Allowances/MWh;

"B_s" is the emissions efficiency benchmark per unit of legacy contract qualified thermal output, 0.06244 California GHG Allowances/MMBtu thermal;

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"$AF_{lcc,t}$" is the assistance factor associated with the legacy contract counterparty or entity in a direct corporate association with the legacy contract counterparty for budget year "t";

"$c_{a,t}$" is the cap adjustment factor for the legacy contract counterparty or entity in a direct corporate association with the legacy contract counterparty for budget year "t" as specified in Table 9-2. The subscript "a" designates the activity conducted by the legacy contract counterparty or the entity in a direct corporate association with the legacy contract counterparty; and

$$TrueUp_t = ((Q_{lc,t-2} * B_s + E_{lc,t-2} * B_e) * AF_{lcc,t-2} * c_{a,t-2}) - A_{t-2,no\ trueup}$$

Where:

"$TrueUp_t$" is the amount of true-up allowances allocated to account for the emissions reported for data year "t" and allowed to be used for compliance for the budget year two years prior to year "t" and subsequent years pursuant to sections 95856(h)(1)(D) and 95856(h)(2)(D);

"$Q_{lc,t-2}$" is the legacy contract qualified thermal output, in MMBtu, sold under a legacy contract in the data year two years prior to year "t," as reported under MRR;

"B_s" is the emissions efficiency benchmark per unit of legacy contract qualified thermal output, 0.06244 California GHG Allowances/MMB tu;

"$E_{lc,t-2}$" is the electricity, in MWh, sold under the legacy contract in the data year two years prior to year "t," as reported under MRR;

"B_e" is the emissions efficiency benchmark per unit of electricity sold or provided to off-site end users, 0.431 California GHG Allowances/MWh;

"$AF_{lcc,t-2}$" is the assistance factor associated with the legacy contract counterparty or entity in a direct corporate association with the legacy contract counterparty in the budget year two years prior to year "t";

"$c_{a,t-2}$" is the cap adjustment factor for the budget year two years prior to year "t" as specified in Table 9-2. The subscript "a" designates the activity conducted by the legacy contract counterparty or the entity in a direct corporate association with the legacy contract counterparty; and

"$A_{t-2,no\ trueup}$" is the amount of California GHG allowances directly allocated to the legacy contract generator with an industrial counterparty for legacy contract emissions from the budget year two years prior to year "t," not including the true-up for that budget year.

(d) Allocation to Legacy Contract Generators without an Industrial Counterparty. Legacy contract generators not covered by section 95894(c) may receive allowance allocation only for budget years 2020 through the life of the legacy contract.

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(1) For stand-alone generation facilities that are legacy contract generators without an industrial counterparty, allowance allocation is calculated by the following equation:

$$A_t = (EE_{mlc} \, x \, c_t) + TrueUp_{CP3}$$

Where:

"A_t" is the amount of California GHG allowances directly allocated to the legacy contract generator without an industrial counterparty for legacy contract emissions from budget year "t." This value shall only be calculated if the entity meets the eligibility requirements, pursuant to sections 95894(a) and 95894(b), and is covered by the Cap-and-Invest Program during the compliance period containing year "t";

"EE_{mlc}" is the emissions reported, in $MTCO_2e$, associated with electricity sold under the legacy contract in 2012; and

"c_t" is the cap adjustment factor for budget year "t" to account for cap decline as specified in Table 9-2.

"$TrueUp_{cp3}$" is the amount of true-up allowances allocated from budget year 2020 to account for allocation not properly accounted for in prior allocations. This value of allowances from budget year "t" shall be allowed to be used for compliance for budget year t-2 and subsequent years pursuant to sections 95856(h)(1)(D) and 95856(h)(2)(D). For budget years 2021 and beyond, "$TrueUp_{cp3}$" is equal to zero. For budget year 2020, this value is calculated by the following equation:

$$TrueUp_{CP3} = \sum_{t=2018}^{2019} EEm_{lc} \times c_t$$

(2) For legacy contract generators without an industrial counterparty not subject to either section 95894(c) or section 95894(d)(1), allowance allocation is calculated by the following equation:

$$A_t = (Q_{lc} \, x \, B_s + E_{lc} \, x \, B_e) \, x \, c_t + TrueUp_{CP3}$$

Where:

"A_t" is the amount of California GHG allowances directly allocated to the legacy contract generator without an industrial counterparty, for legacy contract emissions from budget year "t." This value shall only be calculated if the entity meets the eligibility requirements, pursuant to sections 95894(a) and 95894(b), and is covered by the Cap-and-Invest Program during the compliance period containing year "t";

"Q_{lc}" is the legacy contract qualified thermal output, in MMBtu, sold under a legacy contract in data year 2012, as reported pursuant to MRR;

"E_{lc}" is the electricity, in MWh, sold under the legacy contract in data year 2012;

"B_e" is the emissions efficiency benchmark per unit of electricity sold or provided to off-site end users, 0.431 California GHG Allowances/MWh;

"B_s" is the emissions efficiency benchmark per unit of legacy contract qualified thermal output, 0.06244 California GHG Allowances/ MMBtu; and

"c_t" is the cap adjustment factor for budget year "t" to account for cap decline as specified in Table 9-2.

"$TrueUp_{cp3}$" is the amount of true-up allowances allocated from budget year 2020 to account for allocation not properly accounted for in prior allocations. This value of allowances from budget year "t" shall be allowed to be used for compliance for budget year t-2 and subsequent years pursuant to sections 95856(h)(1)(D) and 95856(h)(2)(D). For budget years 2021 and beyond, "$TrueUp_{cp3}$" is equal to zero. For budget year 2020, this value is calculated by the following equation:

$$TrueUp_{CP3} = \sum_{t=2018}^{2019} (Q_{lc} \times B_s + E_{lc} \times B_e) \times c_t$$

(e) Data Sources. In determining the appropriate values for sections 95894(c)-(e), the Executive Officer may employ all available data reported to ARB under MRR and all other relevant data, including invoices, that demonstrate the amount of electricity and legacy contract qualified thermal output sold or provided for off-site use does not include a carbon cost in the budget year for which the legacy contract generator is seeking an allocation. If necessary, the Executive Officer will solicit additional data to establish a representative allocation. The operator of the legacy contract generator with an industrial counterparty or legacy contract generator without an industrial counterparty must provide the additional data upon request by the Executive Officer.

(f) Contract Expiration or Generator Closure. Once a legacy contract expires or the legacy contract generator with an industrial counterparty or legacy contract generator without an industrial counterparty closes operations, the generator will no longer be eligible for free allocation pursuant to 95890(e), and allocation will be prorated for the time in which the contract was eligible.

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.

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§ 95895. Allocation to Public Wholesale Water Agencies for Protection of Water Ratepayers.

(a) Allocation to Public Wholesale Water Agencies. The allowances allocated to each public wholesale water agency from each budget year from 2015 through 2020 shall be the amount specified in Table 9-7. Allowance allocation shall be transferred to the annual allocation holding account for each public wholesale water agency. The Executive Officer shall transfer allowances in the annual allocation holding account to the compliance account on January 1 of the vintage year of the allowances.

(b) The allowances allocated to each public wholesale water agency from each budget year from 2021 and subsequent years shall be calculated as follows:

$$A_t = 47{,}853 \; x \; c_t$$

Where:

"A_t" is the allowance allocation to a public wholesale water agency from budget year "t"; and

"c_t" is the adjustment factor for standard activities for budget year "t" in Table 9-2.

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Table 9-7: Allocation to Each Public Wholesale Water Agency

	Annual Allocation					
Agency Name	**2015**	**2016**	**2017**	**2018**	**2019**	**2020**
Metropolitan Water District	182,499	133,065	57,180	42,323	41,502	40,723

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.

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Subarticle 10. Auction and Sale of California Greenhouse Gas Allowances

§ 95910. Auction of California GHG Allowances.

(a) Timing of the Allowance Auctions. Auctions shall be conducted on the schedule pursuant to Appendix C. The schedule may be adjusted by a maximum of 4 business days from the dates listed in Appendix C.

(b) An allowance may be designated for auction prior to or after its vintage year.

(c) Allowances from future vintages will be auctioned separately from allowances from current and previous vintages each quarter.

(1) Auction of Allowances from the Current and Previous Budget Years.

(A) This auction will be known as the Current Auction.

(B) One quarter of the allowances allocated for auction from the current calendar year's budget will be designated for sale at each Current Auction.

(C) The Current Auction may include allowances consigned to auction pursuant to section 95910(d) that have a vintage equal or prior to the current budget year.

(D) Allowances from the current and previous budget years which remained unsold at previous auctions will be designated for the Current Auction pursuant to section 95911(f)(3).

(2) Auction of Allowances from Future Budget Years.

(A) This auction will be known as the Advance Auction.

(B) One quarter of the allowances allocated for Advance Auction from the budget year three years subsequent to the current calendar year will be designated for sale at each Advance Auction.

(C) The Advance Auction may include allowances which were returned to the Auction Holding Account following an Advance Auction which resulted in unsold allowances, and which are designated for auction pursuant to section 95911(f)(3).

(d) Auction of Consigned Allowances.

(1) An entity may consign allowances to the Executive Officer for sale at the quarterly auctions only from a limited use holding account.

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(2) When the Executive Officer withdraws compliance instruments from accounts containing allowances in excess of the holding limit pursuant to section 95920(b)(5), or from accounts suspended or revoked pursuant to section 95921(g)(3):

(A) Allowances shall be consigned to the next Current Auction for which the allowance vintage is equal to or prior to the current budget year;

(B) If, after review, the Executive Officer determines that any ARB offset credits, or offset credits issued from a GHG ETS to which California has linked pursuant to subarticle 12, remaining in the entity's accounts are valid, the Executive Officer will remove the offset credits from any holding or compliance account needed to fulfill the entity's compliance obligation. If offset credits remain in the entity's compliance account thereafter, the Executive Officer will return them to the entity's holding account.

(C) The Executive Officer will retire any withdrawn allowances issued by ARB or by a GHG ETS to which California has linked pursuant to subarticle 12 that have no vintage, offer an equal number of current budget year vintage allowances from the Auction Holding Account, and consign those allowances to the next Current Auction in place of the retired allowances that have no vintage.

(D) The Executive Officer will retain in the Auction Holding Account any withdrawn allowances that have a vintage that is later than the current budget year, offer an equal number of current budget year vintage allowances from the Auction Holding Account, and consign those allowances to the next Current Auction in place of the retained future vintage allowances.

(3) Each consigning entity agrees to accept the auction settlement price for allowances sold at auction.

(4) Deadline for Consignment. Allowances designated for consignment pursuant to sections 95892(c) and 95893(c) must be transferred to the Auction Holding Account at least 75 days before the auction as scheduled in Appendix C.

(e) Auction of Allowances Used to Fulfill an Untimely Surrender Obligation. When the Executive Officer transfers compliance instruments used to fulfill an untimely surrender obligation to the Auction Holding Account pursuant to section 95857(d):

(1) Allowances with a vintage year corresponding to the current or previous budget years will be designated to the Current Auction;

(2) Allowances with a vintage year corresponding to a budget year three years subsequent to the current calendar year will be designated to the Advance Auction;

(3) Allowances with a vintage corresponding to a budget year one year or two years subsequent to the current year will remain in the Auction Holding Account until their vintage corresponds to the current calendar year. They will then be designated for the Current Auction.

(4) The Executive Officer will retire any allowances issued from ARB or a GHG ETS to which California has linked pursuant to Subarticle 12 that have no vintage.

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.

§ 95911. Format for Auction of California GHG Allowances.

(a) Auction Bidding Format.

(1) The auction will consist of a single round of bidding.

(2) Bids will be sealed.

(3) Bid quantities must be submitted as multiples of 1,000 California GHG allowances.

(4) Entities registered into the California Cap-and-Invest Program must submit bids in U.S. dollars and whole cents.

(5) The allowances for auction in section 95911(a)(3) will also include allowances from a jurisdiction operating an External GHG ETS system to which California has linked pursuant to subarticle 12.

(b) Auction Reserve Price Schedule.

(1) Each auction will be conducted with an auction reserve price.

(2) No allowances will be sold at bids lower than the auction reserve price.

(c) Method for Setting the Auction Reserve Price.

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(1) The Auction Reserve Price for vintage 2013 allowances auctioned in 2012 will be $10 per allowance. For Advance Auctions conducted in 2012, the Reserve Price shall be $10 per allowance for vintage 2015 allowances.

(2) The Auction Reserve Price will be announced on the first day in December that is a business day in California and in any jurisdiction operating an External GHG ETS to which California has linked pursuant to subarticle 12. The Auction Reserve Price shall be stated in U.S. dollars and in the currency (or currencies) used in any External GHG ETS to which California has linked pursuant to subarticle 12.

(3) The Auction Administrator will calculate the Auction Reserve Price using the following procedure:

(A) The Auction Reserve Price in U.S. dollars shall be the U.S. dollar Auction Reserve Price for the previous calendar year increased annually by 5 percent plus the rate of inflation as measured by the most recently available twelve months of the Consumer Price Index for All Urban Consumers.

(B) Prior to the opening of the auction window on the day of the auction, the Auction Administrator shall announce the Auction Reserve Price.

(C) The auction administrator shall set the exchange rate as the most recently available daily buying rate for U.S. and Canadian dollars as published by the Bank of Canada, and shall announce the exchange rate prior to the opening of the auction window.

(D) The Auction Reserve Price in Canadian dollars shall be the highest of the minimum prices set and published or posted in Canadian dollars in any jurisdiction operating an External GHG ETS to which California has linked pursuant to subarticle 12.

(E) The auction administrator will use the announced exchange rate to convert to a common currency the Auction Reserve Prices previously calculated separately in U.S. and Canadian dollars. The auction administrator will set the Auction Reserve Price equal to the higher of the two values.

(4) The Auction Reserve Price will be announced prior to the opening of the auction window at 10 a.m. Pacific Standard Time (or Pacific Daylight Time when in effect) on the day of the auction, and will be in effect until the

window closes at 1 p.m. Pacific Standard Time (or Pacific Daylight Time when in effect).

(d) Auction Purchase Limit.

(1) The auction purchase limit is the maximum number of allowances offered at each Current and Advance Auction which can be purchased by any entity or group of entities with a direct corporate association.

(2) Purchase Limit Values.

(A) The purchase limit for covered entities, electrical distribution utilities, opt-in covered entities, or direct corporate associations containing any of these types of entities will be 25 percent of the allowances offered for auction at both the Current and Advance Auctions.

(B) The purchase limit for voluntarily associated entities or direct corporate associations comprised entirely of these entities is four percent of the allowances offered for auction at the Current and Advance Auctions.

(3) Auction Purchase Limits for Members of a Direct Corporate Association.

(A) Entities that are part of a direct corporate association must allocate a specified percentage share of the association's purchase limit to each member of the direct corporate association. The sum of the percentage shares allocated among the entities must equal one hundred percent. The purchase limit for each associated entity is its allocated percentage share multiplied by the auction purchase limit assigned to the association.

(B) For voluntarily associated entities that are part of a corporate association containing covered entities, opt-in covered entities, or electrical distribution utilities, the total purchase limit assigned to voluntarily associated entities within the corporate association must be less than or equal to four percent of the allowances to be auctioned at Current and Advance Auctions.

(e) Determination of Winning Bidders and Settlement Price. The following process shall be used to determine winning bidders, amounts won, and a single auction settlement price:

(1) Each bid will consist of a price and the quantity of allowances, in multiples of 1,000 CA GHG Allowances, desired at that price.

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(2) Each bidder may submit multiple bids.

(3) Beginning with the highest bid price, bids from each bidder will be considered in declining order by price, and the auction operator shall reject a bid for a bundle of 1,000 allowances:

(A) If acceptance of the bid would result in violation of the purchase limit pursuant to sections 95911(d) and 95914;

(B) If acceptance of the bid would result in violation of the holding limit pursuant to sections 95914 and 95920(b); or

(C) If acceptance of the bid would result in a total value of accepted bids for an auction participant greater than the value of the bid guarantee submitted by the auction participant pursuant to section 95912(h).

(4) Bids from all bidders will be ranked from highest to lowest by price. Beginning with the highest bid and proceeding to successively lower bids, entities submitting bids at each price will be sold allowances until:

(A) The next lower bid price is less than the auction reserve price, in which case the current price becomes the auction settlement price; or

(B) The total quantity of allowances contained in the bids at the next lower bid price is greater than or equal to the number of allowances yet to be sold, in which instance, the next lower bid price becomes the auction settlement price and the procedure for resolution of tie bids in section 95911(e)(5) shall apply.

(5) Resolution of tie bids. If the quantity of allowances contained in the bids placed at the auction settlement price is greater than the quantity of allowances available to be sold at that price, then:

(A) The auction administrator will calculate the share of the remaining allowances to be distributed to each entity bidding at the auction settlement price by dividing the quantity bid by that entity and accepted by the auction administrator by the total quantity of bids at the settlement price which were accepted by the auction administrator;

(B) The auction administrator will calculate the number of allowances distributed to each bidding entity by multiplying the bidding entity's share calculated in section 95911(e)(5)(A) by the number of

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allowances remaining, rounding the number down to the nearest whole number; and

(C) To distribute any remaining allowances, the auction administrator will assign a random number to each entity bidding at the auction settlement price. Beginning with the lowest random number, the auction administrator will assign one allowance to the last bundle purchased by each entity until the remaining allowances have been assigned.

(f) If the quantity of bids accepted by the Auction Administrator is less than the number of allowances offered for sale then some allowances will remain unsold.

(1) If allowances remain unsold at auction, the auction administrator will fulfill winning bids with allowances from consignment and other sources in the following order:

(A) Allowances consigned to auction pursuant to section 95910(d)(2);

(B) Allowances consigned from limited use holding accounts pursuant to section 95910(d)(1);

(C) Allowances designated to auction pursuant to section 95910(e);

(D) Allowances redesignated to the auction pursuant to section 95911(f)(3); and

(E) Allowances designated by ARB for auction pursuant to sections 95910(c)(1)(B), (c)(2)(B), and (c)(2)(C).

(2) When there are insufficient winning bids to exhaust the allowances from a consignment source in section 95911(f)(1), the auction administrator will sell an equal proportion of allowances from each consigning entity in that source as follows:

(A) The auction administrator will calculate the number of allowances sold on behalf of each consigning entity by multiplying the consigning entity's share of the total consigned allowances by the number of consigned allowances sold, rounding the number down to the nearest whole number; and

(B) To distribute any remaining allowances, the auction administrator will assign a random number to each entity consigning allowances. Beginning with the lowest random number, the auction

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administrator will assign one allowance to each entity until the remaining allowances have been assigned.

(3) Disposition of Allowances Designated by ARB for Auction Which Remain Unsold.

(A) Allowances designated by ARB pursuant to section 95910(c)(1)(B), (c)(2)(B), and (c)(2)(C) for an auction which remain unsold shall be kept in the Auction Holding Account for later auction.

(B) Allowances used to fulfill an untimely surrender obligation transferred by the Executive Officer pursuant to section 95857(d) for an auction which remain unsold shall be kept in the Auction Holding Account for later auction.

(C) Allowances designated by ARB for auction which remain unsold will be re-designated for auction after two consecutive auctions have resulted in an auction settlement price above the Auction Reserve Price. If future vintage allowances remain unsold at the end of the calendar year for which they were designated for sale at Advance Auction, they will remain in the Auction Holding Account until their vintage year. They will then be designated for the Current Auction pursuant to section 95910(c)(1)(B).

(D) The number of allowances re-designated to a subsequent Current or Advance Auction will not exceed 25 percent of allowances already designated by ARB for that auction. Allowances which remain unsold above that level will be held in the Auction Account for later auction.

(4) Disposition of Consigned Allowances Remaining Unsold at Auction.

(A) Allowances consigned to auction from limited use holding accounts that remain unsold at auction will be held in the Auction Holding Account and offered for sale at each auction until sold.

(B) Allowances consigned to auction pursuant to section 95910(d)(2) that remain unsold at auction will be held in the Auction Holding Account and offered for sale at each auction until sold.

(g) Disposition of Allowances Remaining Unsold at Auction for More than Twenty-Four Months. ARB will transfer current vintage allowances that remain unsold in the Auction Holding Account for more than 24 months to the Reserve. ARB will transfer these allowances no later than the surrender deadlines specified in

sections 95856(d) and (f). Current vintage allowances designated by ARB pursuant to this section do not include allowances consigned to auction pursuant to section 95910(d).

(h) Retirement of Future Vintage Allowances to Cover Unresolved Emissions Obligations Resulting from Covered Entity Bankruptcy.

(1) Starting in 2019, ARB will retire future vintage allowances equivalent to the unsurrendered compliance obligation of any bankrupt entity, where such compliance obligation is not otherwise accounted for by section 95835(b). For the avoidance of doubt, the unsurrendered compliance obligation of the bankrupt entity consists of the quantity of verified reported emissions, assigned emissions, and emissions that have been released from the subject facility but not reported yet for which the covered entity would be required to submit compliance instruments to CARB absent the bankruptcy, but that the covered entity has not surrendered to CARB at the time of completion of the bankruptcy proceeding. ARB will retire allowances from the allowance budget two years after the current allowance budget year that is not already allocated to entities pursuant to sections 95870(a) and 95871(a).

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.

§ 95912. Auction Administration and Participant Application.

(a) Administration of the Auctions.

(1) The Executive Officer may serve as auction administrator or designate an entity to serve as auction administrator.

(2) The Executive Officer may serve as financial services administrator or may designate a qualified financial services administrator to conduct all financial transactions required by this article.

(b) The Executive Officer may direct that the California GHG allowances designated for auction be offered through an auction conducted jointly with other jurisdictions to which California links pursuant to subarticle 12, provided the joint auction conforms to this article.

(c) Auction Notification. At least 60 days prior to each auction, the auction administrator shall publish the following information:

(1) The date and time of the auction;

(2) Auction application requirements and instructions;

(3) The form and manner for submitting bids;

(4) The procedures for conducting the auction;

(5) The administrative requirements for participation;

(6) The number of allowances that will be available at the auction; and

(7) For the announcement of the first quarter auction, the number of allowances to be available for sale during the calendar year and the Auction Reserve Price in effect for the calendar year pursuant to section 95911(c).

(8) If California has linked to a jurisdiction operating an External GHG ETS pursuant to subarticle 12, the number of allowances in section 95912(c)(6) may also include the allowances made available by the linked jurisdiction. The auction administrator may modify the auction notice to reflect changes in allowances made available by any linked jurisdictions up until 30 days prior to an auction.

(d) Auction Eligibility.

(1) The Executive Officer must approve an entity's auction eligibility before that entity may participate in an auction.

(2) Only an entity registered into the Cap-and-Invest Program pursuant to section 95830 is eligible for auction participation.

(3) An entity whose holding account has been revoked or is currently suspended pursuant to section 96011 is not eligible to participate in an auction. An individual associated pursuant to sections 95830, 95832, and 95833 with an entity whose holding account has been revoked or is currently suspended pursuant to section 96011 is not eligible to participate in an auction.

(4) An entity must provide auction eligibility information, including any changes required by subarticle 5, at least 30 days prior to an auction in which it intends to participate, including:

(A) Except as otherwise provided in section 95833(e)(4), the existence of any direct or indirect corporate associations pursuant to sections 95833 and 95911(d);

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(B) An allocation of the purchase limit among associated entities as defined in section 95833, or a change in the existing allocation of the purchase limit among associated entities, if applicable;

(C) An allocation of the holding limit among associated entities as defined in section 95833, or a change in the existing allocation of the holding limit among associated entities, if applicable; and

(D) An attestation disclosing the existence and status of any ongoing investigation or an investigation that has occurred within the last ten years with respect to any alleged violation of any rule, regulation, or law associated with any commodity, securities, environmental, or financial market for the entity participating in the auction, and all other entities with whom the entity has a direct corporate association pursuant to section 95833 that participate in a carbon, fuel, or electricity market. The attestation must be updated to reflect any change in the status of an investigation that has occurred since the most recent auction application attestation was submitted.

(5) An entity with any changes to the auction eligibility information listed in section 95912(d)(4) within 30 days prior to an auction may be denied eligibility for the auction if the updated information represents a material change. For the purposes of changes to indirect and direct corporate associations, this section only applies to those corporate associates with entities registered in the tracking system.

(6) Prior to participating in an auction, any primary or alternate account representative that will be submitting bids on behalf of entities eligible to participate in an auction must have already:

(A) Complied with the Know-Your-Customer requirements of section 95834; and

(B) Submitted the additional information required by the financial services administrator contained in Appendix A of this Article.

(e) Auction Participation Approval. An entity that intends to participate in an auction must inform the Auction Administrator at least 30 days prior to an auction of its intent to bid in an auction, otherwise the entity may not participate in that auction. An entity must be declared eligible for auction participation pursuant to section 95912(d) before it can be approved for auction participation.

(f) Protection of Confidential Information. To the extent permitted by state law, the Executive Officer, the Auction Administrator, and the financial services

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administrator will treat the auction eligibility information submitted pursuant to section 95912(d)(4) and not listed for release pursuant to section 95912(i)(5) as confidential business information.

(g) All bids will be considered binding offers for the purchase of allowances under the rules of the auction.

(h) Auction participants must provide a bid guarantee to the financial services administrator at least 12 days prior to the auction.

(1) The bid guarantee must be in one, or a combination of, the following forms:

(A) Cash in the form of a wire transfer; or

(B) An irrevocable letter of credit; or

(C) A bond.

(D) All forms of bid guarantee must be in a form that may be accepted by the financial services administrator consistent with U.S. banking laws and bank practices.

(2) The bid guarantee submitted by any entity registered with California will be in U.S. dollars.

(3) A bid guarantee submitted in any form other than cash must be payable within three business days of payment request submitted by physical presentment or electronically by facsimile, or other electronic form accepted by the financial services administrator.

(4) The bid guarantee will be in the currency used by the jurisdiction with which the entity has registered.

(5) The amount of the bid guarantee must be greater than or equal to the maximum value of the bids to be submitted.

(A) The value of a set of bids equals the cumulative quantity of bids submitted at or above a price times that price. The value of the set of bids is calculated at each price at which the bidder will submit a bid.

(B) The maximum value of a set of bids is the highest value of a set of bids calculated at each price at which the bidder will submit a bid.

(C) The auction participant submits a single bid guarantee to cover bids in both the Current and Advance Auctions and the amount of the single bid guarantee must be greater than or equal to the combined maximum value of the Current and Advance Auction bids to be submitted.

(6) The bid guarantee will be made payable to the financial services administrator.

(7) The bid guarantee will expire no sooner than 26 days after the auction date.

(8) The financial services administrator will evaluate the bid guarantee and inform the auction administrator of the value of the bid guarantee once it is found to conform to this section and is accepted by the Executive Officer.

(9) If an entity has submitted more than one form of bid guarantee then the financial services administrator will apply the instruments to the unpaid balance in the order the instruments are listed in section 95912(h)(1).

(10) The auction administrator will apply the value of the bid guarantee to the Current Auction first when accepting bids pursuant to section 95911(e)(3). The remaining value of the bid guarantee will be used to determine acceptance of bids into the Advance Auction.

(i) After the auction administrator has notified the Executive Officer of the results of the auction the Executive Officer will:

(1) Review the conduct of the auction by the auction administrator, then certify whether the auction met the requirements of this article;

(2) After certification, direct the auction administrator to notify each winning bidder of the auction settlement price, the number of allowances that the bidder purchased, the bidder's total purchase cost, and the deadline and method for submitting payment.

(3) After certification, direct the financial services administrator to:

(A) Collect cash payments from winning bidders prior to the financial settlement date provided in the auction notification;

(B) Use the bid guarantee to cover payment for allowance purchases by any entity that fails to make cash payment prior to the financial settlement date provided in the auction notification and place the

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proceeds into the Greenhouse Gas Reduction Fund created pursuant to Government Code section 16428.8;

(C) Deposit auction proceeds from sales of ARB allowances sold at auction into the Greenhouse Gas Reduction Fund created pursuant to Government Code section 16428.8;

(D) Distribute auction proceeds to entities that consigned allowances for auction pursuant to section 95910(d);

(E) Return any unused cash bid guarantee; and

(F) Return any bid guarantee form other than cash after receipt of payment for allowances awarded.

(G) A bid guarantee in a form other than cash may be held by the financial services administrator for multiple auctions or reserve sales upon agreement by the financial services administrator and bidder.

(4) Upon determining that the payment for allowances has been deposited into the Greenhouse Gas Reduction Fund created pursuant to Government Code section 16428.8, or transferred to entities that consigned allowances, transfer the allowances purchased into each winning bidder's Holding Account, or to its Compliance Account if needed to comply with the holding limit. At least seven days prior to the scheduled transfer date identified in the auction notice, and following the announcement of the auction settlement price, the Executive Officer will evaluate the account holdings of each winning bidder and determine the number of total allowances to be transferred to the winning bidder’s Holding Account or its Compliance Account, if applicable, and will complete the coordination to determine the proportional distribution transfer amounts with any participating linked jurisdiction pursuant to section 95911(a)(5);

(5) Inform each approved external GHG emissions trading system and the associated tracking system of the serial numbers of allowances purchased at auction; and

(6) Following the auction, the Executive Officer will publish at www.arb.ca.gov the following information:

(A) The names of the bidders;

(B) Auction settlement price; and

(C) Aggregated or distributional information on purchases with the names of the entities withheld.

(j) The auction bidding window may be delayed, rescheduled, or cancelled due to technical systems failures and to protect the environmental stringency of the California Cap-and-Invest Program.

(1) The opening of the auction bidding window may be delayed or paused for no more than one hour by the Executive Officer due to technical systems failures.

(2) The bidding window may be rescheduled by the Executive Officer due to technical systems failures or to protect the environmental stringency of the California Cap-and-Invest Program.

(3) Rescheduled Auctions.

(A) The auction bidding window must be rescheduled to ensure the financial services administrator can use any bid guarantees submitted pursuant to section 95912 prior to the expiration date required by section 95912.

(B) No additional auction applications may be accepted.

(C) The financial services administrator will keep all bid guarantees to complete financial settlement of the auction after the rescheduled bidding window.

(D) No bid guarantees provided pursuant to section 95912 may be amended.

(E) If technical systems failures cannot be resolved and a bidding window cannot be rescheduled to meet the requirements of this section, then the Executive Officer will cancel the auction bidding window.

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 and Section 16428.8, Government Code.

§ 95913. Sale of Allowances from the Allowance Price Containment Reserve.

(a) The Executive Officer may serve as reserve sale administrator to conduct sales from the Allowance Price Containment Reserve (Reserve) or designate an entity

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to serve as reserve sale administrator. The financial services administrator designated by the Executive Officer pursuant to section 95912(a) will conduct the financial transactions required to operate sales from the Reserve.

(b) Entities registered in an External GHG ETS to which California has linked pursuant to subarticle 12 are not eligible to purchase from the California Reserve.

(c) Only entities registered into the California Cap-and-Invest Program as provided in sections 95811 or 95813 shall be eligible to purchase allowances from the Reserve. Prior to participating in a Reserve sale, any primary or alternate account representative that will be submitting bids on behalf of entities eligible to participate in Reserve sales must have already submitted any additional information required by the financial services administrator.

(d) Timing of Reserve Sales.

(1) Reserve sales shall be conducted pursuant to the schedule in Appendix C.

(A) Except for the Reserve sale immediately preceding the compliance obligation instrument surrender deadline on November 1, a Reserve sale will only be offered if the Current Auction held in the preceding quarter resulted in a settlement price greater than or equal to 80% of the lowest Reserve tier price. The Executive Officer may revise the timing of reserve sales, including the date an entity must inform the Reserve Sale Administrator of its intent to participate in a reserve sale pursuant to section 95913(f) and the date an entity must submit to the financial services administrator a bid guarantee pursuant to section 95913(g), by up to four business days.

(B) The Reserve sale immediately preceding the compliance obligation instrument surrender on November 1 of each year will always be offered.

(C) A Reserve sale will be conducted only if at least one entity that intends to participate in the Reserve sale informs the Reserve Sale Administrator at least 20 days prior to the scheduled Reserve sale and submits a bid guarantee to the financial services administrator at least 12 days before the scheduled Reserve sale.

(2) For any Reserve sale that will be offered, the Reserve sale administrator shall provide all eligible participants with notice of the number of allowances available for sale and the terms of the sale at least 30 days prior to the sale.

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(A) The Reserve sale administrator shall offer all of the allowances in the Reserve for any Reserve sale offered.

(e) Reserve Sale Eligibility.

(1) The Executive Officer must approve an entity's reserve sale eligibility before that entity may participate in a reserve sale.

(2) An entity must keep its registration information current pursuant to section 95830(e) in order to participate in a Reserve sale. An entity that has not disclosed material changes to registration information by the deadline pursuant to section 95830(e) will be denied Reserve sale participation.

(f) Reserve Sale Participation Approval.

(1) An entity that intends to participate in a reserve sale must inform the Reserve Sale Administrator at least 20 days prior to a reserve sale of its intent to participate in a reserve sale, otherwise the entity may not participate in that reserve sale. An entity must be declared eligible for reserve sale participation before it can be approved for reserve sale participation.

(2) The Executive Officer will cancel or restrict a previously approved reserve sale participation application pursuant to section 95913(e)(1) or reject a new application if the Executive Officer determines that an entity has:

(A) Provided false or misleading facts;

(B) Withheld material information from its application or account application information listed in section 95830, with material meaning information that could influence a decision by the Executive Officer;

(C) Violated the Reserve sale rules pursuant to subarticle 10;

(D) Violated the registration requirements pursuant to subarticle 5; or

(E) Violated the rules governing trading pursuant to subarticle 11.

(g) At least 12 days before the scheduled sale, an entity intending to participate in a Reserve sale must submit to the financial services administrator a bid guarantee, payable to the financial services administrator, in an amount greater than or equal to the sum of the maximum value of the bids to be submitted by the entity.

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(1) The maximum value of a set of bids is the quantity bid at each tier times the tier price, summed across the three tiers.

(2) The bid guarantee must be in one or a combination of the following forms:

(A) Cash in the form of a wire transfer; or

(B) An irrevocable letter of credit; or

(C) A bond.

(D) All forms of bid guarantee must be in a form that may be accepted by the financial services administrator consistent with U.S. banking laws and bank practices.

(3) A bid guarantee submitted in any form other than cash must be payable within three business days of payment request.

(4) The bid guarantee will be made payable to the financial services administrator.

(5) The bid guarantee will expire no sooner than 26 days after the Reserve sale.

(6) The financial services administrator will evaluate the bid guarantee and inform the Reserve sale administrator of the value of the bid guarantee once it is found to conform to this section and is accepted by the Executive Officer.

(h) Reserve Tiers.

(1) Creation of the Reserve Tiers.

(A) The Executive Officer shall divide one-third of the allowances allocated to the Reserve from section 95870(a) into three equal-sized Reserve tiers. The remaining two-thirds of the allowances allocated to the Reserve from section 95870(a) will not be made available at Reserve sales until 2021, pursuant to section 95913(h)(1)(D).

(B) In 2021, the Executive Officer will replace the existing three tier Reserve with a new Reserve consisting of two tiers.

(C) In 2021, the Executive Officer shall transfer all of the allowances remaining in the existing Reserve as of December 31, 2020 into the

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price ceiling account to be made available pursuant to section 95915.

(D) In 2021, the Executive Officer shall place 22,726,000 allowances allocated pursuant to section 95871(a) to the second Reserve tier.

(E) In 2021, the Executive Officer shall divide evenly between the two new Reserve tiers the allowances allocated pursuant to section 95871(a), less the allowances allocated pursuant to section 95913(h)(1)(D), as well as the remaining two-thirds of the allowances allocated pursuant to section 95870(a).

(F) In 2026, the Executive Officer shall transfer the allowances identified in Table 8-3 to the first Reserve Tier.

(2) Disposition of Allowances Unsold at Auction for More than 24 Months.

(A) Through December 31, 2020, all allowances transferred to the Reserve pursuant to section 95911(g) shall be transferred evenly to each of the three tiers of the Reserve.

(B) Beginning in 2021, all allowances transferred to the Reserve pursuant to section 95911(g) shall be transferred evenly between the two new Reserve tiers.

(3) In 2013, sales of allowances from the Reserve shall be conducted at the following prices:

(A) Allowances from the first tier shall be offered for $40 per allowance;

(B) Allowances from the second tier shall be offered for $45 per allowance; and

(C) Allowances from the third tier shall be offered for $50 per allowance.

(4) Increase in Reserve Tier Prices in calendar years from 2014 through 2020. Tier prices from the previous calendar year will be increased by five percent plus the rate of inflation as measured by the most recently available twelve month value of the Consumer Price Index for All Urban Consumers.

(5) In 2021, sales of allowances from the Reserve shall be conducted at the following prices:

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(A) Allowances from the first tier shall be offered for $41.40 per allowance.

(B) Allowances from the second tier shall be offered for $53.20 per allowance.

(6) Increase in Reserve Tier Prices in calendar years after 2021. Tier prices from the previous calendar year will be increased by five percent plus the rate of inflation as measured by the most recently available twelve month value of the Consumer Price Index for All Urban Consumers.

(i) Purchase Determinations.

(1) The reserve sale administrator will conduct sales from each tier in succession, beginning with the lowest priced tier and proceeding to the highest priced tier. The Reserve sale will continue until either all allowances are sold from the Reserve or all the accepted bids are filled.

(2) The Reserve sales window will open at 10 a.m. Pacific Standard Time (or Pacific Daylight Time, when in effect) on the day of sale, and bids may be submitted until the window closes at 1 p.m. Pacific Standard Time (or Pacific Daylight Time, when in effect).

(A) Each bid will consist of the price, in U.S. dollars, equal to one of the three tiers and a quantity of allowances in multiples of 1,000 allowances.

(B) An entity may submit multiple bids.

(3) The reserve sale administrator will only accept a bid for a bundle of 1,000 allowances:

(A) If acceptance of the bid would not result in violation of the holding limit pursuant to section 95920(b);

(B) If acceptance of the bid would not result in a total value of accepted bids for a covered entity greater than the value of the bid guarantee submitted by the covered entity pursuant to section 95913(g); or

(C) If the bid entered by an entity for a tier is for a quantity less than or equal to the number of allowances available for sale in that tier.

(4) If the sum of bids at the tier price which are accepted by the reserve sale administrator is less than or equal to the number of allowances in the tier, then:

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(A) The reserve sale administrator will sell to each covered entity the number of allowances for which the entity submitted bids for that tier which were accepted by the reserve sale administrator; and

(B) If allowances remain in the tier after the sales pursuant to section 95913(i)(4)(A) are completed, the reserve sale administrator will assign a random number to each bundle of 1,000 allowances for which entities submitted a bid for the tier above the current tier being sold. Beginning with the lowest random number assigned and working in increasing order of the random numbers assigned, the reserve sale administrator shall sell a bundle of allowances to the bidder assigned the random number until the remaining allowances in the tier are sold or all accepted bids have been fulfilled. The price for the allowances sold under this procedure will be the price for the tier from which they are sold, not the bid placed.

(5) Filling Accepted Bids. If the sum of bids accepted by the reserve sale administrator for a tier is greater than the number of allowances in the tier, the reserve sale administrator will determine the total amount to be distributed from the tier to each covered entity using the following procedure:

(A) The reserve sale administrator will calculate the share of the tier to be distributed to each bidding entity by dividing the quantity bid by that entity and accepted by the reserve sale administrator by the total quantity of bids which were accepted by the reserve sale administrator; and

(B) The reserve sale administrator will calculate the number of allowances distributed to each bidding entity from the tier by multiplying the bidding entity's share calculated in section 95913(i)(5)(A) by the number of allowances in the tier, rounding the number down to the nearest whole number.

(C) To distribute any remaining allowances, the reserve sale administrator will assign a random number to each entity bidding in the reserve sale tier. Beginning with the lowest random number, the reserve sale administrator will assign one allowance to the last bundle purchased by each entity until the remaining allowances have been assigned.

(6) After completing the sales for each tier the reserve sale administrator will repeat the processes in sections 95913(i)(4) and (i)(5) for the next highest price tier until all bids have been filled or until the Reserve is depleted. At

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that time the reserve sale administrator will inform the Executive Officer of the sales from the Reserve to each participant.

(j) Resolution of Sales.

(1) After reviewing the conduct of the sale by the Reserve sale administrator, the Executive Officer will certify whether the Reserve sale met the requirements of this article.

(2) After certification of the sale results, the Executive Officer will direct the reserve sale administrator to notify Reserve sale participants of their purchases and total purchase cost.

(3) After certification of the sale results, the Executive Officer will direct the financial services administrator to:

(A) Collect cash payments from participants prior to the financial settlement date provided in the reserve sale notification;

(B) Use the bid guarantee to cover payment for allowance purchases by any entity that fails to make cash payment prior to the financial settlement date provided in the reserve sale notification. If an entity has submitted more than one form of bid guarantee then the financial services administrator will apply the instruments to the unpaid balance in the order the instruments are listed in section 95913(g)(2);

(C) Deposit proceeds into the Greenhouse Gas Reduction Fund created pursuant to Government Code section 16428.8;

(D) Return any unused cash bid guarantee; and

(E) Return any bid guarantee in a form other than cash after receipt of payment for allowances awarded.

(F) A bid guarantee in a form other than cash may be held by the financial services administrator for multiple auctions or reserve sales upon agreement by the financial services administrator and bidder.

(4) Upon determining that the financial services administrator has deposited the payment for allowances into the Greenhouse Gas Reduction Fund created pursuant to Government Code 16428.8, the Executive Officer shall transfer the allowances purchased from the Allowance Price Containment Reserve sale into each winning bidder's compliance account.

(5) The Executive Officer shall inform each approved external GHG emissions trading system and the associated tracking system of the serial numbers of allowances sold; and

(6) The Executive Officer shall publish the sale results at www.arb.ca.gov.

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.

§ 95914. Auction Participation and Limitations.

(a) The Executive Officer may cancel or restrict a previously approved auction participation application or reject a new application if the Executive Officer determines that an entity has:

(1) Provided false or misleading facts;

(2) Withheld material information from its application or account application information listed in section 95830, with material meaning information that could influence a decision by the Executive Officer, the Board, or the Board's staff;

(3) Violated any part of the auction rules pursuant to subarticle 10;

(4) Violated the registration requirements pursuant to subarticle 5; or

(5) Violated the rules governing trading pursuant to subarticle 11.

(b) If the Executive Officer determines an entity has committed any of the violations listed in section 95914(a), then:

(1) The Executive Officer may instruct the auction administrator to cancel a previously approved auction application or to not accept auction applications from the entity;

(2) The Executive Officer may instruct the auction administrator to restrict the auction application approval for any corporate associate of the entity to prevent the purchase of allowances at auction for subsequent transfer to the violator;

(3) Any cancellation or restriction imposed by the Executive Officer may be permanent or for a specified number of auctions; and

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(4) The cancellation or restriction imposed by the Executive Officer shall be in addition to any other penalties, fines, and additional remedies available at law.

(c) Disclosure of Auction Participation Information.

(1) Except as provided in section 95914(c)(2), all entities registered into the Cap-and-Invest Program pursuant to section 95830, their direct and indirect corporate associations, and consultants and advisors as identified in section 95923 shall not release any of the following information regarding auction participation or reserve sale participation, as applicable:

(A) Intent to participate, or not participate, at auction, and auction approval status;

(B) Bidding strategy at any auctions, including the specification of an auction settlement price or range of potential auction settlement prices at which an entity is willing to buy or sell allowances;

(C) Bid price or bid quantity information at past or future auctions; and

(D) Information on the amount of any bid guarantee provided to the financial services administrator.

(2) Auction participation information listed in section 95914(c)(1) may be released under the following conditions:

(A) When the release is to other members of a direct corporate association not subject to auction participation restriction or cancellation pursuant to section 95914(b);

(B) When the release is to a Cap-and-Invest Consultant or Advisor who has been disclosed to the Executive Officer pursuant to section 95914(c)(3);

(C) When the release is made by a publicly owned utility only as required by public accountability rules, statute, or rules governing participation in generation projects operated by a Joint Powers Authority or other publicly owned utilities; or

(D) When the release is to an agency that has regulatory jurisdiction over privately owned utilities in the State of California of information regarding compliance instrument cost and acquisition strategy and other disclosures specifically required or authorized by the regulatory agency pursuant to any of its applicable rules, orders, or

decisions. In the event of a disclosure pursuant to this section, and upon the request of the Executive Officer, the entity must provide within 10 business days the statutory or regulatory reference or the general order, decision, or ruling to ARB that requires the disclosure of the specific information related to bidding strategy.

(3) If an entity participating in an auction has retained the services of a Cap-and-Invest Consultant or Advisor, as defined in section 95923, regarding auction bidding strategy, then:

(A) The entity must ensure against the Consultant or Advisor transferring the entity's information to other auction participants or coordinating the bidding strategy among participants;

(B) The entity will inform the Consultant or Advisor of the prohibition of sharing information to other auction participants and ensure the Consultant or Advisor has read and acknowledged the prohibition under penalty of perjury;

(C) The Consultant or Advisor must provide the Executive Officer the following information:

1. Names of the entities participating in the Cap-and-Invest Program that are being advised;

2. Description of advisory services being performed; and

3. Assurance under penalty of perjury that advisor is not transferring to or otherwise sharing information with other auction participants.

(D) The information must be received by the Executive Officer at least 15 days prior to an auction.

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.

§ 95915. Price Ceiling Sales.

(a) Administration of Price Ceiling Sales.

(1) The Executive Officer may serve as sale administrator to conduct price ceiling sales or designate an entity to serve as the sale administrator.

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(2) The Executive Officer may designate a financial services administrator to conduct the financial transactions required to operate price ceiling sales.

(b) Eligibility.

(1) Only California covered entities and opt-in covered entities may participate in price ceiling sales.

(2) Purchases shall be limited to entities that do not have sufficient eligible compliance instruments in their holding and compliance accounts for the next compliance surrender deadline and these entities may only purchase what they need to meet their compliance obligation at the next surrender deadline.

(c) Price ceiling sales may be held beginning in 2021.

(d) The sale administrator will not conduct price ceiling sales if allowances remain in the first or second tiers of the Reserve.

(e) The sale administrator will only conduct a price ceiling sale between the last Reserve sale before a compliance event and the compliance event itself.

(f) Price Ceiling Sales Procedure.

(1) Terms of sale.

(A) Beginning in 2021, entities may purchase allowances or price ceiling units from the price ceiling account at $65 per allowance or price ceiling unit.

(B) After 2021, the purchase price will increase annually by five percent plus the rate of inflation as measured by the most recently available twelve month value of the Consumer Price Index for All Urban Consumers.

(C) The financial services administrator will begin to accept cash payment for purchases from price ceiling sales no earlier than ten business days after the previous Reserve sale and will cease accepting payments no later than seven business days thereafter.

(2) The financial services administrator will inform the Executive Officer of the amounts of payments received from covered entities no later than one business day after it ceases to accept payments.

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(3) The Executive Officer will determine the number of allowances or price ceiling units purchased by each entity by dividing the payment submitted by the entity by the purchase price prevailing at the time of the sale, and rounding down to the nearest whole allowance or price ceiling unit. The Executive Officer will then take one of the following actions:

(A) If there are sufficient allowances in the price ceiling account to fulfill the purchases of all entities submitting payment, the Executive Officer will transfer the appropriate number of allowances to each purchasing entity's compliance account.

(B) If there are insufficient allowances remaining in the price ceiling account to fulfill the purchases of all entities submitting payment, the Executive Officer will prorate the available allowances equally among all purchasing entities to the extent possible, and transfer the prorated allowances and sufficient price ceiling units to fulfill the purchases of all entities submitting payment into each entity's compliance account. The proration will be calculated using the share of allowances available for purchase in the price ceiling account in the sum of the purchases.

(C) If there are no allowances remaining in the price ceiling account to fulfill the purchases, the Executive Officer will transfer the appropriate number of price ceiling units to each purchasing entity's compliance account.

(g) Beginning in 2021, price ceiling units will be valid for surrender against a compliance obligation upon transfer to a compliance account and will be retired after all other compliance instruments specified in sections 95856(h)(1) and 95856(h)(2), as applicable, have been retired.

(h) Procedure for Issuance of Price Ceiling Units.

(1) The Executive Officer will issue price ceiling units into the Price Ceiling Account as needed. Upon issuance into the Price Ceiling Account, price ceiling units are eligible for purchase at price ceiling sales pursuant to section 95915(f).

(2) All moneys generated from the sale of price ceiling units will be deposited into the California Climate Mitigation Fund and expended pursuant to the requirements of Health and Safety Code section 38562(c)(2)(A)(ii)(II).

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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, Health and Safety Code.

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Subarticle 11. Trading and Banking

§ 95920. Trading.

(a) The holding limit is the maximum number of California GHG allowances that may be held by an entity or jointly held by a group of entities with a direct corporate association, as defined in section 95833, at any point in time.

(b) Application of the Holding Limit.

(1) The holding limit will apply to each entity registered as a covered, opt-in covered, or voluntarily associated entity pursuant to section 95830.

(2) The holding limit calculation will not include allowances contained in limited use holding accounts or exchange clearing holding accounts created pursuant to section 95831.

(3) The holding limit calculation will not include allowances contained in Annual Allocation Holding Accounts.

(4) If the Executive Officer determines that a reported transfer request not yet recorded into the tracking system would result in an entity's holdings exceeding the applicable holding limit, then the Executive Officer shall not approve the transfer request pursuant to section 95921(a)(1).

(5) If an entity is in compliance with the current vintage holding limit on December 31 of any year and the reclassification of future vintage allowances as current vintage allowances pursuant to section 95920(c)(1)(C) causes it to exceed the holding limit on January 1 of the next compliance year, then:

(A) The accounts administrator will inform the entity; and

(B) The entity will have five business days to bring its account balances within the holding limit. After that, the Executive Officer may transfer allowances in excess of the holding limit to the Auction Holding Account for consignment to auction pursuant to section 95910(d)(2).

(C) Allowances transferred to the Auction Holding Account for consignment will be drawn first from the entity's Holding Account and, if necessary, from the entity's Compliance Account. The order for removing allowances for consignment will be the opposite of the retirement order in section 95856(h)(1).

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(6) Penalties for Holding Limit Violations.

(A) For an entity that is out of compliance with the holding limit only as a result of the circumstances described in section 95920(b)(5), penalties may be applied if the entity fails to bring its account balances under the holding limit within the five business day period allowed pursuant to section 95920(b)(5)(B). Otherwise, penalties may be applied whenever the holding limit is exceeded.

(B) Penalties may be applied if the violation of the holding limit is not discovered until after a transfer that would exceed the holding limit is registered into the tracking system.

(c) The holding limit will be separately calculated to holdings of:

(1) Current Vintage Allowances. This category of allowances consists of:

(A) Allowances with a vintage year corresponding to the current or previous calendar years;

(B) Allowances from any vintage purchased from the Allowance Price Containment Reserve pursuant to section 95913; and

(C) Allowances originally purchased at the Advance auction but of a vintage year equal or prior to the current calendar year; and

(D) Allowances issued by a GHG ETS program approved by ARB pursuant to section 95941 that have no vintage;

(2) Future Vintage Allowances. This category of allowances consists of:

(A) Allowances that were purchased at the Advance Auction and still have a vintage year greater than the current calendar year; and

(B) Allowances with a vintage year greater than the current calendar year that were obtained through true-up allocation.

(d) The holding limit will be calculated for allowances qualifying pursuant to section 95920(c)(1) as the sum of:

(1) The number given by the following formula:

$$Holding\ Limit = 0.1 \times Base + 0.025 \times (Annual\ Allowance\ Budget - Base)$$

In which:

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1. "*Base*" equals 25 million metric tons of CO_2e.

2. "*Annual Allowance Budget*" is the number of allowances issued for the current budget year.

(2) Limited Exemption from the Holding Limit.

(A) The limited exemption from the holding limit (limited exemption) is the maximum number of allowances that will not be included in the holding limit calculated pursuant to section 95920(c)(1). To qualify for inclusion within the limited exemption, allowances must be placed in the entity's Compliance Account. The limited exemption is available to covered entities and opt-in covered entities but not to voluntarily associated entities.

(B) Calculation of the Limited Exemption for Entities Already Registered as of January 1, 2017 as Covered Entities or Opt-in Covered Entities. The limited exemption for these entities is the sum of the emissions contained in the most recent annual emissions data reports that have received a positive or qualified positive emissions data verification statement for emissions for which the entity now has a compliance obligation pursuant to section 95851, plus the amount of emissions in the oldest emissions report for which the entity now has a compliance obligation, and less the amount of any annual compliance obligations already due in the current compliance period.

(C) Calculation of the Limited Exemption for Entities Registering as Covered Entities or Opt-in Covered Entities after January 1, 2017. The limited exemption for an entity that registers as a covered entity or opt-in covered entity after January 1, 2017 will be calculated as twice the annual emissions contained in the emissions report for the first year that the entity has a compliance obligation, provided that the emissions data report has received a positive or qualified positive emissions data verification statement for emissions that generate a compliance obligation pursuant to section 95851.

(D) The limited exemption will be increased on November 2 of each year by the amount of emissions that generate a compliance obligation pursuant to section 95851 that are included in the emissions data report received that year that have received a positive or qualified positive emissions data verification statement.

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(E) If ARB has assigned emissions to an entity, for any year, in the absence of a positive or qualified positive emissions data verification statement, the limited exemption will be calculated using the assigned emissions. If the emission reports scheduled to be used to increase the limited exemption are not available at the time of a scheduled increase and ARB has not assigned emissions to the entity, the limited exemption will be increased by the amount of the most recently received report that has received a positive or qualified positive emissions data verification statement. If this procedure is used, the limited exemption will not be adjusted using data in the reports scheduled to be received that year until the next scheduled change in the limited exemption.

(F) After ARB has evaluated an entity's surrender of compliance instruments pursuant to section 95856, an entity's limited exemption will be reduced to reflect any emissions obligation due during that calendar year. Following an annual surrender deadline, the limited exemption will be reduced by the amount of the annual surrender obligation due that calendar year. Following a compliance period surrender deadline, the limited exemption is reduced, starting with the oldest emissions report used to calculate the limited exemption, by the amount of emissions contained in the emissions reports reflecting the number of years for which a compliance obligation was due that calendar year, including emissions carried over from a previous compliance period pursuant to section 95853(d), but not including any emissions already removed from the limited exemption following an annual surrender deadline.

(G) Allowances allocated pursuant to sections 95870(e), (f), and (g) and sections 95871(d), (e), and (f), which are transferred to the receiving entity's annual allocation holding account in a year preceding their vintage year, will not count against the Holding Limit or limited exemption until January 1 of their vintage year.

(3) Petition to Adjust the Limited Exemption.

(A) Prior to October 1 of any year, a covered entity may submit to the Executive Officer evidence demonstrating an increase in emissions for that year over the previous year and request a temporary increase in the limited exemption until verified data for that year are available.

(B) The amount of the increase must be at least 250,000 metric tons CO_2e on an annualized basis.

(C) The Executive Officer will review the evidence and determine whether an adjustment is needed.

(D) If an adjustment is granted, then the limited exemption for that covered entity will be increased immediately by the amount determined by the Executive officer.

(E) When the verified emissions data are received for the year for which an adjustment was granted, the Executive Officer will use the verified emissions value when calculating the limited exemption.

(e) The holding limit will be calculated separately for each vintage year for allowances qualifying pursuant to section 95920(c)(2) as the number given by the following formula:

$$Holding\ Limit = 0.1 \times Base + 0.025 \times (Annual\ Allowance\ Budget - Base)$$

In which:

"*Base*" equals 25 million metric tons of CO_2e.

"Annual Allowance Budget" is the number of California GHG allowances issued for a budget year.

(f) Application of Corporate Association Provisions to the Holding Limit.

(1) The total number of allowances held by a group of entities with a direct corporate association pursuant to section 95833 must be less than or equal to the holding limits pursuant to sections 95920(d) and (e).

(2) Calculation of the Limited Exemption for a Direct Corporate Association.

(A) An entity with a direct corporate association that is not part of a consolidated account will calculate its limited exemption as described in section 95920(d).

(B) The limited exemption for a consolidated account is the sum of the limited exemption calculation for the entities consolidated into the account.

(3) Entities that are part of a direct corporate association that choose to opt out of account consolidation pursuant to sections 95830(c)(1)(I) or 95835(a) or (b) must allocate shares of the holding limit among

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themselves. This holding limit allocation results in each entity having a specified percentage share of the group's holding limit. The sum of the percentage shares allocated among the entities must sum to one hundred percent.

(A) The primary account representatives or alternate account representatives of each of the associated entities must inform the accounts administrator of the allocation of the holding limit when registering pursuant to section 95833.

(B) The holding limit allocation will remain in effect until the updated percentage shares of the holding limit adding up to one hundred percent are submitted by all registered members of a direct corporate association and approved by the Executive Officer. The Executive Officer will approve updated percentage shares of the holding limit within 10 business days of receipt of the completed request if the shares add up to one hundred percent.

(g) The holding limit in section 95920(a) shall include holdings of any allowances issued by a jurisdiction operating an External GHG ETS to which California has linked pursuant to subarticle 12.

(h) The “Annual Allowance Budget” in section 95920(d) is calculated as the sum for the current budget year of the annual compliance budgets of California and all External GHG ETS programs to which California has linked pursuant to subarticle 12. The “Annual Allowance Budget” in section 95920(e) is calculated as the sum for a budget year of the annual compliance budgets of California and all External GHG ETS programs to which California has linked pursuant to subarticle 12. In the event that an External GHG ETS program to which California has linked pursuant to subarticle 12 has taken an official act to revoke, repeal, or indefinitely suspend its ETS program or the Executive Officer has prohibited transfer to and from that program's entities to California entities, the “Annual Allowance Budget” in section 95920(d) is calculated as the sum for the current budget year of the annual compliance budgets of California and all External GHG ETS programs to which California has linked pursuant to subarticle 12 that continue in full force and effect. ARB will provide written notification to all California participants should a change to the holding limit be required.

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.

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§ 95921. Conduct of Trade.

(a) Transfers of Compliance Instruments Between Accounts.

(1) Except when a transfer is undertaken by the Executive Officer, the accounts administrator will not register a transfer of compliance instruments between accounts into the tracking system until the administrator receives a transfer request that the Executive Officer has determined meets the requirements of this article.

(A) To initiate the process, the primary account representative or an alternate account representative of the source account for the transfer must submit a transfer request to the accounts administrator.

(B) The primary account representative or another alternate account representative for the same entity must confirm the transfer request to the accounts administrator within two days of the initial submission of the transfer request.

(C) The primary account representative or an alternate account representative for the destination account must confirm the transfer request to the accounts administrator within the time remaining in the three days following the initial submission of the transfer request in section 95921(a)(1)(A).

(D) The Executive Officer must determine whether the transfer request and the transaction for which the transfer request was submitted meet the requirements of this article based on the information available at the time of approval.

(2) The following transfers do not require confirmation by an account representative of the destination account pursuant to section 95921(a)(1)(C).

(A) Transfers initiated by the Executive Officer.

(B) Transfers between a single entity's holding and compliance accounts.

(3) The parties to a transfer will be in violation and penalties may apply if the above process is completed:

(A) More than three days after the initial submission of the transfer request; or

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(B) More than three days after the expected termination date of the transaction agreement for which the transfer request is submitted.

(4) Except for transfers between direct corporate associates disclosed pursuant to section 95833, an entity may not submit a transfer request to another registered entity without an existing written or recorded oral transaction agreement between the registered entities authorizing a transfer.

(b) Information Requirements for Transfer Requests. The following information must be reported to the accounts administrator as part of a transfer request before any transfer of allowances can be recorded on the tracking system:

(1) The following information must be entered into the tracking system for all transfer requests:

(A) Holding account number of the source account and identification of two individuals who are the primary account representative and/or alternate account representatives initiating the transfer request.

(B) Account number of destination account.

(C) Type, quantity, and vintage of compliance instrument.

(2) The transfer request must identify the type of transaction agreement for which the transfer request is being submitted, selecting one of the following three types:

(A) Over-the-counter agreement for the sale of compliance instruments for which delivery will take place no more than three days from the date the parties enter into the transaction agreement.

(B) Over-the counter agreement for the sale of compliance instruments for which delivery is to take place more than three days from the date the parties enter into the transaction agreement or that involve multiple transfers of compliance instruments over time or the bundled sale of compliance instruments with other products.

(C) Exchange agreements for the sale of compliance instruments through any contract arranged through an exchange or Board of Trade.

(3) A transfer request submitted for an over-the-counter agreement for the sale of compliance instruments for which delivery will take place no more

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than three days from the date the parties enter into the transaction agreement must provide the following information:

(A) Date the entity entered into the transaction agreement.

(B) Expected Termination Date of the transaction agreement. If completion of the transfer request process is the last term of the transaction agreement to be completed, the date the transfer request is submitted should be entered as the Expected Termination Date. If there are financial, contingency, or other terms to be settled after the transfer request is completed, the date those terms are expected to be settled should be entered as the Expected Termination Date. If the transaction agreement does not specify a date for the settlement of financial, contingency, or other terms that would be completed after the transfer request is completed, the entity may enter the Expected Termination Date as "Not Specified."

(C) Price of the compliance instrument in U.S. dollars or Canadian dollars.

(4) A transfer request submitted for an over-the-counter agreement for the sale of compliance instruments for which delivery is to take place more than three days from the date the parties enter into the transaction agreement or that involves multiple transfers of compliance instruments over time or incorporates compliance instrument requirements with other product sales or purchases, must provide the following information:

(A) Date the entity entered into the transaction agreement.

(B) Expected Termination Date of the transaction agreement. If completion of the transfer request process is the last term of the transaction agreement to be completed, the date the transfer request is submitted should be entered as the Expected Termination Date. If there are financial, contingency, or other terms to be settled after the transfer request is completed, the date those terms are expected to be settled should be entered as the Expected Termination Date. If the transaction agreement does not specify a date for the settlement of financial, contingency, or other terms that would be completed after the transfer request is completed, the entity may enter the Expected Termination Date as "Not Specified."

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(C) Whether the transaction agreement provides for further compliance instrument transfers after the current transfer request is completed.

(D) Whether the transaction agreement provides for transfers of other products.

(E) If the transaction agreement specifies a fixed price for the compliance instruments, provide the price in U.S. dollars or Canadian dollars.

(F) If the transaction agreement sets the price as a cost base plus a margin, then provide the cost base and the margin.

(G) If the transaction agreement does not determine the price using one of the above formats, provide a brief description of the pricing method as well as the price resulting from the pricing method for the specific transfer.

(5) A transfer request submitted for an Exchange Agreement must provide the following information:

(A) Identify the exchange where the transaction is conducted.

(B) Identify the contract description code assigned by the exchange to the contract.

(C) Date of close of trading for the contract.

(D) Exchange Delivery Settlement Price at close of trading for the contract. Identify the price in U.S. dollars or Canadian dollars.

(6) Entities must enter a price of zero for the transfer request if the request is submitted to fulfill one of the following transaction agreement types and the entity discloses the agreement type in the transfer request.

(A) The proposed transfer is between entities with a direct corporate association.

(B) The proposed transfer is from an entity's holding account to its compliance account.

(C) The proposed transfer is from a publicly owned utility to an entity or a Joint Powers Authority operating a generation facility as a joint venture with the utility.

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(D) The proposed transfer is from a public utility to a federal power authority to cover emissions associated with imported power.

(E) The proposed transfer is from an electric distribution utility to an entity operating a generation facility under a tolling agreement or other long-term power purchase agreement that does not specify a price or cost basis for the sale of the compliance instruments alone.

(F) The proposed transfer is from a publicly owned utility to an entity (including a Joint Powers Authority of which that utility is a member, or an operating agent acting on behalf of such a Joint Powers Authority) operating a generation facility from which the utility obtains electricity.

(7) If a transaction agreement for compliance instruments does not contain a price at the time a transfer is proposed in the tracking system, the proposed transfer is allowed only if it results from one of the transaction agreement types in sections 95921(b)(7)(A)-(F). For proposed transfers of unpriced compliance instruments, entities must provide in the tracking system either a description of the valuation method used or a total market valuation for the transaction. Parties to the transaction must submit the transaction agreement, invoice records, written counterparty confirmation, and screenshots of completed trade details to the Executive Officer to verify that the transfer information recorded in the tracking system is accurate and that the trade is not prohibited pursuant to section 95921(f). Parties to the transaction may submit other documentation to further substantiate the transaction.

(A) The proposed transfer results from a transaction agreement that incorporates compliance instruments with other product sales or purchases and specifies a total cost or cost basis for the transaction but does not specify a price or cost basis for the sale of the compliance instruments alone.

(B) The proposed transfer results from a transaction agreement that requires the production of a new ARB offset credit, and the transaction agreement does not specify a price for the ARB offset credit.

(C) The proposed transfer results from a transaction agreement for a change of facility ownership or business merger between entities that has been disclosed pursuant to section 95835(b).

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(D) The proposed transfer results from a transaction agreement specifying that a registered entity will voluntarily retire the compliance instruments on behalf of an unregistered entity pursuant to section 95922(d)(2).

(E) The proposed transfer is to satisfy a contractual requirement to replace an invalidated offset credit that has been invalidated pursuant to section 95985(h), or to address an intentional forest offset project reversal determination made pursuant to section 95983(c).

(F) The proposed transfer results from a transaction agreement involving swaps or exchanges of compliance instruments for commodities or assets without a specific price or cost basis for the compliance instruments alone, but instead contains a total market valuation that will be reported for the transaction.

(c) Parties to the transfer request agree to provide documentation about the transaction agreement for which the transfer request was submitted within five days of a request of the Executive Officer.

(1) The request for documentation may include the transaction agreement and related transaction confirmations that resulted in the transfer and must be sufficient to verify the information entered by the account representative into the fields required for the transfer request.

(2) The Executive Officer will treat the documentation as confidential business information to the extent permitted by law.

(d) Transfers Involving Exchange Clearing Holding Accounts.

(1) A request to transfer compliance instruments to an exchange clearing holding account will list the exchange clearing holding account as the destination account.

(2) All of the compliance instruments received by an exchange clearing holding account must be transferred to one or more destination accounts within five business days of receiving them.

(3) A request to transfer compliance instruments to or from an exchange clearing holding account does not require confirmation by an account representative of the destination account pursuant to section 95921(a)(1)(C).

(4) The entity receiving a transfer from an exchange clearing holding account is solely responsible for violations of the holding limit. If a transfer from an exchange clearing holding account results in a violation of the holding limit then the Executive Officer will prevent the receiving entity from transferring allowances to another entity until the Executive Officer has investigated and determined the cause of the violation. The accounts administrator will allow the entity to transfer allowances to its compliance account if the entity can accommodate them within its limited exemption. If the exchange clearing holding account cannot complete a transfer to a destination account, the operator of the exchange clearing holding account will notify ARB of the circumstances of the transfer within 3 calendar days of the failure to complete the transfer.

(e) Protection of Confidential Information. The Executive Officer will protect confidential information to the extent permitted by law by ensuring that the accounts administrator:

(1) Releases information on the transfer price and quantity of compliance instruments in a manner that is timely and maintains the confidentiality of the parties to a transfer;

(2) Except as needed for market oversight and investigation by the Executive Officer, protects as confidential all other information obtained through transfer requests;

(3) Protects as confidential the quantity and serial numbers of compliance instruments contained in individual entity holding accounts; and

(4) Releases information on the quantity of compliance instruments contained in compliance accounts in a timely manner that maintains the confidentiality of the identity of account holders.

(f) General Prohibitions on Trading.

(1) A registrant is prohibited from acquiring allowances and holding them in its own holding account on behalf of another entity, except in the case of an exchange clearinghouse registered pursuant to section 95814(a)(1)(C) or in the case of direct corporate associations accurately disclosed pursuant to section 95833. A registrant is prohibited from allowing a second entity to authorize or make decisions on the registrant's behalf to acquire, hold, trade, or dispose of allowances. In-kind trading and distribution of allowances, and any activity that results in the delegation, reassignment, or sale of ownership or control of the registrant's allowances to a second

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entity while the allowances still reside in the registrant's holding account is prohibited.

(A) An entity may not hold allowances in which a second entity has any ownership interest.

(B) A registrant may not hold allowances pursuant to an agreement or contract that gives a second entity any degree of control over the transaction decisions and the trading of allowances held or to be held in the registrant's tracking system holding account.

1. Financing agreements where control, ownership, or both control and ownership over allowances is given to a second entity outside of an event of default are prohibited.

2. Agreements that grant legally binding authority to a second entity to represent or manage the tracking system account of a registered entity are prohibited.

(C) Provisions in priced contracts specifying a future date to deliver a specified quantity of compliance instruments, or specifying a procedure to determine a quantity or a delivery date of compliance instruments, or specifying a procedure that determines both a quantity of compliance instruments for delivery and a delivery date of compliance instruments do not violate the prohibition on beneficial holding conduct. A transaction resulting from a change of facility ownership or operational control that is required to be disclosed pursuant to section 95835(b) does not violate the beneficial holding prohibition.

(2) A trade involving, related to, or associated with any of the following are prohibited:

(A) Any manipulative or deceptive device in violation of this article;

(B) A corner or an attempt to corner the market for a compliance instrument;

(C) Fraud, or an attempt to defraud any other entity;

(D) A false, misleading or inaccurate report concerning information or conditions that affects or tends to affect the price of a compliance instrument;

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(E) An application, report, statement, or document required to be filed pursuant to this article which is false or misleading with respect to a material fact, or which omits to state a material fact necessary to make the contents therein not misleading; or

(F) Any trick, scheme, or artifice to falsify or conceal a material fact, including use of any false statements or representations, written or oral, or documents made by or provided to an entity on or through which transactions in compliance instruments occur, are settled, or are cleared.

(G) A fact is material if it could probably influence a decision by the Executive Officer, the Board, or the Board's staff.

(g) Restrictions on Registered Entities and Tracking System. If an entity registered pursuant to section 95830 violates any provision specified in this article, or in order to protect the environmental stringency of the California Cap-and-Invest Program, the Executive Officer may:

(1) Reduce the number of compliance instruments a covered entity or opt-in covered entity may have in its holding account below the amount allowed by the holding limit pursuant to section 95920;

(2) Increase the annual surrender obligation for a covered entity or an opt-in covered entity to a percentage of its reported and verified or assigned emissions above the 30% obligation pursuant to section 95855;

(3) Suspend or revoke the registration of opt-in covered entities, voluntarily associated entities, and other entities registered pursuant to section 95830;

(A) A registered entity that has had its holding account revoked or suspended may not hold compliance instruments or register with the accounts administrator for another set of accounts in any capacity. If registration is revoked or suspended the entity must sell or voluntarily retire all compliance instruments in its holding account within 30 days of revocation; and

(B) If registration is revoked or suspended and the entity fails to sell or voluntarily retire all compliance instruments in its holding account within 30 days of revocation, the accounts administrator will transfer the remaining instruments into the Auction Holding Account for sale at auction on behalf of the entity pursuant to section 95910(d);

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(4) Limit or prohibit transfers in or out of the holding account; or

(5) All of the above.

(h) Information Reporting by Holders of Exchange Clearing Holding Accounts.

(1) Holders of exchange clearing holding accounts must make the exchange's transaction records underlying the submission of a transfer request on the Tracking System available to ARB within 10 calendar days of a request from the Executive Officer.

(2) Holders of exchange clearing holding accounts must retain transaction records containing the information listed in 95921(b) for 10 years.

(3) Holders of exchange clearing holding accounts are not required to include the information listed in 95921(b)(3), (4), and (6) in transfer requests to the accounts administrator.

(i) Transfer Request Deficiencies

(1) If the accounts administrator detects a deficiency in a transfer request before it is recorded into the tracking system:

(A) The accounts administrator will inform the entities submitting the request that the transfer request is deficient and inform the Executive Officer of the deficiency;

(B) The accounts administrator will inform the entity responsible for the deficiency of the specific problem to be remedied.

(C) The entities submitting the transfer request may resubmit the request with the deficiency corrected within the time limit set pursuant to sections 95921(a)(1)(C), 95921(a)(3), or 95921(a)(4); and

(D) If the entities fail to submit an acceptable transfer request within the time limit, then they must either withdraw the transfer request or submit a new transfer request. Penalties may still apply pursuant to sections 95921(a)(3) or (a)(4).

(2) If the accounts administrator detects a deficiency in a transfer request after it is recorded into the tracking system:

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(A) The accounts administrator will inform the entities submitting the request that the transfer request is deficient and inform the Executive Officer of the deficiency;

(B) If the deficiency is based on the information submitted by the representative of the source account, the Executive Officer will inform the submitting representative of the specific deficiency;

(C) If the deficiency is a violation of the holding limit, the Executive Officer will inform the primary account representative for the account listed on the transfer request as the destination account of the deficiency; and

(D) If the entities that submitted the transfer request cannot correct the deficiency within five business days after notification by the accounts administrator, the Executive Officer may instruct the accounts administrator to reverse the transfer. The correction of the deficiency within five business days ensures the Executive Officer will not immediately reverse the transfer, but does not prevent the Executive Officer from applying penalties for the underlying violations.

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.

§ 95922. Banking, Expiration, and Voluntary Retirement.

(a) Allowances Issued for a Current or Previous Compliance Period. A CA GHG allowance or an allowance issued by an approved GHG ETS pursuant to subarticle 12 may be held (“banked”) by an entity registered pursuant to section 95830.

(b) Allowances Issued for a Future Compliance Period. A CA GHG Allowance or an allowance approved pursuant to subarticle 12 issued from an allowance budget year within a future compliance period may be held by an entity registered pursuant to section 95830.

(c) Expiration of Compliance Instruments. A California compliance instrument does not expire and is not retired in the tracking system until:

(1) It is surrendered by a covered entity or opt-in covered entity and retired by the Executive Officer;

(2) An entity voluntarily submits the instrument to the Executive Officer for retirement; or

(3) The instrument is retired by an approved external GHG emissions trading system to which the Cap-and-Invest Program is linked pursuant to subarticle 12.

(d) Voluntary Retirement of Compliance Instruments.

(1) An entity registered pursuant to section 95830 may voluntarily submit any compliance instrument for retirement.

(2) To voluntarily retire a compliance instrument, the registered entity submits a transfer request naming the ARB Retirement Account as the destination account.

(A) For the sole purpose of a voluntary transfer to the Retirement Account, a transfer request may be based on a transaction agreement with an unregistered entity as long as that entity is not registered into an external GHG program or ETS, regardless of whether the external GHG program or ETS has a Retirement-Only Agreement with ARB.

(B) An entity may not transfer more than 10,000 allowances per year to the Retirement Account based on transaction agreements with a single entity. There is no limit on an entity's transfer of offset credits to the Retirement Account.

(C) A transfer request that is based on a transaction agreement with an unregistered entity to voluntarily retire allowances does not violate the prohibitions contained in section 95921(f)(1) if the entity holds the allowances on behalf of the unregistered entity for 90 days or fewer.

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.

§ 95923. Disclosure of Cap-and-Invest Consultants and Advisors.

(a) A "Cap-and-Invest Consultant or Advisor" is a person or entity that is not an employee of an entity registered in the Cap-and-Invest Program, but is providing the services listed in section 95979(b)(2) of the Cap-and-Invest Regulation or section 95133(b)(2) of the Mandatory Reporting Regulation in relation to the Cap-and-Invest Program or MRR and specifically for the entity registered in the Cap-

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and-Invest Program, regardless if the Consultant or Advisor is acting in the capacity of an offset or MRR verifier.

(b) An entity employing Cap-and-Invest Consultants or Advisors defined pursuant to 95923(a) must disclose the following information for each Cap-and-Invest Consultant or Advisor:

(1) Information to identify the Cap-and-Invest Consultant or Advisor, including:

(A) Name;

(B) Contact information;

(C) Physical work address of the Cap-and-Invest Consultant or Advisor; and

(D) Employer, if applicable.

(c) The entity must disclose the information pursuant to section 95923(b) to the Executive Officer:

(1) When registering pursuant to section 95830;

(2) Within 30 days of entering into a contract with a Cap-and-Invest Consultant or Advisor pursuant to section 95923(a);

(3) Within 30 days of a change to the information disclosed on Consultants or Advisors.

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.

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Subarticle 12. Linkage to External Greenhouse Gas Emissions Trading Systems

§ 95940. General Requirements.

A compliance instrument issued by an external greenhouse gas emissions trading system (GHG ETS) may be used to meet the requirements of this Article if the external GHG ETS and the compliance instrument have been approved pursuant to this section and section 95941.

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.

§ 95941. Procedures for Approval of External GHG ETS.

The Board may approve a linkage with an external GHG ETS after complying with relevant provisions of the Administrative Procedure Act (Government Code sections 11340 et seq.) and after the Governor of California has made the findings required by Government Code section 12894(f). Provisions set forth in this Article shall specify which compliance instruments issued by a linked GHG ETS may be used to meet a compliance obligation under this Article.

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; and Section 12894, Government Code.

§ 95942. Interchange of Compliance Instruments with Linked External Greenhouse Gas Emissions Trading Systems.

(a) Once a linkage is approved, a compliance instrument issued by the approved external GHG ETS, as specified in this section, may be used to meet a compliance obligation under this Article.

(b) An allowance issued by an approved external GHG ETS and specified in this section is not subject to the quantitative usage limit specified in section 95854.

(c) An offset credit or sector-based credit issued by an external GHG ETS is subject to the quantitative usage limit specified in section 95854, when used to meet a compliance obligation under this Article.

(d) Once a linkage is approved, a compliance instrument issued by California may be used to meet a compliance obligation within the approved External GHG ETS.

(e) Once a linkage is approved, a compliance instrument issued by the linked jurisdiction may be used to meet a compliance obligation in California.

(f) The administrator of the approved External GHG ETS must agree to inform the Executive Officer of any of the serial numbers of California compliance instruments that the External GHG ETS accepts for compliance.

(g) The Executive Officer will agree to inform the appropriate official in the approved External GHG ETS of any of the serial numbers of compliance instruments accepted by California for compliance.

(h) The Executive Officer will register into the Retirement Account compliance instruments issued by California that are used for compliance within the approved External GHG ETS, along with information identifying the External GHG ETS actually retiring the compliance instruments.

(i) If an approved External GHG ETS has taken an official act to revoke, repeal, or indefinitely suspend its ETS program or one of the linkage findings made pursuant to Government Code section 12894(f) is no longer supported, the Executive Officer may suspend, revoke, or repeal the approved linkage. In taking such action, the Executive Officer may limit transfers in or out of holding accounts pursuant to sections 95921 or 96011, modify auction notices pursuant to section 95912, and modify holding limits pursuant to section 95920, and cancel or issue additional allowances to ensure the environmental stringency of the California Cap-and-Invest Program is maintained as if there had not been a linkage approved with the External GHG ETS.

(1) Within 24 hours of taking action to suspend, revoke, or repeal the approved linkage, the Executive Officer shall post publicly the specific action taken with an explanation of why it was necessary to the Cap-and-Invest Program website.

(2) The public information will include:

(A) A contact name for questions regarding the action;

(B) Duration of the action, if known;

(C) Any details on the status of existing compliance instruments in accounts; and

(D) Any other relevant information.

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 and Section 12894, Government Code.

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§ 95943. Linked External GHG ETS or External GHG Program.

(a) Pursuant to section 95941, covered or opt-in covered entities may use compliance instruments issued by the following programs to meet their compliance obligation under this article:

(1) Government of Quebec (effective January 1, 2014).

(2) Government of Ontario (effective January 1, 2018 through June 15, 2018). Compliance instruments issued by the Government of Ontario that are held in California covered entity, opt-in covered entity, and general market participant accounts, or that are held in approved external GHG ETS (other than Ontario) covered entity, opt-in covered entity, and general market participant accounts, as of June 15, 2018 continue to remain valid for compliance and trading purposes.

(b) Covered or opt-in covered entities may use compliance instruments issued by an external GHG ETS to which the Board has approved a Retirement-Only Limited Linkage pursuant to sections 95941 and 95944 to meet their compliance obligation under this article.

(c) Entities registered in an external GHG Program may arrange to retire California compliance instruments for purposes of compliance in their own external GHG program if ARB has approved a Retirement-Only Agreement with the external GHG Program pursuant to section 95945.

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.

§ 95944. Retirement-Only Limited Linkage.

(a) The Board may approve a Retirement-Only Limited Linkage with an external GHG ETS pursuant to the procedure in section 95941.

(1) A Retirement-Only Limited Linkage allows California covered or opt-in covered entities to arrange for the retirement of compliance instruments in the linked GHG ETS and to obtain approval from the Executive Officer for credit towards their compliance obligation.

(2) The Board approval will specify the types of compliance instruments from the linked GHG ETS that may be used to meet a compliance obligation under this Article.

(3) The Board approval may specify limitations on the use of compliance instruments from the linked GHG ETS, such as quantitative use restrictions.

(b) Administration.

(1) The linkage agreement will ensure that purchases, transfers, and retirements of compliance instruments by California registered entities in the linked GHG ETS will follow the rules of that system.

(2) The linkage agreement will require the external GHG ETS to provide the accounts administrator with documentation on the compliance instruments retired by California entities on the linked GHG ETS at the time of each California compliance event.

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; and Section 12894, Government Code.

§ 95945. Retirement-Only Agreements with External GHG Program.

(a) The Board may approve a Retirement-Only Agreement with an external GHG program after complying with relevant provisions of the Administrative Procedure Act (Government Code sections 11340 et seq.).

(1) A Retirement-Only Agreement allows entities registered with an external GHG program to arrange retirement of California compliance instruments for credit towards their compliance obligation in the external GHG program.

(2) The Retirement-Only Agreement will specify the types of compliance instruments eligible for retirement.

(3) The Retirement-Only Agreement may contain limitations on the retirement of California compliance instruments by entities registered with the external GHG program.

(b) Administration.

(1) The Accounts Administrator will create an External GHG Program Holding Account under the control of the Executive Officer pursuant to section 95831(b)(7).

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(2) Entities registered with an external GHG program may not register with California for the purpose of retiring California compliance instruments for compliance credit with their own GHG program, regardless of whether that program has a Retirement-Only Agreement or other linkage agreement with California.

(c) Conduct of Transactions Agreements and Transfer Requests Under a Retirement-Only Agreement.

(1) An entity registered with an external GHG program with a Retirement-Only Agreement may enter into a purchase transaction agreement with an entity registered in California requiring the California entity to transfer a number of eligible California compliance instruments to the External GHG Program Holding Account.

(2) The California entity will file a transfer request identifying the External GHG Program Holding Account as the destination account. The transfer request will include a field containing the purchasing entity's ID code as specified by the entity's external GHG program.

(3) Upon receipt and verification that the transfer has met the requirements of this Article, the Executive Officer will transfer the compliance instruments to the Retirement Account. This transfer request will include the purchasing entity's ID code as specified by the entity's external GHG program.

(4) The accounts administrator will provide the administrator of the external GHG program with documentation on the compliance instruments retired in California's tracking system by entities registered into the external GHG program when the administrator of the external GHG program needs the information to conduct a compliance event.

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.

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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:

(a) 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;

(3) Result from an offset project that meets the requirements specified in section 95973;

(4) Result from an offset project that is listed pursuant to section 95975;

(5) Result from an offset project that follows the monitoring, reporting and record retention requirements pursuant to section 95976;

(6) Result from an offset project that is verified pursuant to sections 95977 through 95978; and

(7) Be issued pursuant to section 95980.1 by an Offset Project Registry approved pursuant to section 95986.

(b) An ARB offset credit must meet the requirements in sections 95970(a)(1) through (a)(6) and:

(1) Be issued pursuant to section 95981.1;

(2) Be registered pursuant to section 95982; and

(3) When used for compliance under this article, be subject to the quantitative usage limit pursuant to section 95854.

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.

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§ 95971. Procedures for Approval of Compliance Offset Protocols.

(a) The Board shall provide public notice of and opportunity for public comment prior to approving any Compliance Offset Protocols, including updates or modifications to existing Compliance Offset Protocols.

(b) All Compliance Offset Protocols shall be reviewed and periodically revised, if needed, in compliance with the California Administrative Procedure Act, 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, Health and Safety Code.

§ 95972. Requirements for Compliance Offset Protocols.

(a) To be approved by the Board, a Compliance Offset Protocol must:

(1) Accurately determine the extent to which GHG emission reductions and GHG removal enhancements are achieved by the offset project type;

(2) Establish data collection and monitoring procedures relevant to the type of GHG emissions sources, GHG sinks, and GHG reservoirs for that offset project type;

(3) Establish a project baseline that reflects a conservative estimate of business-as-usual performance or practices for the offset project type;

(4) Account for activity-shifting leakage and market-shifting leakage for the offset project type, unless the Compliance Offset Protocol stipulates eligibility conditions for use of the Compliance Offset Protocol that eliminate the risk of activity-shifting and/or market-shifting leakage;

(5) Account for any uncertainty in quantification factors for the offset project type;

(6) Ensure GHG emission reductions and GHG removal enhancements are permanent;

(7) Include a mechanism to ensure permanence of GHG removal enhancements for sequestration offset project types;

(8) Establish the length of the crediting period pursuant to section 95972(b) for the relevant offset project type; and

(9) Establish the eligibility and additionality of projects using standard criteria, and quantify GHG reductions and GHG removal enhancements using standardized baseline assumptions, emission factors, and monitoring methods.

(b) Crediting Periods. The crediting period for a non-sequestration offset project must be no less than 7 years and no greater than 10 years, unless specified otherwise in a Compliance Offset Protocol. The crediting period for a sequestration offset project must be no less than 10 years and no greater than 30 years.

(c) Geographic Applicability. A Compliance Offset Protocol must specify where the protocol is applicable. The geographic boundary must be within the United States or United States Territories.

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.

§ 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;

(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:

(A) The activities that result in GHG reductions and GHG removal enhancements are not required by law, regulation, or any legally binding mandate applicable in the offset project's jurisdiction, and would not otherwise occur in a conservative business-as-usual scenario;

(B) The Offset Project Commencement date occurs after December 31, 2006, unless otherwise specified in the applicable Compliance Offset Protocol, except as provided in section 95973(c); and

(C) The GHG reductions and GHG removal enhancements resulting from the offset project exceed the project baseline calculated by the

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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:

1. Compliance Offset Protocol Ozone Depleting Substances Projects, October 20, 2011, and Compliance Offset Protocol Ozone Depeleting Substances Projects, November 14, 2014, which are hereby incorporated by reference;

2. Compliance Offset Protocol Livestock Projects, October 20, 2011 and Compliance Offset Protocol Livestock Projects, November 14, 2014, which are hereby incorporated by reference;

3. Compliance Offset Protocol Urban Forest Projects, October 20, 2011, which is hereby incorporated by reference;

4. Compliance Offset Protocol U.S. Forest Projects, October 20, 2011, Compliance Offset Protocol U.S. Forest Projects, November 14, 2014, and Compliance Offset Protocol U.S. Forest Projects, June 25, 2015, which are hereby incorporated by reference;

5. Compliance Offset Protocol Mine Methane Capture Projects, April 25, 2014, hereby incorporated by reference; and

6. Compliance Offset Protocol Rice Cultivation Projects, June 25, 2015, which is hereby incorporated by reference.

(D) The Offset Project Operator or Authorized Project Designee may transition an offset project to the most recently incorporated version of the Compliance Offset Protocol by updating the listing information in an Offset Project Data Report pursuant to section 95976. Projects transitioning to the most recent version of the Compliance Offset Protocol may only do so with an Offset Project Data Report submitted to CARB or the Offset Project Registry prior to the site visit, pursuant to section 95977.1(b)(3)(D). To properly transition to the most recent version of the Compliance Offset Protocol, the Offset Project Data Report for the transitioning project must specify the most recent protocol version as the version under which the project is reporting, pursuant to section 95976(d)(4). Projects may only transition to the latest version of the

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Compliance Offset Protocol during a reporting period that is subject to a full offset verification. For projects using a protocol specified in section 95973(a)(2)(C)4., the first verification after transitioning to a new version of the Compliance Offset Protocol must meet all the requirements of section 95977.1(b)(3)(D)1. A project will be considered to have completed the transition to the most recent version of the Compliance Offset Protocol at the time a Positive or Qualified Positive Offset Verification Statement for the applicable reporting period has been approved by CARB. An offset project that transitions to a new version of the Compliance Offset Protocol during a crediting period will continue in the same crediting period and not start a new crediting period.

(E) The offset project must meet all the requirements in this Regulation for 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).

(F) The applicable version of the Compliance Offset Protocol is the version under which the offset project has been listed pursuant to section 95975 or transitioned to pursuant to section 95973(a)(2)(D).

(G) If any law, regulation, or legally binding mandate requiring GHG emission reductions or GHG removal enhancements comes into effect in California, in a linked jurisdiction pursuant to section 95943, or in a jurisdiction outside California, affecting the offset project, during an offset project's crediting period, then the offset project is eligible to continue to receive ARB offset credits for those GHG emission reductions and GHG removal enhancements for the remainder of the offset project's crediting period, but the offset project may not renew that crediting period. If an offset project has not been listed prior to the law, regulation, or legally binding mandate going into effect, or the law, regulation, or legally binding mandate goes into effect before the offset project's crediting period renews, then only emission reductions or removal enhancements that are in excess of what is required to comply with those laws, regulations, and/or legally binding mandates are eligible for ARB offset credits.

(3) Is located in the United States or United States Territories.

(b) Local, Regional, State, and National Regulatory Compliance and Environmental Impact Assessment Requirements. An Offset Project Operator or Authorized

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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. 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.

(A) The time period that the offset project is out of regulatory compliance begins on the date that the activity which led to the offset project being out of regulatory compliance actually began and not necessarily the date that the regulatory oversight body first became aware of the issue. For determining the initial date of the offset project being out of regulatory compliance the Offsets Project Operator or Authorized Project Designee must provide one or more of the following to ARB:

1. Documentation from the relevant local, state, or federal regulatory oversight body that expressly identifies the precise start date of the offset project being out of regulatory compliance. Documentation must include evidence of the start date such as CEMS or other monitoring data, engineering estimates, satellite imagery, witness statements, or other reasonable method to aid in the identification of the precise start date; or

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2. Documentation of the date of the last inspection by the relevant local, state, or federal regulatory oversight body that did not indicate the offset project was out of regulatory compliance for the activity in question. The project will be considered out of regulatory compliance beginning the day after the inspection.

3. If the last inspection described in section 95973(b)(1)(A)2. above was prior to the beginning of the Reporting Period, or if documentation regarding the date the project was out of regulatory compliance is not provided as set forth in sections 95973(b)(1)(A)(1) or (2) above to the satisfaction of ARB, then the time period that the offset project is out of regulatory compliance, for purposes of the Reporting Period, commences at the beginning of the Reporting Period.

(B) For determining the end date when the offset project returned to regulatory compliance, the Offset Project Operator or Authorized Project Designee must provide documentation from the relevant local, state, or federal regulatory oversight body stating that the offset project is back in regulatory compliance. The date when the offset project is deemed to have returned to regulatory compliance is the date that the relevant local, state, or federal regulatory oversight body determines that the project is back in regulatory compliance. This date is not necessarily the date that the activity ends or the device is repaired, and may include time for the payment of fines or completion of any additional requirements placed on the offset project by the regulatory oversight body, as determined by the regulatory oversight body. If the regulatory oversight body does not provide a written determination regarding the date when the project returned to regulatory compliance to the satisfaction of ARB, the Offset Project Operator or Authorized Project Designee may provide documentation to ARB from the regulatory oversight body clearly identifying the date the project returned to regulatory compliance. Documentation should be official dated correspondence with the relevant regulatory agency, such as a consent decree, inspection report, or other such documentation, identifying that the project has remedied the condition(s) that rendered it out of compliance. For purposes of this subsection, ARB may also take into consideration information pertaining to the date(s) the activity subject to enforcement action occurred; if the Offset Project Operator, Authorized Project Designee, or forest owner has acknowledged responsibility for the activity; and the

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ongoing status of the enforcement proceedings with the relevant local, state, or federal regulatory oversight body. If the relevant regulatory oversight body does not provide a written determination regarding the date when the project returned to regulatory compliance to the satisfaction of ARB, and the Offset Project Operator or Authorized Project Designee is unable to provide documentation clearly identifying the date the project returned to regulatory compliance to the satisfaction of ARB, then for purposes of the applicable Reporting Period, the Offset Project Operator or Authorized Project Designee must use the end of the Reporting Period for the date when the offset project returned to regulatory compliance.

(C) Nothing in this section precludes the invalidation of ARB offset credits issued for previous or subsequent Reporting Periods if ARB determines that the offset project was out of regulatory compliance in previous or subsequent Reporting Periods. The offset project will continue to be deemed out of regulatory compliance in subsequent Reporting Periods until the Offset Project Operator or Authorized Project Designee provides the documentation demonstrating regulatory compliance identified in section 95973(b)(1)(B) to ARB.

(D) ARB's written determination and any supporting documents from the regulatory oversight body relating to the offset project being out of regulatory compliance and the timeframe identified for removal from the Reporting Period will be made public.

(E) For determining GHG emission reductions or GHG removal enhancements for the Reporting Period as modified to reflect any period the offset project was out of regulatory compliance, the Offset Project Operator or Authorized Project Designee must remove the days when the project was out of regulatory compliance from the Reporting Period using the following methods:

1. For projects using a protocol in sections 95973(a)(2)(C)2. or 5., the entire calendar day during which any portion of the project was not in regulatory compliance must be removed from the modeled or measured project baseline;

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2. For projects using a protocol in section 95973(a)(2)(C)1., the entire destruction(s) under a Certificate of Destruction that contains any time the project is out of regulatory compliance must be removed. For projects using a protocol in section 97973(a)(2)(C)1. that consist of a destruction under a single Certificate of Destruction that contains any time the project is out of regulatory compliance, the entire project will be ineligible for ARB or registry offset credits; and

3. For projects using a protocol in section 95973(a)(2)(C)4., the entire calendar day during which any portion of the project was not in regulatory compliance must be removed by dividing the total calculated emissions reductions for the 12 month period from the end of the previous Reporting Period, by the total number of days in the previous 12 months, either 365 days or 366 days, to calculate a daily emissions reductions. The daily emissions reductions will be multiplied by the number of days the project was not in regulatory compliance and this number will be added to the project baseline for the end of the Reporting Period and the emissions reductions for the Reporting Period, excluding the days the project was out of regulatory compliance, will be calculated.

(2) An offset project using a protocol from sections 95973(a)(2)(C)3., or 6., is not eligible to receive ARB or registry offset credits for GHG reductions or GHG removal enhancements for the entire Reporting Period if the offset project is not in compliance with regulatory requirements directly applicable to the offset project during the Reporting Period.

(3) Project activities subject to the regulatory compliance requirements of this section are set forth in Appendix E.

(c) Early Action Offset Project Commencement Date. Offset projects that transitioned to Compliance Offset Protocols pursuant to the Program for Recognition of Early Action Offset Credits may have an Offset Project Commencement date before December 31, 2006.

(d) Any Offset Project Operator or Authorized Project Designee seeking to list an offset project situated on any of the following categories of land must demonstrate the existence of a limited waiver of sovereign immunity between ARB and the governing body of the Tribe entered into pursuant to section 95975(l):

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(1) Land that is owned by, or subject to, an ownership or possessory interest of the Tribe;

(2) Land that is "Indian lands" of the Tribe, as defined by 25 U.S.C, § 81(a)(1); or

(3) Land that is owned by any person, entity, or tribe, within the external borders of such Indian lands.

(e) Only a Primary Account Representative or Alternate Account Representative on the Offset Project Operator's tracking system account may sign any documents or attestations to ARB or an Offset Project Registry on behalf of the Offset Project Operator for an offset project.

(f) An offset project using a Compliance Offset Protocol in section 95973(a)(2)(C)2. 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, Health and Safety Code.

§ 95974. Authorized Project Designee.

(a) General Requirements for Designation of Authorized Project Designee. An Offset Project Operator may designate an entity as an Authorized Project Designee at the time of offset project listing or any time after offset project listing as long as it meets the requirements of section 95974(b).

(1) The Offset Project Operator may assign ownership rights of ARB offset credits or registry offset credits to the following entities at the time of registry offset credit or ARB offset credit issuance pursuant to sections 95980.1 and 95981, respectively:

(A) Authorized Project Designee; or

(B) Any other third party not otherwise prohibited by this article.

(2) The director or officer, as identified in section 95830(c)(1)(B), of the Offset Project Operator may delegate responsibility to the Authorized Project Designee for performing or meeting all the requirements of sections

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95975, 95976, 95977, 95977.1, 95977.2, 95980, 95980.1, 95981, 95981.1, and, where the Authorized Project Designee is specifically identified, the requirements in sections 95983, 95985, and the Program for Recognition of Early Action Offset Credits, on behalf of the Offset Project Operator.

(A) If an Authorized Project Designee is designated, the Authorized Project Designee will be responsible for performing all activities to meet the requirements in section 95974(a)(2) and will be the main point of contact with regard to the offset project for the Offset Project Registry and ARB. The Offset Project Operator, however, is ultimately responsible for ensuring compliance with the requirements of this article and the applicable Compliance Offset Protocol. In addition, the Offset Project Operator retains its ability to perform any activities required under this article, including signing documents and attestations.

(B) If an Authorized Project Designee is designated, the Offset Project Operator must designate an individual of the Authorized Project Designee as a Primary Account Representative or Alternate Account Representative on the Offset Project Operator's tracking system account before the Authorized Project Designee may act on behalf of the Offset Project Operator or submit any documentation to the Offset Project Registry and ARB.

(C) Consultants. An Offset Project Operator or Authorized Project Designee may use a consultant to prepare documents for submittal by the Offset Project Operator or Authorized Project Designee to the Offset Project Registry or ARB. However, a consultant may not sign any documents or attestations on behalf of the Offset Project Operator or Authorized Project Designee. A consultant may only communicate with ARB or the Offset Project Registry in conjunction with the Offset Project Operator or Authorized Project Designee, and the Offset Project Operator or Authorized Project Designee must be included in all communications, whether written or verbal, between ARB or the Offset Project Registry and the consultant regarding the offset project.

(b) Modifications to Authorized Project Designee and Activities. An Offset Project Operator may modify or change an Authorized Project Designee, or any other third party authorized pursuant to section 95974(a)(1) for a listed offset project once within each calendar year after the offset project has been listed by ARB or an Offset Project Registry by submitting a request, in writing, to CARB or an

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Offset Project Registry. An Authorized Project Designee may remove itself as the Authorized Project Designee for an offset project by submitting a written request for its removal to CARB and to the registry listing the project, if applicable. The request must clearly identify the project name, its project identification numbers, current offset project operator, effective date of the requested removal, and the compliance offset protocol under which the project is listed and reporting. The request must be signed by one of the Authorized Project Designee's primary or alternate account representatives.

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.

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

(a) General Requirements for Offset Project Operators or Authorized Project Designees Who Are Submitting an Offset Project for Listing. Before an offset project can be listed by ARB or an Offset Project Registry the Offset Project Operator and its Authorized Project Designee, if applicable, must:

(1) Register with ARB pursuant to section 95830; and

(2) Not be subject to any Holding Account restrictions imposed pursuant to section 96011.

(b) If the offset project is not listed by ARB, it must be listed by an Offset Project Registry approved pursuant to section 95986.

(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] and all information required to be submitted to ARB is true, accurate, and complete.";

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

"I understand I am voluntarily participating in the California Greenhouse Gas Cap-and-Invest Program under title 17, article 5, and by doing so, I

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am now 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.";

(3) Attest in writing to ARB as follows:

"I understand that the offset project activity and implementation of the offset project must be in accordance with all applicable local, regional, and national environmental and health and safety laws and regulations that apply to the offset project location. I understand that offset projects are not eligible to receive ARB or registry offset credits for GHG reductions and GHG removal enhancements that are not in compliance with the requirements of the Cap-and-Invest Program.";

(4) Provide all documentation required pursuant to section 95975(e) to ARB or an Offset Project Registry; and

(5) Disclose GHG reductions and GHG removal enhancements issued credit by any voluntary or mandatory programs for the same offset project being listed or any GHG reductions and GHG removal enhancements used for any GHG mitigation requirement.

(d) The attestations in section 95975(c)(1), 95975(c)(2), and 95975(c)(3) must be provided to an Offset Project Registry with the listing information, if being listed with an Offset Project Registry, or to ARB if being listed with ARB.

(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 most recent version of a Compliance Offset Protocol for that offset project type as set forth in section 95973(a)(2)(C).

(f) Review of Offset Project Listing Information. CARB or the Offset Project Registry will review the offset project listing information submitted pursuant to section 95975(e) for completeness. CARB or the Offset Project Registry are not required to review the project listing information for accuracy but shall request revisions for any inaccuracies discovered during its review for completeness. CARB or the Offset Project Registry shall not approve listing a project until the Offset Project Operator or Authorized Project Designee provides complete information and any requested revisions for any discovered inaccuracies. Any requested revisions to address discovered inaccuracies shall be considered part of the completeness review.

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(g) Notice of Completeness for Offset Project Listing Information. The Offset Project Operator or Authorized Project Designee will be notified after review by CARB or the Offset Project Registry, within 30 calendar days of receiving complete and, where applicable, revised listing information to address inaccuracies, that the offset project may be listed. If CARB or the Offset Project Registry determine that the information submitted pursuant to section 95975(e) is incomplete, inaccurate, or that a denial of the listing information is required, CARB or the Offset Project Registry will notify the Offset Project Operator or Authorized Project Designee of this determination within 30 calendar days of receiving the listing information from the Offset Project Operator or Authorized Project Designee. CARB or the Offset Project Registry shall not approve a listing until the Offset Project Operator and, if applicable, Authorized Project Designee have registered with CARB pursuant to section 95830 and met all voluntarily associated entity registration requirements of section 95814.

(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 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), 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.

(i) Listing Status of Offset Projects in an Initial Crediting Period. After the Offset Project Operator or Authorized Project Designee submits the offset project for listing in an initial crediting period and the required documentation pursuant to section 95975(e), and ARB or the Offset Project Registry has reviewed the offset project listing information for completeness, the offset project listing status will be “Proposed Project.” If the offset project is not accepted for listing by an Offset Project Registry, the Offset Project Operator or Authorized Project Designee may request ARB to make a final determination if the offset project meets the requirements in section 95975 to be listed for an initial crediting period by the

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Offset Project Registry. In making this determination, ARB may consult with the Offset Project Registry before making the final determination.

(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) Offset project name and both its CARB project identification number and Offset Project Registry project identification number;

(2) Name of the Offset Project Operator and, if applicable, Authorized Project Designee and their tracking system identification numbers;

(3) Name(s) of any technical consultant(s);

(4) Contact person name, phone number, email address, and mailing address for the Offset Project Operator and, if applicable, Authorized Project Designee, and, if applicable, each technical consultant;

(5) Start date and end date for the current crediting period;

(6) Name and date of the Compliance Offset Protocol under which the offset project most recently reported;

(7) Attestations in sections 95975(c)(1), 95975(c)(2), and 95975(c)(3); and

(8) Signature of a primary or alternative account representative of the Offset Project Operator, along with their printed name, title, and date signed.

(k) Listing Status of Offset Projects in a Renewed Crediting Period. The verification body must assess that the offset project meets the additionality requirements in section 95973(a)(2)(A) and 95973(a)(2)(C) as of the date of the commencement

of the renewed crediting period when conducting offset verification services for the first Reporting Period of a renewed crediting period. If the offset project is not accepted for a renewed listing by an Offset Project Registry, the Offset Project Operator or Authorized Project Designee may request CARB to make a final determination if the project meets the requirements in section 95975 to be listed for a renewed crediting period by the Offset Project Registry. In making this determination, CARB may consult with the Offset Project Registry before making the final determination.

(l) Additional Offset Project Listing Requirements for Tribes. In addition to meeting the listing requirements in sections 95975(c)(1) through (5), Tribes must meet the following requirements before offset projects located on the categories of land specified in section 95973(d) can be listed with ARB or an Offset Project Registry pursuant to this section. The requirements of this article apply regardless of the category of land on which the offset project is located.

(1) The governing body of the Tribe must enter into a limited waiver of sovereign immunity with ARB related to its participation in the requirements of the Cap-and-Trade Program for the duration required by the applicable Compliance Offset Protocol(s). This waiver must include a consent to suit by the State of California, Air Resources Board, in the courts of the State of California, with respect to any action in law or equity commenced by the State of California, Air Resources Board to enforce the obligations of the Tribe with respect to its participation in the Cap-and-Trade Program, irrespective of the form of relief sought, whether monetary or otherwise, except for purposes of relief under this limited waiver, Tribes shall be treated in the same manner as a California public entity under California Government Code sections 818 and 818.8.

(2) The Tribe must provide ARB with documentation demonstrating that the limited waiver of sovereign immunity entered into pursuant to section 95975(l)(1) has been properly adopted in accordance with the Tribe's Constitution or other organic law, by-laws and ordinances, and applicable federal laws.

(3) For offset projects located on Indian lands, as defined in 25 U.S.C. § 81(a)(1), the Tribe must also provide ARB with proof of federal approval of the Tribe's participation in the requirements of the Cap-and-Invest Program, or documentation from the U.S. Department of the Interior, Bureau of Indian Affairs that federal approval is not required.

(m) Once ARB or an Offset Project Registry approves an offset project for listing, the listing information is considered final, and may not be changed unless the Offset Project Operator changes.

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(1) If the Offset Project Operator changes prior to project completion or termination, the new Offset Project Operator or Authorized Project Designee must submit updated listing information to CARB or an Offset Project Registry within 45 calendar days of the change. The updated listing information to be submitted is the information specified in section 95975(j)(1) through (j)(8).

(2) If the Offset Project Operator changes prior to project completion or termination due to a sale or transfer of real property interests within the sequestration offset project boundary to an entity or individual pursuant to the requirements in section 95975.1, then the new Offset Project Operator must submit any updates to the offset project listing information in section 95975(c) to CARB and the applicable offset project registry within 60 days of the transfer of title.

(n) Limitations for Crediting Period Renewals. A crediting period may be renewed if the offset project meets the requirements for additionality pursuant to section 95973(a)(2) and in the applicable Compliance Offset Protocol.

(1) The crediting period for non-sequestration offset projects may be renewed twice for the length of time identified by the Compliance Offset Protocol.

(2) Sequestration offset projects are not subject to any renewal limits.

(o) Transferring an Offset Project. If the Offset Project Operator or Authorized Project Designee transfers an offset project listed with ARB or an Offset Project Registry to ARB or another Offset Project Registry:

(1) ARB or the Offset Project Registry that originally listed the offset project must change the offset project listing status on its registry system to “Transferred ARB Project.”

(A) If the only action taken by the Offset Project Operator or the Authorized Project Designee was to have the listing documentation for the offset project approved by ARB or the original Offset Project Registry, ARB or the original Offset Project Registry must retain the information related to the offset project on its website for the duration of one year before it is removed from the registry system. If the listing documentation was only submitted by the Offset Project Operator or Authorized Project Designee, but not approved by ARB or the original Offset Project Registry, ARB or the original Offset Project Registry does not need to retain the submitted listing documentation.

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(B) If a verification body submitted an Offset Verification Statement, ARB or the original Offset Project Registry must retain the information related to the offset project on its website for the duration of the offset project life.

(C) ARB or the new Offset Project Registry must retain the listing date and all listing information as approved by ARB or the original Offset Project Registry. If the offset project has not undergone initial verification, the Offset Project Commencement date may change as a result of verification activities only.

(2) The Offset Project Operator or Authorized Project Designee must submit the original listing documentation reviewed and accepted by ARB or the original Offset Project Registry pursuant to this section to the new Offset Project Registry. The Offset Project Operator or Authorized Project Designee may only make changes to the listing documentation pursuant to section 95975(m).

(3) The Offset Project Operator or Authorized Project Designee may not transfer an offset project to ARB or another Offset Project Registry once a Notice of Offset Verification Services has been submitted for a Reporting Period(s) pursuant to section 95977.1(b)(1) or during the course of offset verification services for a Reporting Period(s). Once a Notice of Offset Verification Services has been submitted, the offset verification services must be completed for the applicable Reporting Period(s) before the Offset Project Operator or Authorized Project Designee may transfer the offset project to ARB or another Offset Project Registry. Once the offset verification services are completed for the applicable Reporting Period(s), the Offset Project Operator or Authorized Project Designee may transfer the offset project to ARB or another Offset Project Registry.

(p) Limitations for Listing Forest Offset Projects. Once a forest offset project has been issued registry offset credits pursuant to sections 95980 and 95980.1 or ARB offset credits pursuant to sections 95981 and 95981.1, no other offset project may be listed with a Project Area including any land within the previously listed geographic boundary of the previous offset project unless the previous offset project was terminated due to an unintentional reversal or unless otherwise specified in a Compliance Offset Protocol.

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.

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§ 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:

(1) The Offset Project Operator and, if applicable, Authorized Project Designee must provide the following disclosures and information to any entity that is actively pursuing acquisition of any interest in the real property comprising the offset project boundary or a portion thereof:

(A) The number of previously issued ARB offset credits, total associated carbon stocks that must be maintained, and for how long those carbon stocks must be maintained.

(B) The current number of ARB offset credits that would need to be compensated should the new owner(s) choose to terminate the project immediately, including the compensation rate if applicable;

(C) The current market price of one ARB offset credit;

(D) Compliance Offset Program requirements by providing the website URL of the current Cap-and-Invest Regulation and the applicable compliance offset protocol;

(E) Regulatory deadlines for the project, such as reporting deadlines, verification deadlines, and crediting period renewal deadlines over the next 15 years;

(F) Disclosure of the specific regulatory requirement for the entity to register for an account as a voluntarily associated entity pursuant to section 95814(a)(1)(A) within 45 days of the transfer of title as required by section 95975(m)(1); and

(G) Disclosure of the specific regulatory requirement for the new Offset Project Operator or, if applicable, Authorized Project Designee to update the offset project listing information with the applicable offset project registry within 60 days of the transfer of title as required by section 95975(m)(2) or risk project termination and the obligation to surrender the number of compliance instruments calculated pursuant to the applicable compliance offset protocol.

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(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] 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 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, 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 that sold or transferred their interest in real property comprising any portion of the offset project boundary;

(2) Name, phone number, mailing address, and email address of each new owner and identification of the new Offset Project Operator, if applicable;

(3) An attestation signed by the former Offset Project Operator's Primary Account Representative or Alternate Account Representative stating as follows:

> "I certify under penalty of perjury under the laws of the State of California that all information and disclosures required to be provided to the new owner(s) and the information submitted to CARB for a proposed offset project ownership transfer pursuant to section 95975.1 for [project name] is true, accurate, and complete."; and

(4) The attestation signed by the new owner(s) pursuant to section 95975.1(a)(2).

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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) 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).

(d) Any former Offset Project Operator or Authorized Project Designee must continue to meet the record retention requirements in section 95976(e);

(e) If the Offset Project Operator will change due to the ownership transfer, then the new Offset Project Operator must:

(1) Register a tracking system account and obtain a tracking system identification number as a voluntarily associated entity pursuant to section 95814(a)(1)(A);

(A) An entity seeking to update the listing information of an offset project situated on the categories of land in section 95973(d) must demonstrate the existence of a limited waiver of sovereign immunity entered into pursuant to section 95975(l) prior to registration of a Tracking System account pursuant to section 95830(b)(4) and prior to the title transfer date.

(2) Update the offset project listing information pursuant to section 95975(m)(2), within 60 days of the title transfer date.

(3) If listing information is not updated within 60 days, then the project terminates and the new forest owner(s) will be responsible for compensation pursuant to section 95983(c)(4).

(f) If transfer of title of offset project land 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) 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, Health and Safety Code.

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§ 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. 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 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, 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).

(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

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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).

(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] 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.

(2) An Offset Project Data Report must be submitted within four months after the conclusion of each Reporting Period. For a submission to be considered valid, the submitted Offset Project Data Report must include any required attestation(s) and must be signed by the Offset Project Operator's Primary Account Representative or Alternate Account Representative.

(3) If an Offset Project Data Report is not submitted to ARB or an Offset Project Registry as required by this regulation by the four-month reporting deadline in section 95976(d)(2), the GHG reductions and GHG removal

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enhancements quantified and reported in the Offset Project Data Report are not eligible to be issued registry offset credits pursuant to section 95980 or ARB offset credits pursuant to section 95981.

(4) Each version of an Offset Project Data Report submitted to ARB or an Offset Project Registry must specify the version number and the date submitted. For offset projects reporting under one of the Compliance Offset Protocols in section 95973(a)(2)(C)1., 95973(a)(2)(C)2., or 95973(a)(2)(C)4., an Offset Project Data Report must include both the protocol version under which a project was listed pursuant to section 95975 and the protocol version under which a project is reporting pursuant to section 95976(d).

(e) Requirements for Record Retention for Offset Projects. An Offset Project Operator or Authorized Project Designee must meet the following requirements:

(1) The Offset Project Operator or Authorized Project Designee must retain the following documents:

(A) All information submitted as part of the Offset Project Data Report;

(B) Documentation of the offset project boundary, including a list of all GHG emissions sources, GHG sinks, and GHG reservoirs included in the offset project boundary and the project baseline, and the calculation of the project baseline, project emissions, GHG emission reductions, and GHG removal enhancements;

(C) Fuel use and any other underlying measured or sampled data used to calculate project baseline emissions, GHG emission reductions, and GHG removal enhancements for each source, categorized by process and fuel, or material type;

(D) Documentation of the process for collecting fuel use or any other underlying measured or sampled data for the offset project and its GHG emissions sources, GHG sinks, and GHG reservoirs for quantifying project baseline emissions, project emissions, GHG emission reductions, and GHG removal enhancements;

(E) Documentation of all project baseline emissions, project emissions, GHG emission reductions, and GHG removal enhancements;

(F) All point of origin and chain of custody documents required by a Compliance Offset Protocol, if applicable;

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(G) All chemical analyses, results, and testing-related documentation for material and sources used for inputs to project baseline emissions, project emissions, GHG emission reductions, and GHG removal enhancements;

(H) All model inputs or assumptions used for quantifying project baseline emissions, project emissions, GHG emission reductions, and GHG removal enhancements;

(I) Any data used to assess the accuracy of project baseline emissions, GHG emission reductions, and GHG removal enhancements from each offset project GHG emissions source, GHG sink, and GHG reservoir, categorized by process;

(J) Quality assurance and quality control information including information regarding any measurement gaps, missing data substitution, calibrations or maintenance records for monitoring equipment, or models providing data for calculating project baseline emissions, project emissions, GHG emission reductions, and GHG removal enhancements;

(K) A detailed technical description of any offset project continuous measurement/monitoring system, including documentation of any findings and approvals by federal, state, and local agencies;

(L) Raw and aggregated data from any measurement system;

(M) Documentation of any changes over time and the log book on tests, down-times, calibrations, servicing, and maintenance for any measurement/monitoring equipment providing data for project baseline calculations, project emissions, GHG emission reductions, and GHG removal enhancements;

(N) For sequestration offset projects, documentation of inventory methodologies and sampling procedures including all calculation methodologies and equations used, and any data related to plot sampling; and

(O) Any other documentation or data required to be retained by a Compliance Offset Protocol, if applicable.

(2) Documents listed in section 95976(e)(1) associated with the preparation of an Offset Project Data Report shall be retained in paper, electronic, or other usable format for a minimum of 15 years following the issuance of

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ARB offset credits related to that Offset Project Data Report. All other documents shall be retained in paper, electronic, or other usable format for a minimum of 15 years.

(3) The documents retained pursuant to this section must be sufficient to allow for the verification of each Offset Project Data Report.

(4) Upon request by ARB or an Offset Project Registry, the Offset Project Operator or Authorized Project Designee must provide to ARB or an Offset Project Registry all documents pursuant to this section, including data used to develop an Offset Project Data Report within 10 calendar days of the request.

(f) General Procedure for Interim Data Collection. This section only applies if a Compliance Offset Protocol 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.

(1) In the event of an unforeseen breakdown of offset project data monitoring equipment and gas or fuel flow monitoring devices required for the GHG emission reductions and GHG removal enhancement estimation, ARB may authorize an Offset Project Operator or Authorized Project Designee to use an interim data collection procedure if ARB determines that the Offset Project Operator or Authorized Project Designee has satisfactorily demonstrated that:

(A) The breakdown may result in a loss of more than 20 percent of the source's data for the period covered by an Offset Project Data Report;

(B) The data monitoring equipment cannot be promptly repaired or replaced without shutting down a process unit significantly affecting the offset project operations, or that the monitoring equipment must be replaced and replacement equipment is not immediately available;

(C) The interim procedure will not remain in effect longer than is reasonably necessary for repair or replacement of the malfunctioning data monitoring equipment; and

(D) The request was submitted within 30 calendar days of the breakdown of the data monitoring equipment.

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(2) An Offset Project Operator or Authorized Project Designee seeking approval of an interim data collection procedure must, within 30 calendar days of the monitoring equipment breakdown, submit a written request to ARB that includes all of the following:

(A) The proposed start date and end date of the interim procedure;

(B) A detailed description of what data are affected by the breakdown;

(C) A discussion of the accuracy of data collected during the interim procedure compared with the data collected under the Offset Project Operator's or Authorized Project Designee's usual equipment-based method; and

(D) A demonstration that no feasible alternative procedure exists that would provide more accurate emissions data.

(3) ARB may limit the duration of the interim data collection procedure or include other conditions for approval.

(4) Data collected pursuant to an approved interim data collection procedure shall be considered captured data for purposes of compliance with a Compliance Offset Protocol. When approving an interim data collection procedure, ARB shall determine whether the accuracy of data collected under the procedure is reasonably equivalent to data collected from properly functioning monitoring equipment, and if it is not, the relative accuracy to assign for purposes of assessing possible offset material misstatement under section 95977.1(b)(3)(Q) of this article.

(g) General Procedure for Approving Alternate Monitoring and Measurement Methods Pursuant to Compliance Offset Protocols. This section applies only to alternate methods for monitoring and measurement that were not in common usage at the time when ARB adopted the Compliance Offset Protocol 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.

(1) An Offset Project Operator or Authorized Project Designee seeking approval of an alternate monitoring and measurement method must, at least 30 days prior to the beginning of the reporting period in which the alternate method will be used, submit a written request to CARB that includes all of the following:

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(A) The name and identification numbers of the offset project for which the alternate method is proposed;

(B) The beginning and end dates for the reporting period for which the alternate method is proposed;

(C) A detailed description of the alternate method. This description must include:

1. The purpose for which the alternate method is proposed;

2. A discussion of the accuracy of the alternate method, including any peer-reviewed literature or other information that the Offset Project Operator or Authorized Project Designee believes may aid CARB in making a determination of the eligibility of the method; and

3. A detailed analysis identifying how the alternate method is consistent with the relevant requirements, and not explicitly prohibited by the applicable Compliance Offset Protocol.

(2) ARB may approve an alternate method on an interim basis for one reporting period to review the accuracy of the method. Approval of an alternate method on an interim basis in itself does not provide any right to approval on a longer-term basis. ARB may also include other conditions as part of its interim approval.

(3) Before approving an alternate method, ARB shall determine that the accuracy of the alternate method is at least reasonably equivalent to the accuracy of the method(s) commonly employed when the Compliance Offset Protocol was adopted and that the alternate method is capable of being verified to a reasonable level of assurance.

(4) Data collected pursuant to an approved alternate method shall be considered in compliance with the requirements of the relevant Compliance Offset Protocol.

(5) ARB may request additional information from the Offset Project Operator or Authorized Project Designee seeking approval of an alternate method prior to approving any request. ARB shall provide written notification to the Offset Project Operator or the Authorized Project Designee of approval or disapproval of the interim alternate method within 30 days of receipt of the request, or within 30 days of receipt of any additional information requested by CARB, whichever is later.

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(6) A request for approval of an alternate method may only be submitted for a reporting period for which a project is receiving a full offset verification.

(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 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 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.

(8) For the purposes of this section “common usage” means a method that is demonstrated to be in use by an offset project using the same protocol type (e.g., U.S. Forests, livestock, etc.) on the compliance or voluntary market in the U.S. at the time of adoption of the Compliance Offset Protocol version.

(h) Monitoring Period for Sequestration Projects. A sequestration Offset Project Operator must continue to monitor, report, and verify information for the full duration of the project life, which includes the 100-year period after final offset credit issuance.

(1) An offset project enters its monitoring period after its crediting period has ended and it has not renewed for an additional crediting period. An Offset Project Operator may end its crediting period early and enter its monitoring period by notifying the offset project registry under which the project is listed and CARB that it is going into its monitoring period and will no longer seek registry offset credits or ARB offset credits. The notification must clearly identify the project, its Offset Project Operator, and the start date of its monitoring period. The notification must be signed by a Primary Account Representative or Alternate Account Representative on the Offset Project Operator’s tracking system account. A monitoring period must start with a reporting period for which an Offset Verification Statement has not yet been submitted. The monitoring period start date shall be considered final upon the verification body’s submittal of an Offset Verification Statement to the offset project registry or CARB for a reporting period in the monitoring period. No registry offset credits or ARB offset credits shall

be issued to the project for any activity after the start date of its monitoring period is final.

(2) An Offset Project Operator or, if applicable, Authorized Project Designee, for an offset project in its monitoring period must continue to submit Offset Project Data Reports to maintain continuous reporting pursuant to section 95976(d). If the Offset Project Operator or Authorized Project Designee fails to submit an Offset Project Data Report by the deadline, then the Offset Project Operator or, if applicable, Authorized Project Designee shall be notified of the missed deadline by the offset project registry or CARB. If an Offset Project Data Report is not submitted within 45 calendar days of the notification from the offset project registry or CARB, then the Offset Project will terminate, and forest owners will be required to submit to CARB appropriate compensation for early project termination pursuant to section 95983(c)(4).

(3) An Offset Project Operator and, if applicable, Authorized Project Designee for an offset project in its monitoring period must continue to obtain offset verification services for its Offset Project Data Reports according to the schedule in section 95977(d).

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. 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 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 Sequestration Offset Projects during the Crediting Period. An initial verification of GHG emission reductions and GHG removal enhancements for all 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:

(1) If no Offset Verification Statement is submitted for an offset project within the schedule in section 95977(c) and within the time prescribed in section 95977(e), the project terminates pursuant to section 95983(c)(4).

(2) An offset project with no Positive Offset Verification Statement and with at least one Adverse Offset Verification Statement submitted within the schedule in section 97977(c) and within the timeline prescribed in section 95977(e), shall have three additional Reporting Periods to the verification schedule prescribed in section 95977(c). At least one Reporting Period in this expanded schedule must receive a Positive Offset Verification Statement both submitted within the timeline prescribed in section 95977(e) and approved by CARB, or the project is terminated pursuant to section 95983(c)(4).

(d) Schedule for Verification of Sequestration Offset Projects during the Monitoring Period. For a sequestration offset project in its monitoring period pursuant to section 95976(h), verification must be conducted at least once every six Reporting Periods for the remainder of the project life. However, after each successful full offset verification of an Offset Project Data Report that indicates Actual Onsite Carbon Stocks (in MTCO2e) are at least 10% greater than the Actual Onsite Carbon Stocks reported in the final Offset Project Data Report of the crediting period prior to the project's monitoring period for which CARB approved a Positive Offset Verification Statement, the next full offset verification may be deferred for up to twelve Reporting Periods. An offset project that has deferred verification for more than six Reporting Periods must resume conducting a full verification at least once every six Reporting Periods if it receives an

Adverse Offset Verification Statement or if its Actual Onsite Carbon Stocks are no longer at least 10% greater than the Actual Onsite Carbon Stocks reported in the final Offset Project Data Report of the crediting period prior to the project's monitoring period for which CARB approved a Positive Offset Verification Statement.

(1) A project must receive a Positive Offset Verification Statement within the timeline prescribed in section 95977(e). If this requirement is not met, the project terminates pursuant to section 95983(c)(4).

(2) An Offset Project that has fifteen consecutive Reporting Periods without an approved Positive Offset Verification Statement will terminate pursuant to section 95983(c)(4).

(e) Timing for Submittal of Offset Verification Statements to ARB or an Offset Project Registry. Any Offset Verification Statement must be received by ARB or an Offset Project Registry within eleven months after the conclusion of the Reporting Period for which offset verification services were performed, except for Reporting Periods for which verification is deferred in accordance with this section. If the Offset Verification Statement is not submitted to ARB or an Offset Project Registry by the verification deadline, the GHG reductions and GHG removal enhancements quantified and reported in the Offset Project Data Report are not eligible to be issued ARB offset credits or registry offset credits. The verification body must issue one Offset Verification Statement for each Offset Project Data Report that it verifies for the Offset Project Operator or Authorized Project Designee.

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.

§ 95977.1. Requirements for Offset Verification Services.

(a) Rotation of Verification Bodies. An offset project shall not have more than any six out of nine consecutive Reporting Periods verified by the same verification body or offset verification team member(s), unless otherwise specified in section 95977.1(a)(1) or (a)(2). The rotation requirements in this section are applied between the Offset Project Operator, Authorized Project Designee, if applicable, and any technical consultant(s) used by the Offset Project Operator or Authorized Project Designee, if applicable, and the verification body and offset verification team member(s) on an offset project basis.

(1) For offset projects developed under the Compliance Offset Protocol in section 95973(a)(2)(C)(1.), the following shall apply: Neither a verification

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body nor offset verification team member may conduct offset verification services for more than any six out of nine consecutive offset projects developed by any given Offset Project Operator, or developed on behalf of that Offset Project Operator by any Authorized Project Designee, or any technical consultant(s) used by the Offset Project Operator or Authorized Project Designee. For offset projects developed under the Compliance Offset Protocol in section 95973(a)(2)(C)(1.), the order of consecutive projects is determined by the project commencement dates. For this provision an offset project is defined by any activities reported in an Offset Project Data Report, and is applied to offset projects listed by the Offset Project Operator and Authorized Project Designee, if applicable.

(2) For reforestation offset projects developed under, and that meet the requirements of, the Compliance Offset Protocol in section 95973(a)(2)(C)(4.), and urban forest offset projects developed under, and that meet the requirements of, the Compliance Offset Protocol in section 95973(a)(2)(C)(3.), the following shall apply: An Offset Project Operator or Authorized Project Designee that has deferred the second verification for 6 to 12 years may have up to 13 Offset Project Data Reports verified by the same verification body and offset verification team member(s). If an Offset Project Operator or Authorized Project Designee has not deferred the second verification for more than 6 years, the requirements in section 95977.1(a) for rotation of verification bodies and offset verification team member(s) shall apply. An Offset Project Operator or Authorized Project Designee may contract with a previous verification body or offset verification team member(s) only if at least three consecutive Offset Project Data Reports for the offset project have been verified by a different verification body(ies) and offset verification team member(s) before the previous verification body and offset verification team member(s) is selected again. When rotating verification bodies and offset verification team members under this provision, the rotation requirements must also apply to any technical consultant(s) used by the Offset Project Operator or Authorized Project Designee, if applicable.

(3) All early action reporting periods for which regulatory verification was conducted for an early action offset project pursuant to the Program for Recognition of Early Action Offset Credits may count as one Reporting Period for the purposes of determining rotation of verification bodies and offset verification team members.

(4) Each early action reporting period for which early action verification was conducted under an Early Action Offset Program prior to transitioning the offset project to a Compliance Offset Protocol must be used in determining

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the rotation of verification bodies and offset verification team member pursuant to this section. Each early action reporting period verified under the Early Action Offset Program is considered a separate Reporting Period for purposes of this section.

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

(1) Notice of Offset Verification Services for Offset Projects. Before offset verification services, as defined in section 95977.1(b)(3), may begin for any reporting period, the Offset Project Operator or Authorized Project Designee must submit the Offset Project Data Report to CARB or an Offset Project Registry, except for reporting period(s) for which CARB has been notified of an unintentional reversal pursuant to section 95983(b). Before beginning offset verification services, the verification body must submit a Notice of Offset Verification Services to CARB and an Offset Project Registry, if applicable. The verification body may begin offset verification services 10 calendar days after the Notice for Offset Verification Services is received by CARB and the Offset Project Registry. The verification body must conduct the site visit at least 40 calendar days after the Notice for Offset Verification Services is received by CARB and the Offset Project Registry, unless neither CARB nor the Offset Project Registry notifies the verification body of an audit within 10 calendar days after receiving the Notice for Offset Verification Services or, if CARB or an Offset Project Registry do notify the verification body of an audit within 10 calendar days after receiving the Notice of Offset Verification Services, each auditing entity approves in writing an earlier site visit date. If neither CARB nor the Offset Project Registry notify the verification body of an audit within 10 calendar days, then the verification body may schedule the site visit to an earlier date that is at least 15 calendar days after CARB and the Offset Project Registry received the Notice of Offset Verification Services. The Notice of Offset Verification Services must include the following information:

(A) The offset project name and its identification numbers, the Compliance Offset Protocol and its version under which the offset project is reporting, indication of whether a single or multiple reporting periods will receive offset verification services, the reporting period start and end dates, and the crediting period start date;

(B) A list of staff who will be designated to provide offset verification services as part of an offset verification team, including the names

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of each designated staff member, the lead verifier, independent reviewer, all subcontractors, and a description of the roles and responsibilities each team member will have during the offset verification process;

(C) Documentation that the offset verification team has the skills required to provide offset verification services for the Offset Project Operator or Authorized Project Designee. At least one offset verification team member must be accredited by ARB as an offset project specific verifier for an offset project of that type; and

(D) General information on the Offset Project Operator or Authorized Project Designee, including:

1. The name of the Offset Project Operator or Authorized Project Designee, including contact information, address, telephone number, and email address;

2. The locations that will be subject to offset verification services;

3. The date(s) of on-site visits, with address and contact information; and

4. A brief description of expected offset verification services to be performed, including the expected date for submitting the Offset Verification Statement to ARB or the Offset Project Registry.

(2) If any information submitted pursuant to sections 95977.1(b)(1)(B) and 95977.1(b)(1)(D) changes after the Notice for Offset Verification Services is submitted to ARB and the Offset Project Registry, if applicable, the verification body must notify ARB and the Offset Project Registry by submitting an updated Notice of Offset Verification Services within 10 working days. If the verification body has been notified by ARB or the Offset Project Registry of an audit for the relevant verification, then the verification body must notify the auditing entity at least two working days prior to a revised start date for offset verification services and at least 15 working days prior to a revised site visit date(s), unless each auditing entity approves in writing an earlier date. If ARB and the Offset Project Registry, if applicable, request revisions to the Notice of Offset Verification Services, the verification body must resubmit the revised Notice of Offset Verification Services within 10 working days of such request, or if there is a reason the verification body cannot submit the revisions within 10

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working days, the verification body must communicate to ARB and the Offset Project Registry in writing as to the reasons why and get approval from the Offset Project Registry or ARB for an extension.

(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:

1. Information to allow the offset verification team to develop a general understanding of offset project boundaries, operations, project baseline emissions, and Reporting Period GHG reductions and GHG removal enhancements;

2. Information regarding the training or qualifications of personnel involved in developing the Offset Project Data Report;

3. The name and date of the Compliance Offset Protocol used to quantify and report project baselines, GHG reductions, GHG removal enhancements, and other required data as applicable in the Compliance Offset Protocol; and

4. Information about any data management system, offset project monitoring system, and models used to track project baselines, GHG reductions, GHG removal enhancements, and other required data as applicable in the Compliance Offset Protocol.

(B) Timing of Offset Verification Services. The Offset Verification Plan submitted pursuant to section 95977.1(b)(3)(A) shall also include the following information:

1. Dates of proposed meetings and interviews with personnel related to the offset project;

2. Dates of proposed site visits;

3. Types of proposed document and data reviews; and

4. Expected date for submitting the Offset Verification Statement to CARB or the Offset Project Registry.

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(C) Planning Meetings with the Offset Project Operator or Authorized Project Designee. The offset verification team must discuss with the Offset Project Operator or Authorized Project Designee the scope of the offset verification services and request any information and documents needed for initiating offset verification services. The offset verification team must review the documents submitted and plan and conduct a review of original documents and supporting data for the Offset Project Data Report. Information regarding planning meetings may be included in the offset verification plan, but is not required. Any discussions or meetings to secure an offset verification services contract or collect preliminary project documents to bid the offset verification services may occur prior to submitting the Notice of Offset Verification Services pursuant to section 95977.1(b)(1).

(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 and after the first Reporting Period for

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each renewed crediting period under a Compliance Offset Protocol. 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;

    b. Review the information submitted for listing pursuant to section 95975 and determine if it is complete and accurate;

    c. Confirm that the offset project boundary is appropriately defined;

    d. Review project baseline calculations and modeling;

    e. Assess the operations, functionality, data control systems, and review GHG measurement and monitoring techniques; and

    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.

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g. All criteria pertaining to the eligibility of the offset project must be assessed during the first site visit in the first Reporting Period of each crediting period. All eligibility criteria must be met and are not subject to sampling. If any of the eligibility criteria are not met, the project would be ineligible for crediting and receive an Adverse Offset Verification Statement.

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:

a. Check that all offset project boundaries, GHG emissions sources, GHG sinks, and GHG reservoirs in the applicable Compliance Offset Protocol are identified appropriately;

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 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;

c. Interview key personnel involved in collecting offset project data and preparing the Offset Project Data Report;

d. Make direct observations of equipment for data sources and equipment supplying data for GHG emission sources in the sampling plan determined to be high risk;

e. Collect and review other information that, in the professional judgment of the team, is needed in the offset verification process;

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f. Confirm the offset project conforms with all local, state, or federal environmental regulatory requirements pursuant to section 95973(b), including health and safety regulations; and

g. Review all chain of custody documents as required in the Compliance Offset Protocol, if applicable.

h. If the offset project is found by the offset verification team to not meet the requirements of section 95977.1(b)(3)(D)2.f., the offset project is ineligible to receive ARB offset credits or registry offset credits for some or all GHG reductions and GHG removal enhancements quantified and reported in the Offset Project Data Report.

i. For sequestration offset projects outside California designated as providing direct environmental benefits in the State pursuant to section 95989 based on previously planned activities, review the extent to which the previously planned activities have been implemented. The Offset Project Operator or, if applicable, Authorized Project Designee must provide documentation of planned and completed activities to the verification body.

(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 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 Compliance Offset Protocol.

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(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:

1. The offset verification team must develop a sampling plan based on a strategic analysis developed from document reviews and interviews to assess the likely nature, scale, and complexity of the offset verification services for an Offset Project Operator or Authorized Project Designee. The analysis must review the inputs for the development of the submitted Offset Project Data Report, the rigor and appropriateness of the GHG data management systems, and the coordination within an Offset Project Operator's or Authorized Project Designee's organization to manage the operation and maintenance of equipment and systems used to develop the Offset Project Data Reports;

2. The offset verification team must include a ranking of GHG emissions sources, GHG sinks, and GHG reservoirs within the offset project boundary by amount of contribution to total CO_2e emissions, GHG reductions, and GHG removal enhancements, and a ranking of GHG emissions sources, GHG sinks, or GHG reservoirs with the largest calculation uncertainty; and

3. The offset verification team must include a qualitative narrative of uncertainty risk assessment in the following areas as applicable to the Compliance Offset Protocol:

   a. Data acquisition equipment;

   b. Data sampling and frequency;

   c. Data processing and tracking;

   d. Project baseline and project GHG emissions, GHG reductions, and GHG removal enhancement calculations;

   e. Data reporting; and

   f. Management policies or practices in developing Offset Project Data Reports.

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(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 Compliance Offset Protocol and data checks as specified in section 95977.1(b)(3)(L) and an explanation of why they were chosen;

2. Methods used to conduct data checks for each GHG emissions source, GHG sink, and GHG reservoir; and

3. A summary of the information analyzed in the data checks and document reviews conducted for each GHG emissions source, GHG sink, and GHG reservoir.

(I) The sampling plan list, prepared pursuant to section 95977.1(b)(3)(H), must be updated and finalized prior to the completion of offset verification services. The final sampling plan must describe in detail how the GHG emissions sources, GHG sinks, and GHG reservoirs with identified risk, subject to data checks, were reviewed for accuracy.

(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 the Compliance Offset Protocol and this article.

(K) The verification body must retain the sampling plan in paper, electronic, or other format for a period of not less than 15 years following the submission of each Offset Verification Statement. The sampling plan must be made available at any time during offset verification services to ARB or the Offset Project Registry within 10 calendar days upon request. The verification body must also retain all material received, reviewed, or generated to render an Offset Verification Statement for an Offset Project Operator or Authorized Project Designee for 15 years following the submittal of each Offset Verification Statement. The documentation must allow for a transparent review of how a verification body reached its conclusion in the detailed verification report and Offset Verification Statement.

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(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 Compliance Offset Protocol;

2. Choose GHG emissions sources, project emissions, GHG sinks, and GHG reservoirs for data checks based on their relative sizes and risks of offset material misstatement or nonconformance as indicated in the sampling plan;

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 Compliance Offset Protocol and this article. At a minimum a data check must include the following:

    a. Tracing data in the Offset Project Data Report to its origin;

    b. Looking at the process for data compilation and collection;

    c. Reviewing all GHG inventory designs for GHG sources, GHG sinks, and GHG reservoirs, and sampling procedures, if applicable;

    d. Recalculating baseline GHG emissions, project emissions, GHG reductions, and GHG removal enhancements estimates to check original calculations;

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e. Reviewing calculation methodologies used by the Offset Project Operator or Authorized Project Designee for conformance with 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 Compliance Offset Protocol, if applicable; and

4. Compare its own calculated results for the data checks conducted with the reported offset project data in order to confirm the extent and impact of any omissions and errors. Any discrepancies must be identified in the issues log. The comparison of data checks must also include a narrative to indicate which GHG emissions sources, GHG sinks, and GHG reservoirs were checked, the types and quantity of data that were evaluated for each GHG emissions source, GHG sink, and GHG reservoir, how the data checks were conducted including calculations, and any discrepancies that were identified.

(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

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methods for truncation or rounding where a specific procedure is not prescribed by this article 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 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 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 the Compliance Offset Protocol and ensure that other requirements of this article are met.

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1. If a forest project seeks renewal of its crediting period, then the Offset Project Operator or Authorized Project Designee must conform to the most recent version of the Compliance Offset Protocol set forth in section 95973(a)(2)(C). Any changes in the baseline that result from using the most recent version of the Compliance Offset Protocol that affect GHG emission reductions or removal enhancements from the previous crediting period will not result in invalidation or additional crediting.

(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 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. 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.

(P) An assessment of offset material misstatement is conducted for net GHG reductions and GHG removal enhancements achieved in a given Reporting Period relative to the project baseline in that Reporting Period in metric tons of CO_2e.

(Q) The offset verification team must determine whether the GHG reductions and GHG removal enhancements quantified and reported in the Offset Project Data Report contain an offset material misstatement using the following equation:

$$Percent\ error = \frac{[\sum Discrepancies + \sum Omissions + \sum Misreporting] \times 100\%}{Total\ Reported\ Emission\ Reductions\ and\ Removal\ Enhancements}$$

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Where:

"Discrepancies" means any differences between the reported GHG value for sources, sinks, and reservoirs for the project baseline or project, and the verifier calculated GHG value for a data source subject to data checks in 95977.1(b)(3)(L) calculated by the offset verification team. Any discrepancies identified must include the positive or negative impact of the GHG source, sink, or reservoir on the total reported GHG emission reductions and removal enhancements when input into the offset material misstatement equation.

"Omissions" means any GHG emissions or removal enhancements associated with required sources, sinks, and reservoirs for the project baseline or project emissions, that the offset verification team concludes must be part of the Offset Project Data Report, but were not included by the Offset Project Operator or Authorized Project Designee in the Offset Project Data Report. Any omissions found by the offset verification team must include the positive or negative impact of the omission on the total reported GHG emission reductions and removal enhancements when input into the offset material misstatement equation.

"Misreporting" means duplicative, incomplete, or other GHG emissions or removal enhancements for required sources, sinks, and reservoirs in the project baseline or project emissions, the offset verification team concludes should, or should not, be part of the Offset Project Data Report. Any misreporting found by the offset verification team must include the positive or negative impact of the misreporting on the total reported GHG emission reductions and removal enhancements when input into the offset material misstatement equation.

"Total reported emission reductions and removal enhancements" means net GHG reductions and GHG removal enhancements reported by the Offset Project Operator or Authorized Project Designee for an Offset Project Data Report relative to the project baseline for that Offset Project Data Report in metric tons CO_2e.

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

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1. Offset Verification Statement. Prior to completion of the offset verification services conducted pursuant to section 95977.1(b)(3), the verification body must complete an Offset Verification Statement for each Offset Project Data Report for which offset verification services were conducted and provide it to the Offset Project Operator or Authorized Project Designee and ARB or the Offset Project Registry by the verification deadline pursuant to section 95977(e). Before the Offset Verification Statement is completed, the verification body must have the offset verification services and findings of the offset verification team independently reviewed within the verification body by an independent reviewer not involved in offset verification services for that offset project. The independent reviewer may not be the offset project specific verifier, and may not accompany the offset verification team on a site visit. The independent reviewer may conduct a separate site visit, if necessary.

2. The independent reviewer shall serve as the final check of the offset verification team's work to identify any significant concerns, including:

    a. Errors in planning;

    b. Errors in data sampling; and

    c. Errors in judgment by the offset verification team that are related to the draft offset verification statement.

3. The independent reviewer must maintain independence from the offset verification services by not making specific recommendations about how the offset verification services should be conducted. The independent reviewer will review documents applicable to the offset verification services provided and identify any failure to comply with the requirements of this article or with the verification body's internal policies and procedures for providing offset verification services. The independent reviewer must concur with the offset verification findings before the Offset Verification Statement can be issued.

4. When the offset verification team completes its findings:

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a. The verification body must provide to the Offset Project Operator or Authorized Project Designee a detailed verification report for each Offset Project Data Report for which offset verification services were conducted. The detailed verification report must at a minimum include the Offset Verification Plan, the detailed comparison of the data checks conducted during offset verification services pursuant to section 95977.1(b)(3)(L), including the required narrative, the issues log identified in the course of offset verification activities and the issue resolutions, and any qualifying comments on findings during offset verification services. The detailed verification report must also include the calculations performed in 95977.1(b)(3)(Q) with enough detail to understand the relationships between the data checks and the offset material misstatement evaluation, and be made available to ARB within 10 calendar days upon request. If the Offset Verification Statement is being submitted to an Offset Project Registry, then the verification body must submit the detailed verification report to the Offset Project Registry with the Offset Verification Statement. The detailed verification report must be submitted to the Offset Project Operator or Authorized Project Designee at the same time or before the Offset Verification Statement is submitted to ARB or the Offset Project Registry.

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 the Compliance Offset Protocol.

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c. A Compliance Offset Protocol may restrict the use of a Qualified Positive Offset Verification Statement for certain project types, in which case the verification body must submit either a Positive Offset Verification Statement or an Adverse Offset Verification Statement. In the case of a Qualified Positive Offset Verification Statement, when not restricted by a Compliance Offset Protocol, the verification body will qualify the Offset Verification Statement to indicate any nonconformances allowed for a qualified Positive Offset Verification Statement as defined in section 95802 contained within the Offset Project Data Report and that these nonconformances do not result in an offset material misstatement.

d. The offset verification team must have a final discussion with the Offset Project Operator or Authorized Project Designee explaining their findings and notifying the Offset Project Operator or Authorized Project Designee of any unresolved issues noted in the issues log before the Offset Verification Statement is finalized and submitted to the Offset Project Registry or CARB. If an Offset Project Registry is auditing a verification pursuant to section 95987(e), the offset verification team shall ensure Offset Project Registry attendance at the final discussion.

e. The lead verifier in the offset verification team must attest to ARB in the Offset Verification Statement that the offset verification team has carried out all offset verification services as required by this article, and the lead verifier who has conducted the independent review of offset verification services and findings must attest to his or her independent review on behalf of the verification body and his or her concurrence with the offset verification findings.

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

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g. "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 the applicable Compliance Offset Protocol 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.)."

5. Prior to the verification body providing an Adverse Offset Verification Statement to ARB or the Offset Project Registry, the Offset Project Operator or Authorized Project Designee must be provided at least 10 working days to modify the Offset Project Data Report to correct any offset material misstatement or nonconformance found by the offset verification team. The modified Offset Project Data Report and Offset Verification Statement must be submitted to ARB or the Offset Project Registry by the applicable verification deadline, unless the Offset Project Operator or Authorized Project Designee makes a request to ARB pursuant to section 95977.1(b)(3)(R)6.

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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 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 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.

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7. After submitting to CARB a petition for an Offset Project Data Report's verifiability, the Offset Project Operator and Authorized Project Designee have eight months from the Offset Verification Statement submittal deadline to modify the Offset Project Data Report to correct any offset material misstatement or nonconformance. Within eight months of the Offset Verification Statement submittal deadline, the Offset Project Operator or, if applicable the Authorized Project Designee, must either provide the most recent Offset Project Data Report to CARB to determine its verifiability or withdraw its petition. By the eight-month deadline, if an Offset Project Data Report is not provided to CARB or if the petition is not withdrawn, then the verification body must submit an Adverse Offset Verification Statement. The eight-month deadline shall apply to petitions submitted after March 31, 2027. For petitions submitted prior to April 1, 2027, the eight-month deadline shall be extended until December 31, 2027. If CARB initially determines that the most recent Offset Project Data Report does not meet the standards and requirements specified in this article, the Offset Project Operator or Authorized Project Designee must provide any additional information requested by CARB within 30 calendar days of notification of CARB's initial determination. CARB will review the new information and notify the Offset Project Operator or Authorized Project Designee and verification body of its final decision. If CARB's final decision is that the Offset Project Data Report is not verifiable, then no registry offset credits or ARB offset credits shall be issued for the applicable Reporting Period and offset verification services for that Reporting Period will be considered complete, unless a forest reversal occurred during the Reporting Period. If the Offset Project Data Report was for a Reporting Period with a forest reversal, then CARB shall assign the type and magnitude of the reversal pursuant to section 95983(g). In re-verifying a revised Offset Project Data Report, the verification body and offset verification team shall be subject to the requirements in sections 95977.1(b)(3)(R)1. through 95977.1(b)(3)(R)4. and must submit the revised Offset Verification Statement to CARB or the Offset Project Registry within 15 calendar days of CARB's notification to the Offset Project Operator or Authorized Project Designee and verification body that it determined the Offset Project Data Report to be verifiable.

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8. If ARB or the Offset Project Registry determines that the detailed verification report required pursuant to 95977.1(b)(3)(R)4.a. does not contain sufficient information to substantiate the attestations in the Offset Verification Statement, then the verification body must submit a revised verification report and a revised Offset Verification Statement to ARB or the Offset Project Registry within 15 calendar days of the determination.

(S) Upon submission of the Offset Verification Statement to ARB or the Offset Project Registry, the Offset Project Data Report must be considered final and no further changes may be made by the Offset Project Operator or Authorized Project Designee unless the Offset Project Registry or ARB requests any changes as part of their review. Once ARB offset credits are issued for the Offset Project Data Report, all offset verification requirements of this article shall be considered complete for the applicable Offset Project Data Report. Offset verification services are not complete until ARB offset credits are issued for the GHG emission reductions and GHG removal enhancements reported in an Offset Project Data Report. For offset verification services that do not result in ARB offset credit issuance, all offset verification requirements of this article shall be considered complete when CARB notifies the Offset Project Operator or Authorized Project Designee and verification body of its approval of the verification.

(T) If the Executive Officer finds a high level of conflict of interest existed between a verification body and an Offset Project Operator or Authorized Project Designee pursuant to section 95979(b)(4) and section 95979(b)(5), or an Offset Project Data Report that received a Positive Offset or Qualified Positive Offset Verification Statement fails an ARB audit, the Executive Officer may set aside the Positive Offset or Qualified Positive Offset Verification Statement submitted by the verification body and require the Offset Project Operator or Authorized Project designee to have the Offset Project Data Report re-verified by a different verification body within 90 calendar days of this finding.

(U) Upon request by ARB or the Offset Project Registry, the Offset Project Operator or Authorized Project Designee must provide the data used to generate an Offset Project Data Report, including all data available to the offset verification team in the conduct of offset verification services, within 10 working days of the request.

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(V) Upon request by ARB or the Offset Project Registry the verification body must provide ARB or the Offset Project Registry the detailed verification report given to the Offset Project Operator or Authorized Project Designee, as well as the sampling plan, contracts for offset verification services, and any other supporting documentation. All documentation must be provided by the verification body to ARB or the Offset Project Registry within 10 working days of the request.

(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. 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.

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.

§ 95978. Offset Verifier and Verification Body Accreditation.

(a) An offset verifier or verification body must meet the accreditation requirements in section 95132 of MRR to provide offset verification services to verify GHG emission reductions and GHG removal enhancements for offset projects listed pursuant to this article. Accreditation of verification bodies and offset verifiers for verifying Offset Project Data Reports under this article must be achieved separately from accreditation for verifying reports submitted under the MRR.

(b) For purposes of this article, the subcontractor requirements in section 95132(e) of the MRR must be applied to the Offset Project Operator and/or Authorized Project Designee and not a reporting entity.

(c) An ARB accredited verification body must make itself and its personnel available for an ARB audit.

(d) An ARB-accredited offset verification body may employ or contract with technical experts not accredited by ARB to assist with offset verification services.

(1) All technical experts must be listed on the Notice of Offset Verification Services as required in section 95977.1(b) and must be included in the evaluation for conflict of interest as required in section 95979.

(2) Technical experts must be under the direct supervision of an ARB-accredited offset verifier while performing site visit verification activities.

(3) Technical experts may assist in underlying offset verification tasks, but may not be responsible for completing any offset verification services as defined in 95802(a).

(e) "Direct supervision," for purposes of this section, means daily, on-site, close contact with a CARB-accredited verifier acting as a supervisor to a technical expert during a site visit, who is able to respond to the needs of the technical expert. During a site visit only, the supervisor must be physically present, or in proximity by telephone and within 4 hours travel time and available to respond to the needs of the technical expert.

(f) "Technical expert," for purposes of this section, means a person, who is not an ARB-accredited verifier, and has demonstrated expertise in a particular technical area for which the person hired by the verification body to assist with underlying offset verification task(s) that require a particular expertise. A technical expert may be an employee of the verification body working to get the required experience to become an ARB-accredited verifier.

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.

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

(a) The conflict of interest provisions of this section shall apply to verification bodies, lead verifiers, and offset verifiers accredited by ARB to perform offset verification services for Offset Project Operators, and Authorized Project Designees, if

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applicable, as well as any other member of the offset verification team and any technical consultant(s) used by the Offset Project Operator or Authorized Project Designee, if applicable.

(b) "Member" for the purposes of this section means any employee or subcontractor of the verification body or related entities of the verification body. "Member" also includes any individual with majority equity share in the verification body or its related entities. "Related entity" for the purposes of this section means any direct parent company, direct subsidiary, or sister company. "Non-offset verification services" for purposes of this section do not include independent, third-party certification or verification services which have been provided for ARB or any other voluntary or mandatory program; such certification and verification services may be counted as offset verification services for the purposes of this section. The potential for a conflict of interest must be deemed to be high where:

(1) The verification body and Offset Project Operator, Authorized Project Designee, if applicable, and their technical consultant(s) share any senior management staff or board of directors membership, or any of the senior management staff of the Offset Project Operator, Authorized Project Designee, if applicable, and their technical consultant(s) have been employed by the verification body, or vice versa, within the previous three years; or

(2) Within the previous five years, for offset verification services of a non-sequestration offset project, any staff member of the verification body or any related entity or any member of the offset verification team or, for offset verification services of a sequestration offset project, either any member of the offset verification team or more than five percent of the members of the verification body or any related entity as defined in section 95979(b), has provided to the Offset Project Operator, Authorized Project Designee, if applicable, and their technical consultant(s) any of the following non-offset verification services:

(A) Designing, developing, implementing, reviewing, or maintaining an inventory or offset project information or data management system for air emissions or development of a forest management plan, or timber harvest plan, unless the review was part of providing GHG offset verification services;

(B) Developing GHG emission factors or other GHG-related engineering analysis, including developing or reviewing a California Environmental Quality Act (CEQA) GHG analysis that includes offset project specific information;

(C) Designing energy efficiency, renewable power, or other projects which explicitly identify GHG reductions and GHG removal enhancements as a benefit;

(D) Designing, developing, implementing, internally auditing, consulting, or maintaining an offset project resulting in GHG emission reductions and GHG removal enhancements;

(E) Owning, buying, selling, trading, or retiring shares, stocks, or ARB offset credits or registry offset credits from the offset project;

(F) Dealing in or being a promoter of ARB offset credits or registry offset credits on behalf of an Offset Project Operator, Authorized Project Designee, if applicable, and their technical consultant(s);

(G) Preparing or producing GHG-related manuals, handbooks, or procedures specifically for the Offset Project Operator, Authorized Project Designee, if applicable, and their technical consultant(s);

(H) Appraisal services of carbon or GHG liabilities or assets;

(I) Brokering in, advising on, or assisting in any way in carbon or GHG-related markets;

(J) Directly responsible for developing any health, environment or safety policies for the Offset Project Operator, Authorized Project Designee, if applicable, and their technical consultant(s);

(K) Bookkeeping or other services related to the accounting records or financial statements;

(L) Any service related to information systems, including International Organization for Standardization 14001 Certification for Environmental Management (ISO 14001 Certification), unless those systems will not be reviewed as part of the offset verification process;

(M) Appraisal and valuation services, both tangible and intangible;

(N) Fairness opinions and contribution-in-kind reports in which the verification body has provided its opinion on the adequacy of consideration in a transaction, unless the information reviewed in formulating the Offset Verification Statement will not be reviewed as part of the offset verification services;

(O) Any actuarially oriented advisory service involving the determination of amounts recorded in financial statements and related accounts;

(P) Any internal audit service that has been outsourced by the Offset Project Operator, Authorized Project Designee, if applicable, and their technical consultant(s) that relates to the Offset Project Operator's, Authorized Project Designee's, if applicable, and their technical consultant(s) internal accounting controls, financial systems, or financial statements, unless the systems and data reviewed during those services, as well as the result of those services will not be part of the offset verification process;

(Q) Acting as a broker-dealer (registered or unregistered), promoter, or underwriter on behalf of the Offset Project Operator, Authorized Project Designee, if applicable, and their technical consultant(s);

(R) Any legal services; and

(S) Expert services to the Offset Project Operator, Authorized Project Designee, if applicable, and their technical consultant(s) or a legal representative for the purpose of advocating the Offset Project Operator's, Authorized Project Designee's, if applicable, and their technical consultant(s) interests in litigation or in a regulatory or administrative proceeding or investigation, unless providing factual testimony.

(3) Within the previous three years, any staff member of the verification body or any related entity or any member of the offset verification team has provided to the ozone depleting substances destruction facility a third-party certification of a facility to meet the requirements set forth by the United Nations Environment Programme Ozone Secretariat's Technology and Assessment Panel (TEAP) for ozone depleting substances destruction.

(4) The potential for conflict of interest will be deemed to be high when any member of the verification body provides any type of incentive to an Offset Project Operator, Authorized Project Designee, if applicable, and their technical consultant(s) to secure an offset verification services contract.

(5) The potential for a conflict of interest will also be deemed to be high where any member of the verification body has provided offset verification services for the Offset Project Operator, Authorized Project Designee, if applicable, and their technical consultant(s) except within the time periods

in which the Offset Project Operator, Authorized Project Designee, if applicable, and their technical consultant(s) is allowed to use the same verification body as specified in section 95977.1(a).

(c) The potential for a conflict of interest must be deemed to be low where no potential for a conflict of interest is found under section 95979(b) and any non-offset verification services provided by any member of the verification body to the Offset Project Operator, Authorized Project Designee, if applicable, and any technical consultant(s) used by the Offset Project Operator or Authorized Project Designee within the last five years are valued at less than 20 percent of the fee for the proposed offset verification, except where medium conflict of interest related to personal, employment, or family relationships is identified pursuant to section 95979(d).

(d) The potential for a conflict of interest must be deemed to be medium where the potential for a conflict of interest is not deemed to be either high or low as specified in sections 95979(b) and 95979(c), or where there are any instances of personal, employment, or familial relationships between the verification body and management or employees of the Offset Project Operator or Authorized Project Designee, if applicable, and any technical consultant(s) used by the Offset Project Operator or Authorized Project Designee and when a conflict of interest self-evaluation is submitted pursuant to section 95979(g). For verifying a sequestration project, the potential for a conflict of interest must be deemed medium if at least one member of a verification body, but less than five percent of its members, have provided any of the non-offset verification services listed in section 95979(b)(2)(A)-(S). For purposes of section 95979 only, “employment” means the condition of having paid work documented in a W-2 form. If a verification body identifies a medium potential for conflict of interest and intends to provide offset verification services for the Offset Project Operator, Authorized Project Designee, if applicable, and any technical consultant(s) used by the Offset Project Operator or Authorized Project Designee for an offset project listed with ARB or an Offset Project Registry, the verification body must submit, in addition to the submittal requirements specified in section 95979(e), a plan to avoid, neutralize, or mitigate the potential conflict of interest situation. At a minimum, the conflict of interest mitigation plan must include:

(1) A demonstration that any members with potential conflicts have been removed and insulated from the project;

(2) An explanation of any changes to the organizational structure or verification body to remove the potential conflict of interest. A demonstration that any unit with potential conflicts has been divested or

moved into an independent entity or any subcontractor with potential conflicts has been removed; and

(3) Any other circumstance that specifically addresses other sources for potential conflict of interest.

(e) Conflict of Interest Submittal Requirements for Accredited Verification Bodies. Before providing any offset verification services, the verification body must submit to the Offset Project Operator, and Authorized Project Designee, if applicable, ARB and the Offset Project Registry, a self-evaluation of the potential for any conflict of interest that the verification body, its staff, its related entities, or any subcontractors performing offset verification services may have with the Offset Project Operator, Authorized Project Designee, if applicable, and their technical consultant(s) for which it will perform offset verification services. Offset verification services shall not commence prior to approval of the conflict of interest self-evaluation by ARB or the Offset Project Registry pursuant to section 95979(f). The submittal must include the following:

(1) Identification of whether the potential for conflict of interest is high, low, or medium based on factors specified in sections 95979(b), (c), and (d); and

(2) Identification of whether any member of the offset verification team or related entity has engaged in any non-offset verification services of any nature with the Offset Project Operator, Authorized Project Designee, if applicable, and their technical consultant(s) either within or outside California during the previous five years. If non-offset verification services have previously been provided, the following information must also be submitted:

(A) Identification of the nature and location of the work performed for the Offset Project Operator, Authorized Project Designee, if applicable, and their technical consultant(s) and whether the work is similar to the type of work to be performed during offset verification;

(B) The nature of past, present, or future relationships with the Offset Project Operator, Authorized Project Designee, if applicable, and their technical consultant(s), including:

1. Instances when any member of the offset verification team has performed or intends to perform work for the Offset Project Operator, Authorized Project Designee, if applicable, and their technical consultant(s);

2. Identification of whether work is currently being performed for the Offset Project Operator, Authorized Project Designee, if applicable, and their technical consultant(s), and if so, the nature of the work;

3. How much work was performed for the Offset Project Operator, Authorized Project Designee, if applicable, and their technical consultant(s) in the last five years, in dollars;

4. Whether any member of the offset verification team has any contracts or other arrangements to perform work for the Offset Project Operator, Authorized Project Designee, if applicable, and their technical consultant(s) or a related entity; and

5. How much work related to GHG reductions and GHG removal enhancements the offset verification team has performed for the Offset Project Operator, Authorized Project Designee, if applicable, and their technical consultant(s) or related entities in the last five years, in dollars;

(C) Explanation of how the amount and nature of work previously performed is such that any member of the offset verification team's credibility and lack of bias should not be under question;

(D) A list of names of the staff that would perform offset verification services for the Offset Project Operator, and Authorized Project Designee, if applicable, and a description of any instances of personal, employment, or family relationships with management or employees of the Offset Project Operator, Authorized Project Designee, if applicable, and their technical consultant(s) that potentially represent a conflict of interest;

(E) Identification of any other circumstances known to the verification body, or Offset Project Operator, Authorized Project Designee, if applicable, and their technical consultant(s) that could result in a conflict of interest; and

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

(G) “I certify under penalty of perjury of the laws of the State of California the information provided in the Conflict of Interest submittal is true, accurate, and complete.”

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(f) Approval of Conflict of Interest Submittals. ARB or the Offset Project Registry must review the self-evaluation submitted by the verification body and determine whether the verification body is authorized to perform the offset verification services for the Offset Project Operator and Authorized Project Designee, if applicable.

(1) ARB or the Offset Project Registry has 30 calendar days to make a determination whether to accept or deny the conflict of interest submittal and notify the verification body whether it may proceed with the offset verification services for the Offset Project Operator and Authorized Project Designee, if applicable.

(A) If ARB or an Offset Project Registry requests revisions to the conflict of interest self evaluation prior to approval, the verification body must resubmit the revised conflict of interest self evaluation within 10 working days of such request, or if there is a reason the verification body cannot submit the revisions within 10 working days, the verification body must communicate to ARB and the Offset Project Registry, in writing, as to the reasons why and get approval from ARB or the Offset Project Registry for an extension.

(B) If ARB or the Offset Project Registry determines that the verification body or any member of the offset verification team meets the criteria in section 95979(b), ARB or the Offset Project Registry shall find a high potential conflict of interest and offset verification services may not proceed.

(C) If ARB or the Offset Project Registry determines that there is a low potential conflict of interest, offset verification services may proceed.

(D) If ARB or the Offset Project Registry determines that the verification body or any member of the offset verification team have a medium potential for conflict of interest, ARB or the Offset Project Registry shall evaluate the conflict of interest mitigation plan submitted by the verification body pursuant to section 95979(d), and may request additional information from the applicant to complete the determination. In determining whether offset verification services may proceed, ARB or the Offset Project Registry may consider factors including, but not limited to, the nature of previous work performed, the current and past relationships between the verification body, related entities, and its subcontractors with the Offset Project Operator and Authorized Project Designee, if applicable, and any technical consultant(s) used by the Offset

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Project Operator or Authorized Project Designee, and related entities, and the cost of the offset verification services to be performed. If ARB or the Offset Project Registry determines that these factors when considered in combination demonstrate an acceptable level of potential conflict of interest, ARB or the Offset Project Registry will authorize the verification body to provide offset verification services.

(2) If the offset project was listed with an Offset Project Registry, the conflict of interest self-evaluation acceptance or denial notification will be given by the Offset Project Registry. Within 15 calendar days of approving a conflict of interest self-evaluation, the Offset Project Registry must notify ARB in writing of the date on which it approved the self-evaluation.

(3) When a conflict of interest self-evaluation is updated before or during offset verification services to add a verification team member, ARB or the Offset Project Registry must approve the updated self-evaluation before any new team member participates in offset verification services. Within 15 calendar days of approving an updated self-evaluation, the Offset Project Registry must notify ARB in writing of the date on which it approved the updated self-evaluation.

(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. 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. 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

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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.

(A) If ARB or the Offset Project Registry determines that an emerging potential conflict disclosed by the verification body is medium risk, and this risk can be mitigated, then the verification body meets the conflict of interest requirements to continue to provide offset verification services for the Offset Project Operator, and Authorized Project Designee, if applicable, and will not be subject to suspension or revocation of accreditation as specified in section 95132(d) of MRR.

(B) If ARB or the Offset Project Registry determines that an emerging potential conflict disclosed by the verification body is medium or high risk, and this risk cannot be mitigated, then the verification body will not be able to continue to provide offset verification services for the Offset Project Operator, and Authorized Project Designee, if applicable, and may be subject to the suspension or revocation of accreditation by ARB under section 95132(d) of MRR.

(4) The verification body must report to ARB and the Offset Project Registry, if applicable, any changes in its organizational structure, including mergers, acquisitions, or divestitures, for one year after completion of offset verification services.

(5) ARB may void a Positive Offset or Qualified Positive Offset Verification Statement received in section 95981 if it discovers a potential conflict of interest has arisen for any member of the offset verification team. In such a case, the Offset Project Operator, and Authorized Project Designee, if applicable, shall be provided 90 calendar days to complete re-verification.

(6) If the verification body or its subcontractor(s) are found to have violated the conflict of interest requirements of this article, the Executive Officer may rescind accreditation of the body, its verifier staff, or its subcontractor(s) for any appropriate period of time as provided in section 95132(d) of MRR.

(h) Specific Requirements for Air Quality Management Districts and Air Pollution Control Districts.

(1) If an air district has provided or is providing any services listed in section 95979(b)(2) as part of its regulatory duties, those services do not constitute non-verification services or a potential for high conflict of interest for purposes of this article;

(2) Before providing offset verification services, an air district must submit a conflict of interest self-evaluation pursuant to 95979(e) for each Offset Project Operator, and Authorized Project Designee, if applicable, for which it intends to provide offset verification services. As part of its conflict of interest self-evaluation submittal under section 95979(e), the air district shall certify that it will prevent conflicts of interests and resolve potential conflict of interest situations pursuant to its policies and mechanisms submitted under section 95132(b)(1)(G) of MRR;

(3) If an air district hires a subcontractor who is not an air district employee to provide offset verification services, the air district shall be subject to all of the requirements of section 95979.

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.

§ 95979.1. Additional Requirements for Air Quality Management Districts and Air Pollution Control Districts.

(a) The following requirements will apply to air districts that meet the requirements under section 95978 to become accredited as an offset verification body and/or the requirements under section 95986 to meet the requirements as an approved Offset Project Registry:

(1) The air district may:

(A) Register with ARB pursuant to section 95830; and

(B) Hold compliance instruments as a voluntarily associated entity pursuant to section 95814.

(2) The air district may not:

(A) Be an Offset Project Operator or Authorized Project Designee for any offset project for which it provides offset verification services pursuant to sections 95977, 95977.1, and 95977.2, and for which the air district will subsequently request the issuance of ARB offset credits pursuant to section 95981;

(B) Be an Offset Project Operator or Authorized Project Designee for any offset project for which it provides registry services pursuant to section 95987, and for which the air district will subsequently request the issuance of ARB offset credits pursuant to section 95981; and

(C) Be an offset verification body for any offset project developed using a Compliance Offset Protocol for which it would provide registry services pursuant to section 95987.

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.

§ 95980. Issuance of Registry Offset Credits.

(a) One registry offset credit, which represents one metric ton of CO_2e for a direct GHG emission reduction or direct GHG removal enhancement, will be issued pursuant to section 95980.1 only if:

(1) An Offset Project Registry has listed the offset project pursuant to section 95975;

(2) The GHG emission reductions or GHG removal enhancements were issued a Positive Offset or Qualified Positive Offset Verification Statement pursuant to sections 95977.1 and 95977.2; and

(3) An Offset Project Registry has received a Positive Offset or Qualified Positive Offset Verification Statement issued and attested to by an ARB-accredited verification body for the Offset Project Data Report for which registry offset credits would be issued.

(b) An Offset Project Registry will determine whether the GHG emission reductions and GHG removal enhancements meet the requirements of section 95980(a), the information submitted pursuant to section 95980(a) is complete, and the Positive Offset or Qualified Positive Offset Verification Statement meets the requirements of sections 95977, 95977.1, and 95977.2 within 45 calendar days of receiving it.

(c) Determination for Timing and Duration of Initial Crediting Periods for Offset Projects Submitted Through an Offset Project Registry. The initial crediting period will begin with the date that the first verified GHG emission reductions and GHG removal enhancements occur, according to the first Positive Offset or Qualified Positive Offset Verification Statement that is received by an Offset Project Registry, unless otherwise specified in the applicable Compliance Offset

Protocol. An early action offset project that transitioned pursuant to the Program for Recognition of Early Action Offset Credits is considered to have begun its initial crediting period on the date that the first verified GHG emission reductions and GHG removal enhancements under a Compliance Offset Protocol took place according to the first Positive Offset or Qualified Positive Offset Verification Statement that was received by ARB.

(d) Determination for Timing and Duration of Renewed Crediting for Offset Projects Submitted through an Offset Project Registry. A renewed crediting period will begin the day after the conclusion of the prior crediting period.

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.

§ 95980.1. Process for Issuance of Registry Offset Credits.

(a) An Offset Project Registry may issue a registry offset credit that meets the requirements of sections 95980(a) and (b) to an Offset Project Operator, Authorized Project Designee, or any other third party authorized by the Offset Project Operator or Authorized Project Designee to receive registry offset credits, no later than 15 calendar days after an Offset Project Registry makes a determination pursuant to section 95980(b).

(b) Change of Listing Status at the Offset Project Registry. When an Offset Project Registry issues a registry offset credit for an offset project for the first time, the listing status for that offset project will be changed to “Active Registry Project” at the Offset Project Registry and CARB.

(c) Notice of Determination of Issuance of Registry Offset Credits. Not later than 15 calendar days after an Offset Project Registry issues a registry offset credit, an Offset Project Registry will notify the Offset Project Operator, Authorized Project Designee, or any other third party authorized by the Offset Project Operator of the issuance.

(d) Requests for Additional Information. An Offset Project Registry may request additional information from the Offset Project Operator, Authorized Project Designee or verification body.

(1) An Offset Project Registry may request any additional information from the Offset Project Operator, Authorized Project Designee, if applicable, or the verification body within the timeframe specified in section 95980(b) before issuing registry offset credits for an offset project that meets the requirements of sections 95980(a) and (b).

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(2) If an Offset Project Registry determines the information submitted pursuant to sections 95980(a), 95980(b), and 95980.1(d)(1) does not meet the requirements for issuance of registry offset credits, an Offset Project Registry must deny issuance of registry offset credits. The Offset Project Operator or Authorized Project Designee may petition an Offset Project Registry within 10 days of denial for a review of the information submitted pursuant to sections 95980(a), 95980(b), and 95980.1(d)(1) and respond to any issues that prevent the issuance of registry offset credits.

(3) An Offset Project Registry must make a final determination within 30 calendar days of receiving the Offset Project Operator's or Authorized Project Designee's request in section 95980.1(d)(2) and may request additional information from the Offset Project Operator, Authorized Project Designee, if applicable, or verification body.

(4) If an Offset Project Registry determines not to issue registry offset credits, the Offset Project Registry must submit within 10 business days a report to CARB that describes why they came to a negative determination.

(5) If an Offset Project Registry determines not to issue registry offset credits, the Offset Project Operator or Authorized Project Designee may within 10 business days of the Offset Project Registry determination request that CARB make a final determination on whether the GHG reductions or removal enhancements achieved by the offset project meet the requirements for registry offset credit issuance. In making this determination, CARB may consult with the Offset Project Operator, Authorized Project Designee, if applicable, verification body, and Offset Project Registry before making the final determination.

(6) If after reviewing all of the information, ARB determines that the GHG reductions or removal enhancements meet the requirements for registry offset credit issuance, the Offset Project Registry will issue registry offset credits in the amount of GHG reductions or removal enhancements verified to have been achieved by the offset project for the applicable Reporting Period(s).

(e) At the time of issuance or after notifying the Offset Project Operator, Authorized Project Designee, or any other third party authorized by the Offset Project Operator to receive registry offset credits, of the issuance, the Offset Project Registry will create a unique serial number for each registry offset credit.

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.

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§ 95981. Issuance of ARB Offset Credits.

(a) One ARB offset credit, which represents one metric ton of CO_2e for a direct GHG emission reduction or direct GHG removal enhancement, will be issued only for a GHG emission reduction or GHG removal enhancement that occurs during a Reporting Period. One ARB offset credit will be issued for each metric ton of CO_2e only if:

(1) ARB or an Offset Project Registry has listed the offset project pursuant to section 95975;

(2) The GHG emission reductions and GHG removal enhancements were issued a Positive Offset or Qualified Positive Offset Verification Statement pursuant to sections 95977.1 and 95977.2;

(3) ARB or an Offset Project Registry has received a Positive Offset or Qualified Positive Offset Verification Statement issued and attested to by an ARB-accredited verification body for the Offset Project Data Report for which registry offset credits were issued pursuant to section 95980.1, if the offset project was submitted for listing with an Offset Project Registry, or for which ARB offset credits would be issued pursuant to section 95981.1; and

(4) The issued ARB offset credits would not immediately be subject to invalidation pursuant to sections 95985(c)(1) and 95985(c)(3).

(b) Requirements for Offset Projects Submitted Through an Offset Project Registry Seeking Issuance of ARB Offset Credits. The Offset Project Operator, or Authorized Project Designee, if applicable, must submit a request for issuance of ARB offset credits to ARB for each Offset Project Data Report for which they are seeking issuance of ARB offset credits identifying which Holding Accounts the ARB offset credits should be placed into and how many ARB offset credits will be placed into each Holding Account. The Offset Project Operator or Authorized Project Designee may request that ARB offset credits are placed into the Holding Account of any party not prohibited to hold compliance instruments under this Article. Any party receiving ARB offset credits at the time of ARB offset credit issuance must have a tracking system account with ARB.

(1) An Offset Project Operator or Authorized Project Designee may request that only a portion of the eligible GHG reductions and removal enhancements for the applicable Reporting Period be issued ARB offset credits in the request for issuance.

(2) If the offset project was listed by an Offset Project Registry, the request for issuance of ARB offset credits may not be provided to ARB until the Offset Project Registry has issued registry offset credits for the applicable Offset Project Data Report(s).

(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, 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] and all information required to be submitted to ARB is true, accurate, and complete.”;

(2) “I understand I am voluntarily participating in the California Greenhouse Gas Cap-and-Invest Program under title 17, article 5, and by doing so, I am now 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.”;

(3) “I understand that the offset project activity and implementation of the offset project must be in accordance with all applicable local, regional, and national environmental and health and safety regulations that apply based on the offset project location. I understand that offset projects are not eligible to receive ARB or registry offset credits for GHG reductions and GHG removal enhancements that are not in compliance with the requirements of this Article.”;

(4) “I certify under penalty of perjury under the laws of the State of California all information provided to ARB for issuance of ARB offset credits is true, accurate, and complete.”; and

(5) “I certify under penalty of perjury under the laws of the State of California that the GHG reductions and GHG removal enhancements for which I am

seeking ARB Offset Credits have not been issued any offset credits or been used for any GHG mitigation requirements in any other voluntary or mandatory program, except, if applicable, an Offset Project Registry pursuant to section 95980.1."

(e) Determination for Timing and Duration of Initial Crediting Periods for Offset Projects Submitted Through CARB. The initial crediting period will begin with the date that the first verified GHG emission reductions and GHG removal enhancements occur, according to the first Positive Offset or Qualified Positive Offset Verification Statement that is approved by CARB pursuant to section 95977.1(b)(3), unless otherwise specified in a Compliance Offset Protocol. An early action offset project that transitioned pursuant to the Program for Recognition of Early Action Offset Credits is considered to have begun its initial crediting period on the date that the first verified GHG emission reductions and GHG removal enhancements under a Compliance Offset Protocol took place according to the first Positive Offset or Qualified Positive Offset Verification Statement that was approved by CARB pursuant to section 95977.1(b)(3).

(f) Determination for Timing and Duration of Renewed Crediting for Offset Projects Submitted Through ARB. A renewed crediting period will begin the day after the conclusion of the prior crediting period.

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.

§ 95981.1. Process for Issuance of ARB Offset Credits.

(a) ARB will issue an ARB offset credit for GHG reductions and removal enhancements achieved in a Reporting Period for an offset project that meets the requirements of sections 95981(a) and (b) to the ARB Issuance Account, no later than 15 calendar days after ARB makes a determination pursuant to section 95981(c), as long as all attestations required in section 95981(d) have been received by ARB prior to its determination.

(b) Change of Listing Status at CARB. When CARB issues an ARB offset credit for an offset project for the first time, the listing status for that offset project will be changed from "Active Registry Project" to "Active CARB Project" at the Offset Project Registry and CARB.

(c) Notice of Issuance of ARB Offset Credits. Not later than five working days after ARB issues an ARB offset credit pursuant to section 95981(c), ARB will notify the Offset Project Operator or Authorized Project Designee of the issuance of ARB offset credits.

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(d) Requests for Additional Information. ARB may request additional information for offset projects submitted through an Offset Project Registry seeking issuance of ARB offset credits.

(1) ARB will notify the Offset Project Operator, Authorized Project Designee, or other third party identified in section 95981(b) within 15 calendar days of its determination pursuant to section 95981(c) if the information submitted pursuant to section 95981(b), (c), and (d) is incomplete and request additional specific information.

(2) ARB may request any additional information from the Offset Project Operator, Authorized Project Designee, Offset Project Registry, or verification body before issuing ARB offset credits for an offset project that meets the requirements of section 95981. The Offset Project Operator, Authorized Project Designee, Offset Project Registry, or verification body must submit the requested information to ARB within 10 calendar days of ARB's request.

(3) If ARB determines the information submitted in sections 95981(b), 95981(c), and 95981.1(d)(2) does not meet the requirements for issuance of ARB offset credits, then ARB may deny issuance of ARB offset credits. The Offset Project Operator or Authorized Project Designee may petition ARB within 10 days of denial for a review of submitted information in sections 95981(b), 95981(c), and 95981.1(d)(2) and respond to any issues that prevent the issuance of ARB offset credits.

(4) ARB must make a final determination within 30 calendar days of receiving the request in section 95981.1(d)(3) and may request additional information from the Offset Project Operator or Authorized Project Designee, verification body, or Offset Project Registry. This determination made by the Executive Officer is final.

(e) A registry offset credit issued pursuant to section 95980.1(a) must be removed or cancelled by the Offset Project Registry within one year after ARB issues an ARB offset credit pursuant to this section, such that the registry offset credit is no longer available for transaction on the Offset Project Registry system. Within five working days of the removal or cancellation of registry offset credits, the Offset Project Registry must provide proof to ARB that the registry offset credits have been permanently removed or cancelled from the registry system. If registry offset credits are not cancelled within one year, ARB will cancel the ARB offset credits. ARB offset credits cancelled pursuant to this provision may not be re-issued. If CARB has made an initial invalidation determination pursuant to section 95985(c) prior to registry offset credit removal or cancellation, then the one-year timeline for registry offset credit removal or cancellation shall be

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extended until 90 days after CARB's final invalidation determination pursuant to section 95985(f)(4).

(f) Receipt of ARB Offset Credits. ARB will transfer ARB offset credits into the Holding Account of the Offset Project Operator, Authorized Project Designee, or any other third party requested by the Offset Project Operator pursuant to section 95981(b) to receive ARB offset credits, within 15 working days of the Offset Project Registry providing proof to ARB that the registry offset credits have been permanently removed or cancelled from the registry system.

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.

§ 95982. Registration of ARB Offset Credits.

An ARB offset credit will be registered by:

(a) Creating a unique ARB serial number; and

(b) Transferring the ARB offset credits to the Holding Account of the listed Offset Project Operator, Authorized Project Designee, or another third party as requested by the Offset Project Operator pursuant to section 95981(b) to receive ARB offset credits, unless otherwise required by section 95983.

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.

§ 95983. Forestry Offset Reversals.

(a) For forest sequestration projects, a portion of ARB offset credits issued to the forest offset project will be placed by CARB into the Forest Buffer Account.

(1) The amount of ARB offset credits that must be placed in the Forest Buffer Account shall be determined as set forth in the applicable version of the Compliance Offset Protocol in section 95973(a)(2)(C)4. Forest offset projects on Alaska Native Corporation lands that are issued ARB offset credits are eligible to use the reversal risk rating contribution for forest projects on public or tribal lands.

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

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(3) If a forest offset project is originally submitted through an Offset Project Registry an equal number of registry offset credits must be removed or cancelled by the Offset Project Registry, such that the registry offset credit is no longer available for transaction on the Offset Project Registry system, and issued by ARB for placement in the Forest Buffer Account.

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

(b) Unintentional Reversals. If there has been an unintentional reversal, the Offset Project Operator or Authorized Project Designee must notify CARB and the Offset Project Registry, in writing, of the reversal and provide an explanation for the nature of the unintentional reversal within 2 months of its discovery date.

(1) The discovery date for an Unintentional Reversal caused by a disturbance with a duration of less than three months will be the end date of that disturbance as reported by a relevant government entity, research institution, or widely recognized media entity, or the first day the disturbance was verifiably observed by offset project personnel if no publicly available report of the disturbance can be found. For disturbances that last longer than 3 months, such as insect or disease induced carbon stock losses, the discovery date will be either the last day of the season in which the carbon losses or associated mortality was observed via field sampling, reconnaissance, or remotely sensed data, or the end of the reporting period, whichever is earlier. In the case of a wildfire, regardless of duration, the date of discovery is the date on which the fire is reasonably considered contained. Where a state agency oversees fire containment, the forest owner must provide either a wildfire containment date found in official wildfire databases to the verification body, or a written statement from the state agency in charge of fire response to the verification team indicating the wildfire containment date of the fire that caused the reversal. In the case of a prescribed fire, the forest owner must provide authorization or permitting documentation from the fire authority with jurisdiction to the verification body.

(2) Current onsite carbon stocks and associated uncertainty, within the areas of disturbance that caused the unintentional reversal, must be either measured and quantified as a new stratum or moved to an existing stratum that can pass sequential sampling.

(3) Logs from salvage harvests delivered to a mill within 24 months of the discovery date must be accounted for by deducting the long-term carbon storage in wood products from the reversal estimate being verified.

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(4) For all reporting periods in which an unintentional reversal occurs, the Offset Project Operator or Authorized Project Designee shall provide in writing to CARB and an Offset Project Registry, if applicable, the Offset Project Data Report for the affected reporting period(s) within 24 months of the discovery date of the unintentional reversal. The verification body must submit an Offset Verification Statement and Offset Verification Report for each affected reporting period within 30 months of the discovery date. A full offset verification must be conducted pursuant to sections 95977 through 95978, including a site visit. After an unintentional reversal, the Offset Project Operator or Authorized Project Designee does not need to submit an Offset Project Data Report for the subsequent reporting periods until 30 days after the full offset verification is completed pursuant to section 95977.1(b)(3)(S).

(5) If CARB determines that there has been an unintentional reversal, and ARB offset credits have been issued to the offset project, CARB will retire a quantity of ARB offset credits from the Forest Buffer Account according to section 95983(b)(5)(A) or (B), as applicable. For an unintentional reversal to be eligible for compensation from the Forest Buffer Account, there must be sufficient verifiable evidence to demonstrate that carbon stock losses occurred during the reporting period(s) being verified.

(A) If the forest project came into the program directly under a Compliance Offset Protocol and did not transition from an Early Action Offset Program, ARB will retire ARB offset credits in the amount of metric tons CO_2e reversed for all Reporting Periods.

(B) If the forest project transitioned into the program originally from an Early Action Offset Program, ARB will retire ARB offset credits from the Forest Buffer Account according to the following equation, calculated for all Reporting Periods, rounded up to the nearest whole metric ton CO_2e:

$$ARB_{Retire} = \frac{ARB_{Credits}}{ARB_{Credits} + EAOP_{Credits}} \times Reversal$$

Where:

"ARB_{Retire}" is the number of ARB offset credits that must be retired from the ARB Forest Buffer Account to compensate for the unintentional reversal for all Reporting Periods;

"$ARB_{Credits}$" is the total number of ARB offset credits issued to the forest project for all Reporting Periods, including any ARB offset credits that were issued for early action and any that were placed

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into the Forest Buffer Account for all Reporting Periods, minus any compliance instruments retired by CARB to compensate for prior reversals to the offset project;

"$EAOP_{Credits}$" is the total number of early action offset credits issued to the forest project by the Early Action Offset Program for all Reporting Periods, including any voluntary offset credits placed into the Early Action Offset Program's buffer account for forest projects that were not transferred to ARB's Forest Buffer Account, but excluding any early action offset credits that were issued ARB offset credits, minus any early action offset credits retired by the Early Action Offset Program or project developers to compensate for prior reversals to the offset project; and

"Reversal" is the total verified metric tons of CO_2e reversed during the Reporting Period(s).

(c) Intentional Reversals. Requirements for intentional reversals are as follows:

(1) If an intentional reversal occurs, the Offset Project Operator or Authorized Project Designee shall, within two months of the end of the reporting period:

(A) If the forest project came into the program directly under a Compliance Offset Protocol and did not transition from an Early Action Offset Program, the forest owner must turn in valid compliance instruments in the amount of metric tons CO_2e reversed for all Reporting Periods.

(B) Provide a written description and explanation of the intentional reversal to ARB and the Offset Project Registry, if applicable.

(2) 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.

(3) If an intentional reversal occurs from a forest offset project, and ARB offset credits have been issued to the offset project, the current or most recent (in the case of an offset project after the final crediting period), forest owner(s) must submit to ARB for placement in the Retirement Account a quantity of valid ARB offset credits or other approved compliance instruments pursuant to subarticle 4 within six months of

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notification by ARB in the amount determined pursuant to sections 95983(c)(3)(A) or (B), as applicable:

(A) If the forest project came into the program directly under a Compliance Offset Protocol and did not transition from an Early Action Offset Program, the forest owner must turn in valid compliance instruments in the amount of metric tons CO_2e reversed for all Reporting Periods.

(B) If the forest project transitioned into the program originally from an Early Action Offset Program, the forest owner must turn in valid compliance instruments according to the following equation, calculated for all Reporting Periods, rounded up to the nearest metric ton CO_2e:

$$FO_{Replace} = \frac{ARB_{Credits}}{ARB_{Credits} + EAOP_{Credits}} \times Reversal$$

Where:

"$FO_{Replace}$" is the number of valid compliance instruments that the forest owner must turn in to compensate for the intentional reversal for all Reporting Periods;

"$ARB_{Credits}$" is the total number of ARB offset credits issued to the forest project for all Reporting Periods, including any ARB offset credits that were issued for early action and any that were placed into the Forest Buffer Account for all Reporting Periods, minus any compliance instruments retired by CARB to compensate for prior reversals to the offset project;

"$EAOP_{Credits}$" is the total number of early action offset credits issued to the forest project by the Early Action Offset Program for all Reporting Periods, including any voluntary offset credits placed into the Early Action Offset Program's buffer account for forest projects that were not transferred to ARB's Forest Buffer Account, but excluding any early action offset credits that were issued ARB offset credits, minus any early action offset credits retired by the Early Action Offset Program or project developers to compensate for prior reversals to the offset project; and

"Reversal" is the total verified metric tons of CO_2e reversed during the Reporting Period(s).

(C) CARB will notify the Offset Project Operator and Authorized Project Designee of the final number of valid compliance instruments that

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the forest owner must turn in to compensate for the intentional reversal for all Reporting Periods.

(D) If the forest owner does not submit valid ARB offset credits or other approved compliance instruments in the amount required pursuant to sections 95983(c)(3)(A) or (B) to CARB within six months of notification by CARB, CARB will retire a quantity of ARB offset credits from the Forest Buffer Account equal to the difference between the number of metric tons of CO_2e determined pursuant to sections 95983(c)(3)(A) or (B) and the number of approved compliance instruments retired by the forest owner. The forest owner will be subject to enforcement action and each ARB offset credit retired from the Forest Buffer Account will constitute a separate violation pursuant to section 96014.

(4) Early Project Terminations. If a project termination, as defined in the Compliance Offset Protocol in section 95973(a)(2)(C)(4.), occurs from a compliance or early action forest offset project, and ARB offset credits have been issued to the offset project, the current or most recent (in the case of an offset project after the final crediting period), forest owner(s) must submit to ARB for placement in the Retirement Account a quantity of valid ARB offset credits or other approved compliance instruments pursuant to subarticle 4 in the amount equal to the number of ARB offset credits issued to the offset project for each Reporting Period, except for improved forest management forest offset projects. If the project is an improved forest management forest offset project, the amount of metric tons CO_2e reversed must be multiplied by the compensation rate in the Compliance Offset Protocol in section 95973(a)(2)(C)4.

(A) ARB will notify the forest owner of how many ARB offset credits must be replaced with valid compliance instruments.

(B) The forest owner must submit to CARB for placement in the Retirement Account a valid ARB offset credit or another approved compliance instrument pursuant to subarticle 4 for each ARB offset credit required to be replaced within six months of CARB's notification to the forest owner.

(C) If the forest owner does not submit valid ARB offset credits or other approved compliance instruments to CARB in the amount required pursuant to section 95983(c)(4) within six months of CARB's notification to the forest owner, CARB will retire a quantity of ARB offset credits equal to the difference between the number of metric tons of CO_2e determined pursuant to section 95983(c)(4) and the

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number of retired approved compliance instruments from the Forest Buffer Account and they will be subject to enforcement action and each ARB offset credit retired from the Forest Buffer Account will constitute a separate violation pursuant to section 96014.

(d) During a reporting period in which both unintentional and intentional disturbances occurred, the Offset Project Operator or Authorized Project Designee must provide evidence sufficient for verification of the disturbance events, such as remotely sensed data. The evidence must distinguish the relative timing and impact to onsite carbon stocks of each event and be conservative. The reporting timelines for an intentional reversal pursuant to section 95983(c) apply until monitoring data and analysis confirm the impact on GHG emission reductions or GHG removal enhancements of the unintentional disturbance is greater than 50 percent. The Offset Project Data Report(s) must demonstrate that no influence from the intentional disturbance(s) is encompassed in the estimate of the unintentional reversal.

(1) If an intentional and unintentional reversal occur in the same geographical boundaries within the same reporting period, ARB offset credits equal to the unintentional reversal estimate shall be retired from the forest buffer account only if a positive Offset Verification Statement demonstrates that the unintentional disturbance occurred after the intentional disturbance, and the verification team confirms that the estimate of the unintentional portion of the reversal is conservative.

(e) Disposition of Forest Sequestration Projects After a Reversal. If a reversal lowers the forest offset project's actual standing live carbon stocks below its project baseline standing live carbon stocks, the forest offset project will be terminated by CARB or an Offset Project Registry. When calculating a project’s actual standing live carbon stocks for comparison to the project baseline standing live carbon stocks for the purposes of this section, the confidence deduction, as determined from the Compliance Offset Protocol U.S. Forest Projects set forth in section 95973(a)(2)(C)4., must be added to the current mean standing live carbon stocks.

(1) If the forest offset project is terminated due to an unintentional reversal, ARB will retire from the Forest Buffer Account a quantity of ARB offset credits equal to the total number of ARB offset credits issued pursuant to section 95981, and where applicable, all ARB offset credits issued to the offset project pursuant to the Program for Recognition of Early Action Offset Credits, over the preceding 100 years.

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(2) If the forest offset project is terminated due to an unintentional reversal, another offset project may be initiated and submitted to ARB or an Offset Project Registry for listing within the same offset project boundary.

(3) If the forest offset project has experienced an unintentional reversal and its actual standing live carbon stocks are still above the approved baseline levels, it may continue without termination as long as the unintentional reversal has been compensated by the Forest Buffer Account. The Offset Project Operator or Authorized Project Designee must continue contributing to the Forest Buffer Account in future years as quantified in section 95983(a)(1).

(4) If the forest offset project is terminated due to any reason except an unintentional reversal, new offset projects may not be initiated within the same offset project boundary, unless otherwise specified in a Compliance Offset Protocol.

(f) Change of Forest Owner or Offset Project Operator. When a Forest Owner or Offset Project Operator changes, whether by merger, acquisition, or any other means, the successor Forest Owner or Offset Project Operator, after the change in ownership, as applicable, is expressly liable for all obligations of the predecessor Forest Owner or Offset Project Operator to submit compliance instruments as determined pursuant to sections 95983(c)(3). For the avoidance of doubt, this obligation of the successor Forest Owner or Offset Project Operator, as applicable, consists of the difference between the number of metric tons of CO_2e determined pursuant to sections 95983(c)(3) and the number of valid ARB offset credits or other approved compliance instruments submitted by the predecessor forest owner pursuant to sections 95983(c)(3).

(g) 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.

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

(A) Within 15 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 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) In preparing the assigned reversal level and type for the offset project, the Executive Officer shall consider the following information:

(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 applicable compliance offset protocol;

(B) The definitions of "Reversal," "Intentional Reversal," and "Unintentional Reversal" in section 95802 and descriptions of Forestry Offset Reversals in section 95983; and

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(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, such as the information in section 95983(h)(2) and methods in section 95983(h)(3), as 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, Health and Safety Code.

§ 95984. Ownership and Transferability of ARB Offset Credits.

(a) Initial ownership of an ARB offset credit will be with the registered Offset Project Operator, Authorized Project Designee, or another third party as requested by the Offset Project Operator pursuant to section 95981(b) to receive ARB offset credits, unless otherwise required by section 95983. An ARB offset credit may be sold, traded, or transferred, unless:

(1) It has been retired, surrendered for compliance, or used to meet any GHG mitigation requirements in any voluntary or regulatory program;

(2) It resides in the Forest Buffer Account pursuant to section 95983; or

(3) It has been invalidated pursuant to section 95985.

(b) An ARB offset credit may only be used:

(1) To meet a compliance obligation under this article, except if used by a covered entity in a program approved for linkage pursuant to subarticle 12; or

(2) By a registered entity for purposes of voluntary retirement.

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.

§ 95985. Invalidation of ARB Offset Credits.

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

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(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:

(A) The Offset Project Operator or Authorized Project Designee for an offset project developed under the Compliance Offset Protocol in section 95973(a)(2)(C)1., does all of the following:

1. Has a different verification body that has not verified the Offset Project Data Report for the issuance of ARB offset credits, and meets the requirements for conflict of interest pursuant to section 95979 and rotation of verification bodies pursuant to section 95977.1(a), conduct a second independent regulatory verification pursuant to sections 95977 through 95978, except for section 95977.1(b)(3)(M), for the same Offset Project Data Report. Although the requirements in section 95977.1(b)(3)(M) do not need to be met under this section, any misreporting, discrepancies, and omissions found during the full offset verification services must be included in the offset material misstatement calculation performed pursuant to section 95977.1(b)(3)(Q). If minor correctible errors that do not result in an offset material misstatement are found during the full offset verification services and the verification body does not identify any other nonconformance that would result in an adverse Offset Verification Statement, the verification body must issue a Qualified Positive Offset Verification Statement and identify the correctable errors on the Offset Verification Statement;

2. For the second regulatory verification, within three years of the issuance of the ARB offset credits, an Offset Verification Statement must be approved by CARB pursuant to section 95977.1(b)(3)(R)1., and the Offset Project Operator or Authorized Project Designee must receive a Positive or Qualified Positive Offset Verification Statement from the new verification body for the same Offset Project Data Report.

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a. If the offset project is listed with an Offset Project Registry, the verification body must submit the detailed verification report and Offset Verification Statement for the second regulatory verification to the Offset Project Registry and CARB.

b. The Offset Project Registry must review the offset verification documents pursuant to section 95987(e)(1)(E) and submit a report to CARB that includes the details and findings of the Offset Project Registry's review. During its review, the Offset Project Registry may request additional information from the verification body and Offset Project Operator or Authorized Project Designee, if applicable, and may request clarifications and revisions to the materials, if necessary.

c. The Offset Project Registry has 45 calendar days to review the offset verification information once complete and accurate verification documents are received from the verification body.

d. The Offset Project Registry has an additional 15 working days to submit its report to CARB. CARB will review the Offset Project Registry report and determine based on the report and all the information submitted by the verification body and Offset Project Operator or Authorized Project Designee, if applicable, if the invalidation timeframe will be reduced. During its review, CARB may request additional information, clarifications, and revisions to the materials, if necessary.

3. If the requirements in sections 95985(b)(1)(A)1. and 2. are met, the ARB offset credits issued for the Offset Project Data Report may only be subject to invalidation within three years of the date ARB offset credits are issued; or

(B) The Offset Project Operator or Authorized Project Designee for an offset project developed under one of the protocols listed in section 95985(b)(1)(B)5. does the following:

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1. Has a subsequent Offset Project Data Report verified pursuant to sections 95977 through 95978 by a different verification body than the one which conducted the most recent verification, and that meets the requirements for conflict of interest pursuant to section 95979 and rotation of verification bodies pursuant to section 95977.1(a).and

2. For the verification conducted by a different verification body for the subsequent Offset Project Data Report and used to reduce the invalidation timeframe of any ARB offset credits, an Offset Verification Statement must be submitted pursuant to section 95977.1(b)(3)(R)1. within, at a maximum, three years from the date that ARB offset credits were issued for the Reporting Period. The verification of the subsequent Offset Project Data Report must result in a Positive or Qualified Positive Offset Verification Statement from the new verification body, and CARB must approve the Offset Verification Statement pursuant to section 95977.1(b)(3) to reduce the invalidation timeframe.

3. If the requirements in sections 95985(b)(1)(B)1. and 2. are met, the ARB offset credits issued pursuant to section 95981 for no more than three Reporting Periods prior to the Reporting Period for which the subsequent Offset Project Data Report was verified by a different verification body may only be subject to invalidation within three years of the date ARB offset credits are issued pursuant to section 95981.

4. If 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:

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a. The Offset Project Operator or Authorized Project Designee has a different verification body than has verified the Offset Project Data Reports identified in section 95985(b)(1)(B)4. and that meets the requirements for conflict of interest pursuant to section 95979 and rotation of verification bodies pursuant to section 95977.1(a) conduct a second independent regulatory verification pursuant to sections 95977 through 95978, except for section 95977.1(b)(3)(M), for the last Offset Project Data Report of the crediting period. Although the requirements in section 95977.1(b)(3)(M) do not need to be met under this section, any misreporting, discrepancies, and omissions found during the full offset verification services must be included in the offset material misstatement calculation performed pursuant to section 95977.1(b)(3)(Q); and

b. For the second regulatory verification, within three years of the issuance of the ARB offset credits an Offset Verification Statement must be submitted pursuant to section 95977.1(b)(3)(R)1. and the Offset Project Operator or Authorized Project Designee must receive a Positive or Qualified Positive Offset Verification Statement from the new verification body for the same last Offset Project Data Report.

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i. If the offset project is listed with an Offset Project Registry, the verification body must submit the detailed verification report and Offset Verification Statement for the second regulatory verification to the Offset Project Registry and ARB.

ii. The Offset Project Registry must review the offset verification documents pursuant to section 95987(e)(1)(E) and submit a report to ARB that includes the details and findings of the Offset Project Registry's review. During its review, the Offset Project Registry may request additional information from the verification body and Offset Project Operator or Authorized Project Designee, if applicable, and may request clarifications and revisions to the materials, if necessary.

iii. The Offset Project Registry has 45 calendar days to review the offset verification information once complete and accurate verification documents are received from the verification body.

iv. The Offset Project Registry has an additional 15 working days to submit its report to CARB. CARB will review the Offset Project Registry report and determine based on the report and all the information submitted by the verification body and Offset Project Operator or Authorized Project Designee, if applicable, if the invalidation timeframe will be reduced. During its review, CARB may request additional information, clarifications, and revisions to the materials, if necessary.

5. The provisions in sections 95985(b)(1)(B)1. through 4. apply if an offset project is developed under one of the following Compliance Offset Protocols:

a. The Compliance Offset Protocols in section 95973(a)(2)(C)2.;

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b. The Compliance Offset Protocols in section 95973(a)(2)(C)3.;

c. The Compliance Offset Protocols in section 95973(a)(2)(C)4.;

d. The Compliance Offset Protocols in section 95973(a)(2)(C)5.; or

e. The Compliance Offset Protocol in section 95973(a)(2)(C)6.

(2) "Different verification body" or "new verification body" for the purpose of section 95985(b) means a verification team that is both affiliated with a different company and is comprised of completely different verification team members. For an invalidation period to be reduced, no verification team member may be part of both verification teams.

(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

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how many GHG reductions and GHG removal enhancements were achieved by the offset project for the applicable Reporting Period.

1. ARB will determine the actual GHG reductions and GHG removal enhancements achieved by the offset project for the applicable Reporting Period based on, at a minimum, the following information:

    a. The GHG sources, GHG sinks, and GHG reservoirs within the offset project boundary for that Reporting Period; and

    b. Any previous Offset Project Data Reports submitted by the Offset Project Operator or Authorized Project Designee, and the Offset Verification Statements rendered for those reports.

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;

    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; and

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

3. ARB shall determine how many GHG reductions and GHG removal enhancements were achieved by the offset project for the applicable Reporting Period using the best information available, including the information in section 95985(c)(1)(A)1. and methods in section 95985(c)(1)(A)2., as applicable.

(B) If ARB determines that an overstatement has occurred pursuant to section 95985(c)(1), ARB shall determine the amount of ARB offset credits that correspond to the overstatement using the following equation, rounded to the nearest whole ton:

If: $I_{ARBOC} > R_{OPDR} \times 1.05$

Then: $O_R = I_{ARBOC} - R_{OPDR}$

Where:

"O_R" is the amount of overstated GHG reductions and GHG removal enhancements for the applicable Offset Project Data Report, rounded to the nearest whole ton;

"I_{ARBOC}" is the number of ARB offset credits issued under the applicable Offset Project Data Report pursuant to section 95981.1 or the Program for Recognition of Early Action Offset Credits;

"R_{OPDR}" is the number of GHG reductions and GHG removal enhancements determined by ARB pursuant to section 95985(c)(1) for the applicable Offset Project Data Report;

(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, 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

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and GHG removal enhancements were achieved by the offset project for the applicable Reporting Period.

1. ARB will determine the actual GHG reductions and GHG removal enhancements achieved by the offset project for the applicable Reporting Period based on, at a minimum, the following information:

    a. The GHG sources, GHG sinks, and GHG reservoirs within the offset project boundary for that Reporting Period;

    b. Any previous Offset Project Data Reports submitted by the Offset Project Operator or Authorized Project Designee, and the Offset Verification Statements rendered for those reports; and

    c. Any information relating to the regulatory compliance of the offset project provided by the Offset Project Operator, Authorized Project Designee, or regulatory oversight body.

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;

    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; and

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

3. ARB shall determine how many GHG emission reductions and GHG removal enhancements were achieved by the offset project for the applicable Reporting Period using the best information available, including the information in section 95985(c)(2)(A)(1.) and methods in section 95985(c)(2)(A)(2.), as applicable.

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4. If ARB determines that an offset project is out of regulatory compliance pursuant to section 95985(c)(2), then ARB shall determine the amount of overstated ARB offset credits, rounded to the nearest whole number, that correspond to the time period that the offset project is determined to be out of regulatory compliance pursuant to section 95973(b)(1)(E). All offset credits corresponding to this time period shall be deemed ineligible for crediting, and therefore any offset credits corresponding to this time period are subject to invalidation.

(B) For offset projects using a protocol from sections 95973(a)(2)(C)3., or 6., if ARB finds that the offset project is out of regulatory compliance, then ARB shall determine that all ARB offset credits issued for the applicable Reporting Period are subject to invalidation; or

(3) ARB determines that offset credits have been issued in any other voluntary or mandatory program within the same offset project boundary and for the same Reporting Period in which ARB offset credits were issued for GHG reductions and GHG removal enhancements.

(4) The following shall not be grounds for invalidation:

(A) An update to a Compliance Offset Protocol will not result in an invalidation of ARB offset credits issued under a previous version of the Compliance Offset Protocol; or

(B) A reversal that occurs under a forest offset project. If such a reversal occurs the provisions in section 95983 apply.

(d) Suspension of Transfers. When ARB makes an initial determination pursuant to section 95985(c) it will immediately block any transfers of ARB offset credits for the applicable Offset Project Data Report. Once ARB makes a final determination pursuant to section 95985(f) the block on transfers for any valid ARB offset credits will be cancelled.

(e) Identification of Affected Parties. If ARB makes an initial determination that one of the circumstances listed in section 95985(c) has occurred, ARB will identify the following parties:

(1) The current holders that hold any ARB offset credits in their Holding and/or Compliance Accounts from the applicable Offset Project Data Report;

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(2) The entities for which ARB transferred any ARB offset credits from the applicable Offset Project Data Report into the Retirement Account; and

(3) The current, or most recent (in the case of an offset project after the final crediting period), Offset Project Operator and Authorized Project Designee, and, for forest offset projects the current, or most recent (in the case of an offset project after the final crediting period), Forest Owner(s).

(f) Final Determination and Process of Invalidation. ARB will notify the parties identified in section 95985(e) of its initial determination pursuant to section 95985(c), and provide each party an opportunity to submit additional information to ARB prior to making its final determination, as follows:

(1) ARB will include the reason for its initial determination in its notification to the parties identified in section 95985(e).

(2) After notification the parties identified in section 95985(e) will have 25 calendar days to provide any additional information to ARB.

(3) ARB may request any information as needed in addition to the information provided under this section.

(4) The Executive Officer will have 30 calendar days after all information is submitted under this section to make a final determination that one or more conditions listed pursuant to section 95985(c) has occurred and whether to invalidate ARB offset credits.

(A) The parties identified pursuant to section 95985(e) will be notified of ARB's final determination of invalidation pursuant to this section.

(B) Any approved program for linkage pursuant to subarticle 12 will be notified of the invalidation at the time of ARB's final determination pursuant to this section.

(g) Removal of Invalidated ARB Offset Credits from Holding, Compliance, and/or Forest Buffer Accounts. If the Executive Officer makes a final determination pursuant to section 95985(f) that an ARB offset credit is invalid, then:

(1) ARB offset credits will be removed from any Holding, Compliance, or Forest Buffer Account, as follows;

(A) If an ARB offset credit is determined to be invalid due to the circumstance listed in section 95985(c)(1) or 95985(c)(2)(A), then:

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1. ARB will determine which ARB offset credits will be removed from the Compliance and/or Holding Accounts of each party identified in section 95985(e)(1) according to the following equation, truncated to the nearest whole ton:

$$H_{ARBOC} = \left| \frac{TOT_{Holding}}{I_{ARBOC}} \right| O_R$$

Where:

"O_R" is the amount of overstated GHG reductions and GHG removal enhancements for the applicable Offset Project Data Report calculated pursuant to section 95985(c)(1) or (c)(2)(A);

"I_{ARBOC}" is the number of ARB offset credits issued under the applicable Offset Project Data Report pursuant to section 95981.1 or the Program for Recognition of Early Action Offset Credits;

"$TOT_{Holding}$" is the total number of ARB offset credits currently being held in a Compliance and/or Holding Account by each party identified in section 95985(e)(1) for the applicable Offset Project Data Report; and

"H_{ARBOC}" is the total number of ARB offset credits, rounded to the nearest whole ton, that will be removed from the Holding and/or Compliance Account of each party identified in section 95985(e)(1).

2. ARB will determine the quantity of ARB offset credits issued under the applicable Offset Project Data Report in the amount calculated pursuant to section 95985(g)(1)(A) and remove a quantity of ARB offset credits from any Holding and/or Compliance Account of the parties identified in section 95985(e)(1).

3. ARB will determine the quantity of ARB offset credits issued under the applicable Offset Project Data Report, for all projects that contribute to the Forest Buffer Account, in the amount calculated pursuant to section 95985(c)(1) or (c)(2)(A) multiplied by the project's reversal risk rating and remove that quantity of ARB offset credits from the Forest Buffer Account.

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(B) If an ARB offset credit is determined to be invalid due to the circumstances listed in sections 95985(c)(2)(B) or (c)(3), ARB will remove all ARB offset credits issued under the applicable Offset Project Data Report from any Holding and/or Compliance Account of the parties identified in section 95985(e)(1), and from the Forest Buffer Account.

(2) The parties identified pursuant to section 95985(e) will be notified of which ARB offset credits were removed from any Compliance, Holding, and/or Forest Buffer Accounts.

(3) Any approved program for linkage pursuant to subarticle 12 will be notified of which serial numbers were removed from any Compliance, Holding, and/or Forest Buffer Accounts.

(h) Requirements for Replacement of ARB Offset Credits.

(1) If an ARB offset credit that is issued to a non-sequestration offset project or an urban forest offset project, or that is issued to a U.S. forest offset project on or after July 1, 2014, and is in the Retirement Account, and it is determined to be invalid pursuant to section 95985(f) for only the circumstances listed in section 95985(c)(1) or (c)(2)(A), then:

(A) Each party identified in section 95985(e)(2) must replace ARB offset credits in the amount calculated for the individual party according to the following equation, truncated to the nearest whole ton:

$$R_{ARBOC} = \left| \frac{TOT_{Retired}}{I_{ARBOC}} \right| O_R$$

Where:

"R_{ARBOC}" is the calculated total number of retired ARB offset credits for the applicable Offset Project Data Report, rounded to the nearest whole ton, that must be replaced by each individual party identified in section 95985(e)(2);

"$TOT_{Retired}$" is the total number of ARB offset credits for which ARB transferred the ARB offset credits from the applicable Offset Project Data Report into the Retirement Account for the individual party specified in section 95985(e)(2);

"I_{ARBOC}" is the number of ARB offset credits issued under the applicable Offset Project Data Report pursuant to section 95981.1 or the Program for Recognition of Early Action Offset Credits; and

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"O_R" is the amount of overstated GHG reductions and GHG removal enhancements calculated pursuant to section 95985(c)(1) or (c)(2)(A) for the applicable Offset Project Data Report.

(B) Each party identified in section 95985(e)(2) must replace ARB offset credits in the amount calculated pursuant to section 95985(h)(1)(A) with valid ARB offset credits or other approved compliance instruments pursuant to subarticle 4, within six months of notification by ARB pursuant to section 95985(g)(2).

(C) If each party identified in section 95985(e)(2) does not replace each invalid ARB offset credit in the amount calculated pursuant to section 95985(h)(1)(A) within six months of notice of invalidation pursuant to section 95985(g)(2), each unreplaced invalidated ARB offset credit will constitute a violation for that party pursuant to section 96014.

1. If the party identified in section 95985(e)(2) is no longer in business pursuant to section 95101(h)(2) of MRR, ARB will require the Offset Project Operator identified in section 95985(e)(3) to replace each invalidated ARB offset credit and will notify the Offset Project Operator that they must replace them.

2. If the Offset Project Operator is required to replace the ARB offset credits pursuant to section 95985(h)(1)(C)1. the Offset Project Operator must replace each ARB offset credit with a valid ARB offset credit or another approved compliance instrument pursuant to subarticle 4, within six months of notification by ARB pursuant to section 95985(h)(1)(C)1.

3. If the Offset Project Operator is required to replace the ARB offset credits pursuant to section 95985(h)(1)(C)1., and the Offset Project Operator does not replace each invalid ARB offset credit within six months of notification by ARB pursuant to section 95985(h)(1)(C)1., each unreplaced invalidated ARB offset credit will constitute a violation for that Offset Project Operator pursuant to section 96014.

(D) ARB will determine the quantity of ARB offset credits issued under the applicable Offset Project Data Report in the amount calculated pursuant to section 95985(h)(1)(A) and invalidate that quantity of ARB offset credits.

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(E) The parties identified pursuant to section 95985(e) will be notified of the quantity of ARB offset credits that were invalidated.

(F) Any approved program for linkage pursuant to subarticle 12 will be notified of which serial numbers were invalidated.

(2) If an ARB offset credit that is issued to a non-sequestration offset project or an urban forest project, or that is issued to a U.S. forest offset project on or after July 1, 2014, and is in the Retirement Account, and it is determined to be invalid pursuant to section 95985(f) for any circumstance listed in sections 95985(c)(2)(B) and (c)(3), then:

(A) The party identified in section 95985(e)(2) must replace each ARB offset credit it requested ARB to transfer into the Retirement Account for the applicable Offset Project Data Report with a valid ARB offset credit or another approved compliance instrument pursuant to subarticle 4, within six months of notification by ARB pursuant to section 95985(g)(2).

(B) If the party identified in section 95985(e)(2) does not replace each invalid ARB offset credit within six months of the notice of invalidation pursuant to section 95985(g)(2), each unreplaced invalidated ARB offset credit will constitute a violation for that party pursuant to section 96014.

1. If the party identified in section 95985(e)(2) is no longer in business pursuant to section 95101(h)(2) of MRR ARB will require the Offset Project Operator identified in section 95985(e)(3) to replace each invalidated ARB offset credit and will notify the Offset Project Operator that they must replace them.

2. If the Offset Project Operator is required to replace the ARB offset credits pursuant to section 95985(h)(2)(B)1., the Offset Project Operator must replace each ARB offset credit with a valid ARB offset credit or another approved compliance instrument pursuant to subarticle 4, within six months of notification by ARB pursuant to section 95985(h)(2)(B)(1.).

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3. If the Offset Project Operator is required to replace the ARB offset credits pursuant to section 95985(h)(2)(B)1., and the Offset Project Operator does not replace each invalid ARB offset credit within six months of notification by ARB pursuant to section 95985(h)(2)(B)1., each unreplaced invalidated ARB offset credit will constitute a violation for that Offset Project Operator pursuant to section 96014.

(C) The parties identified pursuant to section 95985(e) will be notified of which ARB offset credits were invalidated.

(D) Any approved program for linkage pursuant to subarticle 12 will be notified of which serial numbers were invalidated.

(3) The Offset Project Operator, identified in section 95985(e)(3), of an offset project that had ARB offset credits removed from the Forest Buffer Account pursuant to section 95985(g)(1)(A)3. or (g)(1)(B) must replace a percentage of the ARB offset credits removed from the Forest Buffer Account equal to the percentage of ARB offset credits retired from the Forest Buffer Account for unintentional reversals as of the date the Executive Officer makes the final determination of invalidation, rounding up to the next whole number, with a valid ARB offset credit or another approved compliance instrument pursuant to subarticle 4, within six months of notification by ARB pursuant to section 95985(g)(2). If the Offset Project Operator does not replace the required number of ARB offset credits within six months of notification by ARB pursuant to section 95985(g)(2), each unreplaced invalidated ARB offset credit will constitute a violation for that Offset Project Operator pursuant to section 96014.

(i) Requirements for Replacement of ARB Offset Credits for U.S. Forest Offset Projects Issued on or prior to July 1, 2014.

(1) If an ARB offset credit that is issued on or prior to July 1, 2014 is in the Retirement Account from a U.S. forest offset project and it is determined to be invalid pursuant to section 95985(f) for only the circumstance listed in section 95985(c)(1), then:

(A) The Forest Owner identified in section 95985(e)(3) must replace ARB offset credits in the amount calculated according to the following equation, truncated to the nearest whole ton:

$$RF_{ARBOC} = \left|\frac{TF_{Retired}}{IF_{ARBOC}}\right| OF_R$$

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Where:

"RF_{ARBOC}" is the total number of retired ARB offset credits for the applicable U.S. forest offset project's Offset Project Data Report, rounded to the nearest whole ton, that must be replaced by the Forest Owner;

"$TF_{Retired}$" is the total number of ARB offset credits issued for the applicable U.S. forest offset project's Offset Project Data Report for which ARB transferred any ARB offset credits from into the Retirement Account;

"IF_{ARBOC}" is the number of ARB offset credits issued under the applicable Offset Project Data Report for the U.S. forest offset project pursuant to section 95981.1 or the Program for Recognition of Early Action Offset Credits; and

"OF_R" is the amount of overstated GHG reductions and GHG removal enhancements calculated pursuant to section 95985(c)(1) for the U.S. forest offset project for the applicable Offset Project Data Report.

(B) The Forest Owner identified in section 95985(e)(3) must replace ARB offset credits in the amount calculated pursuant to section 95985(i)(1)(A) with valid ARB offset credits or other approved compliance instruments pursuant to subarticle 4, within six months of notification by ARB pursuant to section 95985(g)(2).

(C) If the Forest Owner identified in section 95985(e)(3) does not replace each invalid ARB offset credit in the amount calculated pursuant to section 95985(i)(1)(A) within six months of notice of invalidation pursuant to section 95985(g)(2), each unreplaced invalidated ARB offset credit will constitute a violation for that Forest Owner pursuant to section 96014.

(D) ARB will determine the lowest serial numbers assigned to ARB offset credits issued under the applicable Offset Project Data Report in the amount calculated pursuant to section 95985(i)(1)(A) and invalidate those serial numbers.

(E) The Forest Owner identified pursuant to section 95985(e)(3) will be notified of which ARB offset credits were invalidated.

(F) Any approved program for linkage pursuant to subarticle 12 will be notified of which serial numbers were invalidated.

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(2) If an ARB offset credit issued on or prior to July 1, 2014 in the Retirement Account from a U.S. forest offset project is determined to be invalid pursuant to section 95985(f) for any circumstance listed in sections 95985(c)(2)(B) and (c)(3):

(A) The Forest Owner identified in section 95985(e)(3) must replace each ARB offset credit transferred by ARB into the Retirement Account for the applicable Offset Project Data Report with a valid ARB offset credit or another approved compliance instrument pursuant to subarticle 4, within six months of notification by ARB pursuant to section 95985(g)(2).

(B) If the Forest Owner does not replace each invalid ARB offset credit within six months of the notice of invalidation pursuant to section 95985(g)(2), each unreplaced invalidated ARB offset credit will constitute a violation for that Forest Owner pursuant to section 96014.

(C) The parties identified pursuant to section 95985(e) will be notified of which ARB offset credits were invalidated.

(D) Any approved program for linkage pursuant to subarticle 12 will be notified of which serial numbers were invalidated.

(3) The Offset Project Operator identified in section 95985(e)(3) of an offset project that had ARB offset credits removed from the Forest Buffer Account pursuant to section 95985(g)(1)(A)3. or (g)(1)(B) must replace a percentage of the ARB offset credits removed from the Forest Buffer Account equal to the percentage of ARB offset credits retired from the Forest Buffer Account for unintentional reversals as of the date the Executive Officer makes the final determination of invalidation, rounding up to the next whole number, with a valid ARB offset credit or another approved compliance instrument pursuant to subarticle 4, within six months of notification by ARB pursuant to section 95985(g)(2). If the Offset Project Operator does not replace the required number of ARB offset credit within six months of notification by ARB pursuant to section 95985(g)(2), each unreplaced invalidated ARB offset credit will constitute a violation for that Offset Project Operator pursuant to section 96014.

(j) Nothing in this section shall limit the authority of the State of California from pursuing enforcement action against any parties in violation of this article.

(k) Change of Forest Owner or Offset Project Operator. When a Forest Owner or Offset Project Operator changes, whether by merger, acquisition, or any other

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means, the successor Forest Owner or Offset Project Operator, after the change in ownership, as applicable, is expressly liable for all obligations of the predecessor Forest Owner or Offset Project Operator to submit compliance instruments as determined pursuant to sections 95985(h)(1)(A), 95985(h)(2)(B)(1), and/or 95985(i), as applicable. For the avoidance of doubt, this obligation of the successor Forest Owner or Offset Project Operator, as applicable, consists of the difference between the number of metric tons of CO_2e determined pursuant to sections 95985(h), and/or 95985(i), as applicable, and the number of valid ARB offset credits or other approved compliance instruments submitted by the predecessor forest owner pursuant to sections 95985(h), and/or 95985(i), as 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, Health and Safety Code.

§ 95986. Executive Officer Approval Requirements for Offset Project Registries.

(a) The approval requirements specified in this subarticle apply to all Offset Project Registries that will operate to provide registry services under this article.

(b) The Executive Officer may approve Offset Project Registries that meet and maintain the requirements specified in this section.

(1) Offset Project Registry Approval Application. To apply for approval as an Offset Project Registry, the applicant shall submit the following information to the Executive Officer:

(A) Name of applicant;

(B) Name of president or chief executive officer;

(C) List of all board members, if applicable;

(D) Addresses of offices located in the United States;

(E) Documentation that the applicant carries at least five million U.S. dollars of professional liability insurance; and

(F) List of any judicial proceedings and administrative actions filed against the applicant within the previous five years, with a detailed explanation as to the nature of the proceedings.

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(2) The applicant must submit, in writing, the procedures to screen and address internal conflicts of interest. The applicant must provide the following information to the Executive Officer:

(A) A staff, management, and board member conflict of interest policy where there are clear criteria for what constitutes a conflict of interest. The policy must:

1. Identify specific activities and limits on monetary and non-monetary gifts staff, management, or board members must not conduct or accept to meet the Offset Project Registry's internal policies of conflict of interest policy, or alternatively provide a comprehensive policy on the applicant's requirements for the reporting of any and all conflicts based on internal policies that guard against conflict of interest; and

2. Include a requirement for annual disclosure by each staff, management, or board member of any items or instances that are covered by the applicant's conflict of interest policy on an ongoing basis or for the previous calendar year.

3. The applicant must have appropriate conflict of interest and confidentiality requirements in place for any of its contractors;

(B) List of all service types provided by the applicant;

(C) The industrial sectors the applicant serves;

(D) Locations where services are provided; and

(E) A detailed organizational chart that includes the applicant and any parent, subsidiary, and affiliate companies.

(F) If the applicant under section 95986 is going to designate a subdivision of its organization to provide registry services, then the prohibition in section 95986(c)(1) on serving as an offset project consultant shall apply at the subdivision level and the applicant must provide the following general information for its self:

1. General types of services; and

2. General locations where services are provided.

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(3) The applicant has the following capabilities for registration and tracking of registry offset credits issued under this article:

(A) A comprehensive registration requirement for all registry participants;

(B) Tracking ownership and transactions of all registry offset credits it issues at all times; and

(C) Possesses a permanent repository of ownership information on all transactions involving all registry offset credits it issues under this article from the time they are issued to the time they are retired or cancelled.

(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 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. 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);

(2) The applicant may not act as a verification body or provide offset verification services pursuant to sections 95977.1 and 95977.2 once approved as an Offset Project Registry;

(3) If the applicant designates a subdivision of its organization to provide registry services, the applicant may not be an Offset Project Operator or Authorized Project Designee for offset projects listed at the subdivision's registry, act as a verification body, or be a covered entity or opt-in covered entity;

(4) The applicant must demonstrate experience in the continuous operation of a registry serving an Environmentally-focused Market for a minimum of two years in a regulatory and/or voluntary market. For the purposes of this section, an “Environmentally-focused Market” means a market that includes the trading of carbon-emissions based commodities. In the context of Air Quality Management Districts or Air Pollution Control

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Districts, “Environmentally-focused Market” includes a market for air emission reduction credits; and

(5) The applicant's primary incorporation or other business formation and primary place of business, or the primary place of business of the designated subdivision, if the applicant designates a subdivision to provide registry services pursuant to this section, must be in the United States of America.

(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.

(e) If any information submitted pursuant to sections 95986(b) through (d) changes after the approval of an Offset Project Registry, the Offset Project Registry must notify the Executive Officer within 30 calendar days and provide updated information consistent with that required in sections 95986(b) through (d).

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

(1) “As the authorized representative for this Offset Project Registry, I understand that the Offset Project Registry is voluntarily participating in the California Cap-and-Invest Program under title 17, article 5, and the Offset Project Registry is now subject to all regulatory requirements and enforcement mechanisms of this program.”;

(2) “All information generated and submitted to ARB by the Offset Project Registry related to an offset project that uses a Compliance Offset Protocol will be true, accurate, and complete.”;

(3) “All information provided to ARB as part of an ARB audit of the Offset Project Registry will be true, accurate, and complete.”;

(4) “All registry services provided will be in accordance with the requirements of section 95987.”;

(5) “The Offset Project Registry is committed to participating in all ARB training related to ARB's compliance offset program or Compliance Offset Protocols.”; and

(6) The authorized representative of the Offset Project Registry must attest in writing, to ARB: “I certify under penalty of perjury under the laws of the State of California I have authority to represent the Offset Project Registry

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and all information provided as part of this application is true, accurate, and complete.".

(g) At least two of the management staff at the Offset Project Registry must take ARB provided training on ARB's compliance offset program and pass an examination upon completion of training.

(h) The Offset Project Registry must have staff members who have collectively completed ARB training and passed an examination upon completion of training in all Compliance Offset Protocols.

(i) The Offset Project Registry must have at least two years of demonstrated experience in, and requirements for, direct staff oversight and review of offset projects, project listing, offset verification, and registry offset credit issuance.

(j) ARB Approval.

(1) Within 60 calendar days of receiving an application for approval as an Offset Project Registry and completion by all management staff of the training required in section 95986(g), the Executive Officer will inform the applicant in writing either that the application is complete or that additional specific information is required to make the application complete.

(2) The applicant may be allowed to submit additional supporting documentation before a decision is made by the Executive Officer.

(3) Within 60 calendar days following completion of the application process, the Executive Officer shall approve an Offset Project Registry if evidence of qualification submitted by the applicant has been found to meet the requirements of section 95986 and issue an Executive Order to that effect.

(4) The Executive Officer and the applicant may mutually agree, in writing, to longer time periods than those specified in subsections 95986(j)(1) and 95986(j)(3).

(5) The Executive Officer approval for an Offset Project Registry is valid for a period of 10 years, whereupon the applicant may re-apply. At the time of re-application, the Offset Project Registry must:

(A) Demonstrate it consistently met all of the requirements in section 95986;

(B) Pass a performance review, which, at a minimum shows the Offset Project Registry consistently:

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1. Demonstrates knowledge of the ARB compliance offset program and Compliance Offset Protocols;

2. Meets all regulatory deadlines; and

3. Provides registry services in accordance with the requirements of this article; and

(C) Not have been subject to enforcement action under this article.

(k) Modification, Suspension, and Revocation of an Executive Order Approving an Offset Project Registry. The Executive Officer may review, and, for good cause, modify, suspend, or revoke an Executive Order providing approval to an Offset Project Registry.

(1) During revocation proceedings, the Offset Project Registry may not continue to provide registry services for ARB.

(2) Within five working days of suspension or revocation of approval, an Offset Project Registry must notify all Offset Project Operators or Authorized Project Designees for whom it is providing registry services, or has provided registry services within the past 12 months, of its suspension or revocation of approval.

(3) An Offset Project Operator or Authorized Project Designee who has been notified by an Offset Project Registry of a suspended or revoked approval must re-submit its offset project information with a new Offset Project Registry or ARB. An offset project listed at ARB or a new Offset Project Registry will continue to operate under its originally approved crediting period, provided that ARB may extend the crediting period or the relevant deadline in section 95977(e) for one year if ARB determines that such extension is necessary to provide time for re-submission of information to the new Offset Project Registry or ARB.

(l) If the applicant under section 95986 is going to designate a subdivision of its organization to provide registry services, all the requirements of section 95986 may be applied at the designated subdivision level.

(m) An approved Offset Project Registry must make itself and its personnel available for an ARB audit.

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.

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§ 95987. Offset Project Registry Requirements.

(a) The Offset Project Registry shall use Compliance Offset Protocols approved pursuant to section 95971 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.

(b) The Offset Project Registry must make the following information publicly available for each offset project developed under a Compliance Offset Protocol:

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

(A) Offset project name;

(B) Offset project location;

(C) Offset Project Operator and, if applicable, the Authorized Project Designee;

(D) Type of offset project;

(E) Name and date of the Compliance Offset Protocol used by the offset project;

(F) Date of offset project listing submittal and Offset Project Commencement date; and

(G) Identification if the offset project is in an initial or renewed crediting period;

(2) Within 10 working days of the Offset Project Registry either making a determination of registry offset credit issuance pursuant to section 95980(b) or approving a verification report for offset verification services that does not result in issuing registry offset credits:

(A) Reporting Period verified project baseline emissions;

(B) Reporting Period verified GHG reductions and GHG removal enhancements achieved by the offset project;

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(C) The unique serial numbers of registry offset credits issued to the offset project for the applicable Offset Project Data Report;

(D) Total verified GHG reductions and GHG removal enhancements for the offset project by Reporting Period for when an Offset Project Data Report was submitted;

(E) The final Offset Project Data Report for each Reporting Period; and

(F) Offset Verification Statement for each year the Offset Project Data Report was verified; and

(3) Clear identification of which offset projects are listed and submitting Offset Project Data Reports using Compliance Offset Protocols. 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:

(A) The offset project has missed the 28-month reporting deadline in section 95976(d);

(B) The offset project has missed the deadline for continuous reporting in section 95976(d);

(C) The offset project, if listed under the Compliance Offset Protocol in section 95973(a)(2)(C)1., has submitted an Offset Project Data Report but has missed the 11-month verification deadline in section 95977(e);

(D) The offset project terminates, as specified by the Compliance Offset Protocols in section 95973(a)(2)(C)4.; 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:

1. Offset Project Operator name and tracking system identification number;

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2. Offset project name and both ARB and Offset Project Registry identification numbers;

3. Name and date of the Compliance Offset Protocol used by the offset project;

4. Date on which the Offset Project Registry approved the listing;

5. Indication that the Offset Project Operator will no longer pursue any registry offset credits for the project;

6. Request to change the project status to “Inactive” or “Terminated”; and

7. Signature, printed name, title, and date signed.

(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:

(A) Offset Project Operator name and tracking system identification number;

(B) Offset project name and both ARB and Offset Project Registry identification numbers;

(C) Name and date of the Compliance Offset Protocol used by the offset project;

(D) Date on which the Offset Project Registry approved the listing;

(E) Indication of the deadline(s) missed; and

(F) Date on which the Offset Project Registry has updated the status to “Inactive” or “Terminated.”

(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

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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. (if applicable).

(6) An Offset Project Registry may update an offset project's listing status to "Monitored" if (1) ARB offset credits have been issued for the offset project, (2) no further ARB offset credits will be issued to the project, and (3) the project is still required to monitor, report, and verify the permanence of its GHG emission reductions or GHG removal enhancements.

(c) Conflict of Interest Review by Offset Project Registries. The Offset Project Registry must apply the conflict of interest requirements in section 95979 when making a conflict of interest determination for a verification body proposing to conduct offset verification services under sections 95977.1 and 95977.2. The Offset Project Registry must review and make sure the conflict of interest submittal in section 95979(e) is complete. When an Offset Project Operator or Authorized Project Designee submits its information pursuant to section 95981(b) to ARB, the Offset Project Registry must provide ARB with the information and attestation identified in section 95979(e) within 15 calendar days.

(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, if there is no clear requirement for the topic in a Compliance Offset Protocol, 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.

(2) Before providing such guidance, the Offset Project Registry may request ARB to provide clarification on the topic.

(3) Any Offset Project Operator or Authorized Project Designee requests for clarifications or guidance must be documented and the Offset Project Registry response must be submitted on an ongoing monthly basis to ARB beginning with the date of approval as an Offset Project Registry for five years. After five years, the clarification and guidance requests and Offset Project Registry responses shall be submitted to CARB only upon and within 10 calendar days of CARB's request.

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(e) The Offset Project Registry must audit at least 10 percent of the annual full offset verifications developed for offset projects using a Compliance Offset Protocol.

(1) The audit must include the following checks:

(A) Attendance with the offset verification team on the offset project site visit;

(B) In-person or conference call attendance for the first offset verification team and Offset Project Operator or Authorized Project Designee meeting;

(C) In-person or conference call attendance to the last meeting or discussion between the offset verification team and Offset Project Operator or Authorized Project Designee;

(D) Documentation of any findings during the audit that cause the Offset Project Registry to provide guidance to, or require corrective action with, the offset verification team, including a list of issues noted during the audit and how those were resolved;

(E) A review of the detailed verification report and sampling plan to ensure that it meets the minimum requirements in sections 95977.1 and 95977.2 and documentation of any discrepancies found during the review; and

(F) An investigative review of the conflict of interest assessment provided by the verification body, which includes the following:

1. Discussions with the lead verifier, the verification body officer or staff person most knowledgable about the conflict of interest self-evaluation, and the Offset Project Operator or Authorized Project Designee to confirm the information on the conflict of interest assessment form is true, accurate, and complete;

2. An internet-based search to ascertain the existence of any previous relationship between the verification body and the Offset Project Operator or Authorized Project Designee, and if so the nature and extent; and

3. Any other follow up by the Offset Project Registry to have reasonable assurance that the information provided on the conflict of interest assessment form is true, accurate, and complete.

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(2) All information related to audits of offset projects developed using a Compliance Offset Protocol must be provided to ARB within 10 calendar days of an ARB request.

(3) The audits must be selected to provide a representative sampling of geographic locations of all offset projects, representative sampling of verification bodies, representative sampling of lead verifiers, representative sampling of offset project types, and representative sampling of offset projects by size.

(4) The Offset Project Registry must provide an annual report to ARB by January 31 for its previous year's audit program of offset projects developed using Compliance Offset Protocols that includes:

(A) A list of all offset projects audited;

(B) Locations of all offset projects audited;

(C) Verification bodies associated with each offset project and names of offset verification team members;

(D) Dates of site visits;

(E) Offset Project Registry staff that conducted the audit; and

(F) Audit findings as required in section 95987(e)(1)(D) through (F).

(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:

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(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;

(2) The final Offset Project Data Reports submitted to an Offset Project Registry pursuant to sections 95976(d), 95977.1(b)(3)(M), and 95977.1(b)(3)(R)5.;

(3) The final detailed verification report submitted to an Offset Project Registry pursuant to section 95977.1(b)(3)(R)4.a.;

(4) The final Offset Verification Statements submitted pursuant to section 95977.1(b)(3)(R)4.b.; and

(5) The Offset Project Registry's log of all issues raised during its review.

(g) The Offset Project Registry must provide all information in its possession, custody, or control related to a listed 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 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 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 using a Compliance Offset Protocol. The report must contain the name of the offset project, type of offset project and applicable Compliance Offset Protocol, 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.

(k) The Offset Project Registry may choose to offer insurance or other products to cover the risk of invalidation of ARB offset credits, but purchase or use of the

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insurance or other invalidation risk mechanisms will be optional for all entities involved with registry offset credits and ARB offset credit transactions.

(l) Within 10 working days of first receiving an Offset Project Data Report to meet the four-month reporting deadline pursuant to section 95976(d)(2) or the continuous reporting deadline pursuant to section 95976(d), an Offset Project Registry must provide ARB a copy of the Offset Project Data Report and confirm the date on which the Offset Project Data Report was submitted to the Offset Project Registry.

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.

§ 95988. Record Retention Requirements for Offset Project Registries.

All information submitted, and correspondence related to, 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, Health and Safety Code.

§ 95989. Direct Environmental Benefits in the State.

(a) Offset projects 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 Compliance Offset Protocol in the State or a reduction or avoidance of any pollutant that is not credited pursuant to the applicable Compliance Offset Protocol that could have an adverse impact on waters of the State.

(1) Scientific, peer-reviewed information or reports supporting a claim that the offset project or offset project type results in this type of reduction or avoidance of any pollutant in the State;

(2) Governmental reports from local, state, or national environmental, health, or energy agencies, or multinational bodies (such as the

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Intergovernmental Panel on Climate Change) supporting a claim that the offset project or offset project type results in this type of reduction or avoidance of any pollutant in the State; or

(3) Monitoring or other analytical data supporting a claim that the offset project or offset project type results in this type of reduction or avoidance of any pollutant in the State.

(c) New offset projects. In order to be eligible to demonstrate that an offset project located outside the State of California provides direct environmental benefits in the State, the Offset Project Operator or Authorized Project Designee shall submit to CARB all relevant materials listed in this section prior to the first request for issuance of ARB offset credits as specified in section 95981(b).

(d) Existing offset projects. For offset projects located outside the State of California which have already received ARB offset credits that would like to demonstrate that they provide direct environmental benefits in the State, the Offset Project Operator, Authorized Project Designee, or holder of the offset credits must submit all relevant materials listed in this section to ARB no later than December 31, 2021, to ensure that projects recognized as providing direct environmental benefits in the State can be identified prior to any surrender of compliance instruments in November 2022 to meet a compliance obligation for 2021 emissions.

(e) Verification Requirement. Sequestration offset projects outside California that have direct environmental benefits in the State status based on planned activities must have the implementation of the planned activities verified at each full verification, pursuant to section 95977.1(b)(3)(D)2.i. If the verification team finds that the offset project has not implemented the planned activities within the planned timeline, CARB will revoke the project's direct environmental benefits in the State designation. CARB will provide notice of determination of the project's direct environmental benefits in the State status to the Offset Project Operator or, if applicable, Authorized Project Designee with the notice of issuance of ARB Offset Credits in section 95981.1(c). Projects that no longer provide direct environmental benefits in the State of California will no longer receive the designation starting with the vintage associated with the approved issuance. CARB will also revoke the direct environmental benefits in the State designation for unretired offset credits that have been issued for reporting periods that had undergone less-intensive verification since the last full verification. CARB will not revoke the direct environmental benefits in the State designation for offset credits issued for the project's last reporting period which completed full verification with an approved positive verification opinion or for any earlier reporting periods.

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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, Health and Safety Code.

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Subarticle 14: Recognition of Compliance Instruments from Other Programs

§ 95991. Sector-Based Offset Credits.

Sector-based offset credits may be generated through reduced or avoided GHG emissions from within, or carbon removed and sequestered from the atmosphere by, a specific sector in a particular jurisdiction. The Board may consider for acceptance compliance instruments issued from sector-based offset crediting programs that meet the requirements set forth in section 95994 and originate from developing countries or from subnational jurisdictions within those developing countries, except as specified in subarticle 13.

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.

§ 95992. Procedures for Approval of Sector-Based Crediting Programs.

The Board may approve a sector-based crediting program in an eligible jurisdiction after public notice and opportunity for public comment in accordance with the Administrative Procedure Act (Government Code section 11340 et seq.). Provisions set forth in this article shall specify which compliance instruments issued by an approved sector-based crediting program may be used to meet a compliance obligation under this Article.

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.

§ 95993. Sources for Sector-Based Offset Credits.

Sector-based credits may be generated from:

(a) Reducing Emissions from Deforestation and Forest Degradation (REDD) Plans.

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.

§ 95994. Requirements for Sector-Based Offset Crediting Programs.

(a) General Requirements for Sector-Based Crediting Programs. The Board may consider for approval a sector-based crediting program which may include the following sectoral requirements:

(1) Sector Plan. The host jurisdiction has established a plan for reducing emissions from the sector.

(2) Monitoring, Reporting, Verification, and Enforcement. The program includes a transparent system that regularly monitors, inventories, reports, verifies, and maintains accounting for emission reductions across the program's entire sector, as well as maintains enforcement capability over its reference activity producing credits.

(3) Offset Criteria. The program has requirements to ensure that offset credits generated by the program are real, additional, quantifiable, permanent, verifiable and enforceable.

(4) Sectoral Level Performance. The program includes a transparent system for determining and reporting when it meets or exceeds its crediting baseline(s), and evaluating the performance of the program's sector during each program's crediting period relative to the business as usual or other emissions reference level.

(5) Public Participation and Participatory Management Mechanism. The program has established a means for public participation and consultation in the program design process.

(6) Nested Approach. If applicable, the program includes:

(A) Offset project-specific requirements that establish methods to inventory, quantify, monitor, verify, enforce, and account for all project-level activities

(B) A system for reconciling offset project-based GHG reductions in sector-level accounting from the host jurisdiction.

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.

§ 95995. Quantitative Usage Limit.

Sector-based offset credits approved by ARB for compliance pursuant to section 95821(d) are subject to the quantitative usage limit specified in section 95854.

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.

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Subarticle 15. Enforcement and Penalties

§ 96010. Jurisdiction.

Any of the following actions shall conclusively establish a person's consent to be subject to the jurisdiction of the State of California, including the administrative authority of ARB and the jurisdiction of the Superior Courts of the State of California:

(a) Registration with ARB pursuant to subarticle 5;

(b) The purchase or holding of a compliance instrument issued by ARB, unless the entity holding the compliance instrument is registered in an approved External GHG ETS pursuant to subarticle 12;

(c) Receipt of compensation of any kind, including sales proceeds and commissions, from any transfers of allowances or offset credits issued by ARB pursuant to subarticle 13 or recognized by ARB pursuant to subarticle 14; or

(d) Verification of an offset credit to be issued by ARB.

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.

§ 96011. Authority to Suspend, Revoke, or Modify.

(a) The Executive Officer may suspend, revoke, or place restrictions on the Holding Account of a voluntarily associated entity determined to be in violation of any provision of this article.

(b) The Executive Officer may place restrictions on a Holding Account of a covered entity or an opt-in covered entity determined to be in violation of any provision of this article or of article 2 of this subchapter.

(c) The Executive Officer may suspend, revoke, or modify any Executive Order issued under this article or under article 2 of this subchapter, including an order accrediting a verifier, for a violation of any provision of this article.

(d) Nothing in this section prevents the Executive Officer from taking such other actions as are necessary to protect the environmental stringency of the California Cap-and-Invest Program, including limiting transfers in or out of holding accounts.

(1) Within 24 hours of taking action to protect the environmental stringency of the California Cap-and-Invest Program, the Executive Officer shall post

publicly to the Cap-and-Invest Program website the specific action taken with an explanation of why it was necessary.

(2) The public information will include:

(A) A contact name for questions regarding the action;

(B) Duration of the action, if known;

(C) Any details on the status of existing compliance instruments in accounts; and

(D) Any other relevant information.

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.

§ 96012. Injunctions.

Any violation of this article may be enjoined pursuant to Health and Safety Code section 41513.

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.

§ 96013. Penalties.

Penalties may be assessed pursuant to Health and Safety Code section 38580 for any violation of this article as specified in section 96014. In determining any penalty amount, ARB shall consider all relevant circumstances, including the criteria in Health and Safety Code section 42403(b).

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.

§ 96014. Violations

(a) If an entity fails to surrender a sufficient number of compliance instruments to meet its compliance obligation as specified in sections 95856 or 95857, and the procedures in section 95857(c) have been exhausted, there is a separate violation of this article for each required compliance instrument that has not been surrendered, or otherwise obtained by the Executive Officer pursuant to section 95857(c).

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(b) A separate violation accrues every 45 days after the end of the Untimely Surrender Period pursuant to section 95857 for each required compliance instrument that has not been surrendered.

(c) If an entity exiting the program pursuant to section 95835(f)(1) fails to place the appropriate number of allowances into its compliance account and notify the Executive Officer, as required under section 95890(k), there is a separate violation of this article for each required allowance that has not been returned.

(d) It is a violation to submit any record, information or report required by this article that:

(1) Falsifies, conceals, or covers up by any trick, scheme or device a material fact;

(2) Makes any false, fictitious or fraudulent statement or representation;

(3) Makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry; or

(4) Omits material facts from a submittal or record.

(5) A fact is material if it could probably influence a decision by the Executive Officer, the Board, or the Board's staff.

(e) The violations stated in section 96014(c) are additional to violations of any obligations of any entity subject to this regulation under other provisions of this article requiring submissions to ARB to be 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, Health and Safety Code.

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Subarticle 16. Other Provisions

§ 96020. Severability, Effect of Judicial Order.

Each provision of this article shall be deemed severable, and in the event that any provision of this article is held to be invalid, the remainder of this article shall continue in full force and effect.

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.

§ 96021. Confidentiality.

(a) Emissions data submitted to ARB under this article are public information and shall not be designated as confidential.

(b) Any entity submitting information to the Executive Officer pursuant to this article may claim such information as “confidential” by clearly identifying such information as “confidential.” Any claim of confidentiality by an entity submitting information must be based on the entity's belief that the information marked as confidential is either trade secret or otherwise exempt from public disclosure under the California Public Records Act (Government Code, section 6250 et seq.). All such requests for confidentiality shall be handled in accordance with the procedures specified in California Code of Regulations, title 17, sections 91000 to 91022.

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.

§ 96022. Jurisdiction of California.

(a) Any party that participates in the Cap-and-Invest Program is subject to the jurisdiction of the State of California unless the party is subject to the jurisdiction of an External GHG ETS to which California has linked its Cap-and-Invest Program pursuant to section 95830(g) and subarticle 12.

(b) Notwithstanding section 96010, subsection 96022(a) or any other jurisdictional provision in this article, this article shall not be construed to abridge the rights and protections afforded foreign sovereigns, including the right of removal to federal court, pursuant to the Foreign Sovereign Immunities Act, Public Law 94-583, as amended and codified at 28 U.S.C. sections 1330, 1332, 1391(f), 1441(d), and 1602-1611.

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(c) A party that has rights and protections under the Foreign Sovereign Immunities Act consents to civil enforcement of the laws, rules and regulations pertaining to this article in California's courts, subject to the rights and protections afforded to entities subject to the Foreign Sovereign Immunities Act, including removal to federal court.

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.

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Appendix A

Entity Information
Legal Name
Operating Name
U.S. Federal Tax Employer Identification Number
Value Added Tax Identification Number
Data Universal Numbering System Number
Date of incorporation
Place of Incorporation:
Country of Incorporation
Business Number (Assigned by California Agency)
Physical Address (City, State, postal code)
Mailing Address (City, State, postal code)
Country
Contact Information (Name, address, phone, email)
Website Address
Type of Organization

Individual Information
First Name
Middle Name
Last Name
Personal Residence Address
Phone number
Email
Social Security Number
Date of Birth
Citizenship
Employer Name
Employer Address
Copy of a valid identity card issued by a state or province with an expiration date
Copy of a government-issued identity document
Copy of a Passport
Documentation of an open bank account
Documentation of any felony convictions during the previous five years

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Appendix B CITSS User Terms and Conditions

ACCESS AGREEMENT AND TERMS OF USE FOR THE CITSS

SIGN THE BOTTOM OF THE PAGE TO INDICATE YOUR ACCEPTANCE OF THIS AGREEMENT.

Access to the Compliance Instrument Tracking System Service (CITSS) is subject to the terms and conditions set forth in this Access Agreement and Terms of Use (Agreement). You must accept this Agreement in order to access the CITSS application. Violation of this agreement may result in loss of access to CITSS and, if warranted, civil or criminal prosecution under state, provincial, or federal law.

Suspected violations of this agreement, such as user credential sharing, misrepresentation, or failure to maintain user contact information, may result in the Executive Officer reverifying all documents required pursuant to Section 95834 of the California Cap on Greenhouse Gas Emission and Market-Based Compliance Mechanisms (Regulation) (Title 17, California Code of Regulations (CCR), Sections 95801 et seq.).

This Agreement is between the State of California, Air Resources Board (ARB) and each registered California user of Compliance Instrument Tracking System Service (User). The Agreement sets forth the terms of use of CITSS. ARB provides User with access to the CITSS software application, for registering entities and holding compliance instrument. User understands and agrees that CITSS is provided “AS IS” and without any warranty, as set forth below in greater detail.

1. CITSS Use

    1.1. ARB and WCI, Inc. hereby grant to User, and User hereby accepts, subject to the terms and conditions set forth in this Agreement, a non-exclusive and non-transferable right to access CITSS via the world-wide-web or the internet at times when the software and servers are available and operating.

    1.2. User further acknowledges that it is not authorized to and may not possess or distribute any or all parts of the CITSS software, including its source codes and program components. User is not authorized to install, run or operate CITSS on User's or third-party computers or servers.

    1.3. User is solely responsible for ensuring that all information, data, text, or other materials that User provides to ARB or WCI, Inc. through use of CITSS (Content) are true, accurate, and complete and comply with ARB's requirements for the compliance with the cap-and-invest program under the Regulation.

    1.4. User understands that ARB will retain and use the Content consistent with the applicable Regulation(s) and may disclose Content to the public to the extent the

disclosure is required by California law or legal process, or to the extent that disclosure is not prohibited by California law.

1.5. ARB has included (as part of CITSS) security features including password protection to prevent a person other than the User from obtaining access through CITSS to User's Content. User understands that these security features depend on User protecting its password from disclosure to unauthorized persons. User also understands and acknowledges that despite security measures to prohibit unauthorized access to the Content through CITSS, unauthorized access could occur and in the event it does, ARB or WCI, Inc. may not be held liable for the unauthorized release of information, data, text or other materials that have been submitted to ARB using CITSS.

1.6. ARB does not endorse or provide support for software or web-based interfaces offered by third parties for purposes of submitting data to ARB. Use of a third-party interface or software product in order to access CITSS does not relieve the user of the need to ensure that information required by the applicable Regulation has been properly submitted to ARB and received by the applicable deadline and that all certifications required for use of CITSS have been submitted.

1.7. User is responsible for maintaining a copy of all data submitted to CITSS. The loss of electronic information, data, text, or other materials during use of CITSS or the unavailability of the CITSS system does not excuse User from the requirements in the applicable Regulation.

2. CITSS User Agreement The permission granted in Section 1 above is expressly made subject to and limited by the following restrictions, in addition to the limitations and restrictions set forth in other sections of the Agreement:

2.1. User agrees not to access CITSS by any means other than using internet browsers.

2.2. User further agrees that it shall NOT:

a. Deliberately attempt to access any data, documents, email correspondence, or programs contained on systems for which User does not have authorization;

b. Engage in activity that may harass, threaten or abuse others, or intentionally access, create, store or transmit material which may be deemed offensive, indecent or obscene, or that is illegal according to local, state, provincial, or federal law;

c. Engage in activity that may degrade the performance of CITSS;

d. Deprive an authorized user access to CITSS;

e. Obtain extra resources or login privileges beyond those authorized;

f. Circumvent CITSS security measures;

g. Violate copyright law of copyrighted material;

h. Attempt to disassemble, decompile or reverse engineer CITSS;

i. Attempt to create derivative works based on CITSS;

j. Attempt to copy, reproduce, distribute or transfer CITSS;

k. Provide access to CITSS to any third parties for any improper purpose;

l. Obtain for personal benefit, or engage in political activity, unsolicited advertising, unauthorized fund raising, or solicit performance of any activity that is prohibited by any local, state, or federal law.

2.3. User's right to access CITSS automatically terminates upon User's violation of any provisions of this Agreement.

2.4. User further agrees that it will immediately inform ARB or the CITSS administrator by emailing CACITSSHelpdesk@arb.ca.gov or calling at 916-324-7659 if any of the following occurs:

a. User observes any unauthorized access or misuse of CITSS;

b. User has any reason to believe that the security of their User ID, password, or security question(s) has been compromised;

c. User has any reason to believe that weaknesses in computer security, including unexpected software or system behavior, may result in unintentional disclosure of information or exposure to security threats.

2.5. User further agrees that:

a. User will maintain the security of their CITSS User ID, password, and security questions and answers for use of the CITSS;

b. User will not disclose their CITSS User ID, password, and security questions or answers information to anyone other than authorized CARB personnel from the CACITSSHelpDesk or CACITSSRegistrar groups;

c. User will maintain active contact information: a valid email address, phone number, and mailing address listed in CITSS at which User can receive important notifications of changes related to User's personal information or transfers involving any general account or compliance account that User represents as a Primary Account Representative, Alternate Account Representative, Account Viewing Agent, or other CITSS User;

d. Any submission User makes using the CITSS has and will have the same legal effect as if it were made in hardcopy form certified by User's handwritten signature.

2.6. If, at any time, User determines it is no longer able or willing to abide by the terms of this Agreement, User shall immediately cease all use of the CITSS and promptly notify ARB or the CITSS administrator in writing of its determination so that ARB or the CITSS administrator may formally suspend or revoke the User's access to the CITSS.

3. Disclaimer of Warranties

EXCEPT AS REQUIRED BY APPLICABLE LAW, THIS SERVICE IS MADE AVAILABLE ON AN “AS IS” BASIS, WITHOUT WARRANTIES OF ANY KIND. ARB SPECIFICALLY DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE WITH RESPECT TO THE SOFTWARE, OR ANY WARRANTIES REGARDING THE CONTENTS OR ACCURACY OF THE SOFTWARE.

4. Limitation on Liability

4.1. Except to the extent required by applicable law, in no event is ARB or WCI, Inc. liable to User on any legal theory for damages of any kind arising from the use of or the inability to use the CITSS, even if ARB or WCI, Inc. has been advised of the possibility of such damages. The unavailability of, or problems with the use of CITSS, does not excuse User from the reporting and compliance deadlines in the applicable Regulation.

5. Copyright and Proprietary Information 5.1 User shall not permit any person who is not registered as a User to access the CITSS and shall not copy, reproduce or distribute, or allow any other person to copy, reproduce or distribute, the CITSS, in whole or in part, without ARB's prior written consent.

6. Term

This Agreement commences upon User's acceptance of this Agreement and access to the CITSS for the first time. The Agreement shall terminate upon User's written notification to ARB under Section 2.5 of this Agreement or upon other termination or discontinuation of User's access to the CITSS, except that Sections 3, 4 and 5 survive any termination of this Agreement. ARB reserves the right to terminate this Agreement at any time, subject to the exception that Sections 3, 4 and 5 survive any termination of this Agreement.

7. Governing Law and General Provisions

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This Agreement shall be governed by and construed in accordance with the laws of the State of California. The failure of ARB to exercise or enforce any right or provision of this Agreement shall not constitute a waiver of such right or provision. If any provision of this Agreement is found by a court of competent jurisdiction to be invalid, the parties agree that the court should endeavor to give effect to the parties' intentions as reflected in the provisions, and the other provisions of the Agreement remain in full force and effect.

This Agreement is not intended to modify and cannot modify any provision in the applicable Regulation, including the California Cap on Greenhouse Gas Emission and Market-Based Compliance Mechanisms. If any part of this Agreement is found to conflict with any provision(s) in the applicable Regulation(s), the applicable Regulation(s) shall control.

This Agreement constitutes the entire agreement between User and ARB with respect to use of the CITSS. There are no understandings, agreements or representations with respect to the software program that are not specified ins this Agreement.

This Agreement may only be modified in a writing signed by User and the Executive Officer of the ARB.

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Appendix C Quarterly Auction and Reserve Sale Dates

Auction	2015	2016	2017	2018	2019	2020
Q1 Auction	Wednesday, February 18	Wednesday, February 17	Wednesday, February 22	Wednesday, February 21	Wednesday, February 20	Wednesday, February 19
Q1 Reserve Sale	Wednesday, April 1	Tuesday, March 29	Tuesday, April 4	Tuesday, April 3	Tuesday, April 2	Wednesday, April 1
Q2 Auction	Tuesday, May 19	Tuesday, May 17	Tuesday, May 16	Tuesday, May 15	Tuesday, May 14	Tuesday, May 19
Q2 Reserve Sale	Tuesday, June 30	Tuesday, June 28	Tuesday, June 27	Tuesday, June 26	Tuesday, June 25	Tuesday, June 30
Q3 Auction	Tuesday, August 18	Tuesday, August 16	Tuesday, August 15	Tuesday, August 14	Tuesday, August 20	Tuesday, August 18
Q3 Reserve Sale	Tuesday, October 6	Tuesday, October 4	Tuesday, October 3	Tuesday, October 2	Tuesday, October 8	Tuesday, October 6
Q4 Auction	Tuesday, November 17	Tuesday, November 15	Tuesday, November 14	Wednesday, November 14	Tuesday, November 19	Tuesday, November 17
Q4 Reserve Sale	Tuesday, December 29	Friday, December 30	Friday, December 29	Friday, December 28	Tuesday, December 31	Tuesday, December 29

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Auction	2021	2022	2023	2024	2025	2026
Quarter 1 Auction	Wednesday, 2/17/2021	Wednesday, 2/16/2022	Wednesday, 2/15/2023	Wednesday, 2/14/2024	Wednesday, 2/19/2025	Wednesday, 2/18/2026
Quarter 1 Reserve Sale	Tuesday, 3/30/2021	Wednesday, 3/30/2022	Wednesday, 3/29/2023	Wednesday, 3/27/2024	Wednesday, 3/26/2025	Wednesday, 4/1/2026
Quarter 2 Auction	Wednesday, 5/19/2021	Wednesday, 5/18/2022	Wednesday, 5/17/2023	Wednesday, 5/15/2024	Wednesday, 5/21/2025	Wednesday, 5/20/2026
Quarter 2 Reserve Sale	Wednesday, 6/30/2021	Wednesday, 6/29/2022	Wednesday, 6/28/2023	Wednesday, 6/26/2024	Wednesday, 6/25/2025	Tuesday, 6/30/2026
Quarter 3 Auction	Wednesday, 8/18/2021	Wednesday, 8/17/2022	Wednesday, 8/16/2023	Wednesday, 8/14/2024	Wednesday, 8/20/2025	Wednesday, 8/19/2026
Quarter 3 Reserve Sale	Wednesday, 9/29/2021	Wednesday, 9/28/2022	Wednesday, 9/27/2023	Wednesday, 9/25/2024	Tuesday, 9/30/2025	Wednesday, 9/30/2026
Quarter 4 Auction	Wednesday, 11/17/2021	Wednesday, 11/16/2022	Wednesday, 11/15/2023	Wednesday, 11/20/2024	Wednesday, 11/19/2025	Wednesday, 11/18/2026
Quarter 4 Reserve Sale	Wednesday, 12/29/2021	Wednesday, 12/28/2022	Wednesday, 12/27/2023	Tuesday, 12/31/2024	Tuesday, 12/30/2025	Wednesday, 12/30/2026

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Auction	2027	2028	2029	2030	2031	2032
Quarter 1 Auction	Wednesday, 2/17/2027	Wednesday, 2/16/2028	Wednesday, 2/14/2029	Wednesday, 2/20/2030	Wednesday, 2/19/2031	Wednesday, 2/18/2032
Quarter 1 Reserve Sale	Tuesday, 3/30/2027	Wednesday, 3/29/2028	Wednesday, 3/28/2029	Wednesday, 4/3/2030	Wednesday, 3/26/2031	Tuesday, 3/30/2032
Quarter 2 Auction	Wednesday, 5/19/2027	Wednesday, 5/17/2028	Wednesday, 5/16/2029	Wednesday, 5/15/2030	Wednesday, 5/14/2031	Wednesday, 5/19/2032
Quarter 2 Reserve Sale	Wednesday, 6/30/2027	Wednesday, 6/28/2028	Wednesday, 6/27/2029	Wednesday, 6/26/2030	Wednesday, 6/25/2031	Wednesday, 6/30/2032
Quarter 3 Auction	Wednesday, 8/18/2027	Wednesday, 8/16/2028	Wednesday, 8/15/2029	Wednesday, 8/14/2030	Wednesday, 8/20/2031	Wednesday, 8/18/2032
Quarter 3 Reserve Sale	Wednesday, 9/29/2027	Wednesday, 9/27/2028	Wednesday, 9/26/2029	Wednesday, 9/25/2030	Tuesday, 9/30/2031	Wednesday, 9/29/2032
Quarter 4 Auction	Wednesday, 11/17/2027	Wednesday, 11/15/2028	Wednesday, 11/14/2029	Wednesday, 11/20/2030	Wednesday, 11/19/2031	Wednesday, 11/17/2032
Quarter 4 Reserve Sale	Wednesday, 12/29/2027	Wednesday, 12/27/2028	Wednesday, 12/26/2029	Tuesday, 12/31/2030	Tuesday, 12/30/2031	Wednesday, 12/29/2032

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Auction	2033	2034	2035	2036	2037	2038
Quarter 1 Auction	Wednesday, 2/16/2033	Wednesday, 2/15/2034	Wednesday, 2/14/2035	Wednesday, 2/20/2036	Wednesday, 2/18/2037	Wednesday, 2/17/2038
Quarter 1 Reserve Sale	Wednesday, 3/30/2033	Wednesday, 3/29/2034	Wednesday, 3/28/2035	Wednesday, 4/2/2036	Wednesday, 4/1/2037	Tuesday, 3/30/2038
Quarter 2 Auction	Wednesday, 5/18/2033	Wednesday, 5/17/2034	Wednesday, 5/16/2035	Wednesday, 5/21/2036	Wednesday, 5/20/2037	Wednesday, 5/19/2038
Quarter 2 Reserve Sale	Wednesday, 6/29/2033	Wednesday, 6/28/2034	Wednesday, 6/27/2035	Wednesday, 6/25/2036	Wednesday, 6/24/2037	Wednesday, 6/30/2038
Quarter 3 Auction	Wednesday, 8/17/2033	Wednesday, 8/16/2034	Wednesday, 8/15/2035	Wednesday, 8/20/2036	Wednesday, 8/19/2037	Wednesday, 8/18/2038
Quarter 3 Reserve Sale	Wednesday, 9/28/2033	Wednesday, 9/27/2034	Wednesday, 9/26/2035	Wednesday, 9/24/2036	Wednesday, 9/23/2037	Wednesday, 9/22/2038
Quarter 4 Auction	Wednesday, 11/16/2033	Wednesday, 11/15/2034	Wednesday, 11/14/2035	Wednesday, 11/19/2036	Wednesday, 11/18/2037	Wednesday, 11/17/2038
Quarter 4 Reserve Sale	Wednesday, 12/28/2033	Wednesday, 12/27/2034	Wednesday, 12/26/2035	Wednesday, 12/31/2036	Wednesday, 12/30/2037	Wednesday, 12/29/2038

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Auction	2039	2040	2041	2042	2043	2044
Quarter 1 Auction	Wednesday, 2/16/2039	Wednesday, 2/15/2040	Wednesday, 2/13/2041	Wednesday, 2/19/2042	Wednesday, 2/18/2043	Wednesday, 2/17/2044
Quarter 1 Reserve Sale	Wednesday, 3/30/2039	Wednesday, 3/28/2040	Wednesday, 4/3/2041	Wednesday, 4/2/2042	Wednesday, 4/1/2043	Wednesday, 3/30/2044
Quarter 2 Auction	Wednesday, 5/18/2039	Wednesday, 5/16/2040	Wednesday, 5/15/2041	Wednesday, 5/21/2042	Wednesday, 5/20/2043	Wednesday, 5/18/2044
Quarter 2 Reserve Sale	Wednesday, 6/29/2039	Wednesday, 6/27/2040	Wednesday, 6/26/2041	Wednesday, 6/25/2042	Wednesday, 6/24/2043	Wednesday, 6/22/2044
Quarter 3 Auction	Wednesday, 8/17/2039	Wednesday, 8/15/2040	Wednesday, 8/14/2041	Wednesday, 8/20/2042	Wednesday, 8/19/2043	Wednesday, 8/17/2044
Quarter 3 Reserve Sale	Wednesday, 9/28/2039	Wednesday, 9/26/2040	Wednesday, 9/25/2041	Wednesday, 9/24/2042	Wednesday, 9/23/2043	Wednesday, 9/28/2044
Quarter 4 Auction	Wednesday, 11/16/2039	Wednesday, 11/14/2040	Wednesday, 11/13/2041	Wednesday, 11/19/2042	Wednesday, 11/18/2043	Wednesday, 11/16/2044
Quarter 4 Reserve Sale	Wednesday, 12/28/2039	Wednesday, 12/26/2040	Tuesday, 12/31/2041	Wednesday, 12/31/2042	Wednesday, 12/30/2043	Wednesday, 12/28/2044

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Auction	2045
Quarter 1 Auction	Wednesday, 2/15/2045
Quarter 1 Reserve Sale	Wednesday, 3/29/2045
Quarter 2 Auction	Wednesday, 5/17/2045
Quarter 2 Reserve Sale	Wednesday, 6/28/2045
Quarter 3 Auction	Wednesday, 8/16/2045
Quarter 3 Reserve Sale	Wednesday, 9/27/2045
Quarter 4 Auction	Wednesday, 11/15/2045
Quarter 4 Reserve Sale	Wednesday, 12/27/2045

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Appendix D Tracking and Auction System User Terms and Conditions

ACCESS AGREEMENT AND TERMS OF USE FOR THE TRACKING AND AUCTION SYSTEMS

SIGN THE BOTTOM OF THE PAGE TO INDICATE YOUR ACCEPTANCE OF THIS AGREEMENT.

The tracking and auction systems mean the web applications defined as “Tracking System” and “Auction System” in the California Cap on Greenhouse Gas Emissions and Market-Based Compliance Mechanisms (Regulation) (Title 17, California Code of Regulations (CCR), Sections 95801 et sq.).

Access to the tracking and auction systems is subject to the terms and conditions set forth in this Access Agreement and Terms of Use (Agreement). You must accept this Agreement in order to access the tracking and auction systems. Violation of this agreement may result in loss of access to the tracking and/or auction systems and, if warranted, civil or criminal prosecution under state, provincial, or federal law.

Suspected violations of this agreement, such as user credential sharing, misrepresentation, or failure to maintain user contact information, may result in the Executive Officer reverifying all documents required pursuant to Section 95834 of the Regulation.

This Agreement is between the State of California, Air Resources Board (CARB) and each registered California user of the tracking and/or auction systems (User). The Agreement sets forth the terms of use of the tracking and auction systems. CARB provides User with access to the tracking and auction system software applications, for registering entities and holding compliance instrument. User understands and agrees that the tracking and auction systems are provided “AS IS” and without any warranty, as set forth below in greater detail.

1. Tracking and Auction Systems Use

    1.1. CARB and WCI, Inc. hereby grant to User, and User hereby accepts, subject to the terms and conditions set forth in this Agreement, a non-exclusive and non-transferable right to access tracking and auction systems via the world-wide-web or the internet at times when the software and servers are available and operating.

    1.2. User further acknowledges that it is not authorized to and may not possess or distribute any or all parts of the tracking and auction system software, including their source codes and program components. User is not authorized to install, run or operate the tracking and auction systems on User's or third-party computers or servers.

1.3. User is solely responsible for ensuring that all information, data, text, or other materials that User provides to CARB or WCI, Inc. through use of the tracking and auction systems (Content) are true, accurate, and complete and comply with CARB's requirements for the compliance with the cap-and-invest program under the Regulation.

1.4. User understands that CARB will retain and use the Content consistent with the applicable Regulation(s) and may disclose Content to the public to the extent the disclosure is required by California law or legal process, or to the extent that disclosure is not prohibited by California law.

1.5. CARB has included (as part of tracking and auction systems) security features such as password protection to prevent a person other than the User from obtaining access through the tracking and auction systems to User's Content. User understands that these security features depend on User protecting its password from disclosure to unauthorized persons. User also understands and acknowledges that despite security measures to prohibit unauthorized access to the Content through the tracking and auction systems, unauthorized access could occur and in the event it does, CARB or WCI, Inc. may not be held liable for the unauthorized release of information, data, text or other materials that have been submitted to CARB using the tracking and auction systems.

1.6. CARB does not endorse or provide support for software or web-based interfaces offered by third parties for purposes of submitting data to CARB. Use of a third-party interface or software product in order to access the tracking and auction systems does not relieve the user of the need to ensure that information required by the applicable Regulation has been properly submitted to CARB and received by the applicable deadline and that all certifications required for use of tracking and auction systems have been submitted.

1.7. User is responsible for maintaining a copy of all data submitted to the tracking and auction systems. The loss of electronic information, data, text, or other materials during use of tracking and auction systems or the unavailability of the tracking and auction systems does not excuse User from the requirements in the applicable Regulation.

2. Tracking and Auction Systems User Agreement

The permission granted in Section 1 above is expressly made subject to and limited by the following restrictions, in addition to the limitations and restrictions set forth in other sections of the Agreement:

2.1. User agrees not to access the tracking and auction systems by any means other than using internet browsers.

2.2. User further agrees that it shall NOT:

a. Deliberately attempt to access any data, documents, email correspondence, or programs contained on systems for which User does not have authorization;

b. Engage in activity that may harass, threaten or abuse others, or intentionally access, create, store or transmit material which may be deemed offensive, indecent or obscene, or that is illegal according to local, state, provincial, or federal law;

c. Engage in activity that may degrade the performance of the tracking and auction systems;

d. Deprive an authorized user access to tracking and auction systems;

e. Obtain extra resources or login privileges beyond those authorized;

f. Circumvent tracking and auction systems security measures;

g. Violate copyright law of copyrighted material;

h. Attempt to disassemble, decompile or reverse engineer the tracking and/or auction systems;

i. Attempt to create derivative works based on the tracking and/or auction systems;

j. Attempt to copy, reproduce, distribute or transfer the tracking or auction systems;

k. Provide access to the tracking or auction systems to any third parties for any improper purpose;

l. Obtain for personal benefit, or engage in political activity, unsolicited advertising, unauthorized fund raising, or solicit performance of any activity that is prohibited by any local, state, or federal law.

2.3. User's right to access the tracking and auction systems automatically terminates upon User's violation of any provisions of this Agreement.

2.4. User further agrees that it will immediately inform CARB or the tracking and auction systems administrator by emailing or calling the Help Desk listed on the Cap-and-Invest Program webpage at https://ww2.arb.ca.gov/our-work/programs/cap-and-trade-program/cap-and-trade-program-contacts if any of the following occurs:

a. User observes any unauthorized access or misuse of the tracking or auction systems;

b. User has any reason to believe that the security of their User ID, password, or security question(s) has been compromised;

c. User has any reason to believe that weaknesses in computer security, such as unexpected software or system behavior, may result in unintentional disclosure of information or exposure to security threats.

2.5. User further agrees that:

a. User will maintain the security of their tracking and auction systems User ID, password, and security questions and answers for use of the tracking and auction systems;

b. User will not disclose their tracking and auction systems User ID, password, and security questions or answers information to anyone other than authorized CARB personnel from the tracking or auction system administrative or market monitoring groups;

c. User will maintain active contact information: a valid email address, phone number, and mailing address listed in the tracking system at which User can receive important notifications of changes related to User's personal information or transfers involving any general account or compliance account that User represents as a Primary Account Representative, Alternate Account Representative, Account Viewing Agent, or other tracking system User;

d. Any submission User makes using the tracking and auction systems has and will have the same legal effect as if it were made in hardcopy form certified by User's handwritten signature.

2.6. If, at any time, User determines it is no longer able or willing to abide by the terms of this Agreement, User shall immediately cease all use of the tracking and auction systems and promptly notify CARB or the tracking and auction systems administrator in writing of its determination so that CARB or the tracking and auction systems administrator may formally suspend or revoke the User's access to the tracking and auction systems.

3. Disclaimer of Warranties

EXCEPT AS REQUIRED BY APPLICABLE LAW, THIS SERVICE IS MADE AVAILABLE ON AN “AS IS” BASIS, WITHOUT WARRANTIES OF ANY KIND. CARB SPECIFICALLY DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE WITH RESPECT TO THE SOFTWARE, OR ANY WARRANTIES REGARDING THE CONTENTS OR ACCURACY OF THE SOFTWARE.

4. Limitation on Liability

4.1. Except to the extent required by applicable law, in no event is CARB or WCI, Inc. liable to User on any legal theory for damages of any kind arising from the use of or the inability to use the tracking and auction systems, even if CARB or WCI, Inc. has been advised of the possibility of such damages. The unavailability of, or problems with the use of the tracking and auction systems, does not excuse User from the reporting and compliance deadlines in the applicable Regulation.

5. Copyright and Proprietary Information

5.1. User shall not permit any person who is not registered as a User to access the tracking and auction systems and shall not copy, reproduce or distribute, or allow any other person to copy, reproduce or distribute, the tracking and auction systems, in whole or in part, without CARB's prior written consent.

6. Term

This Agreement commences upon User's acceptance of this Agreement and access to the tracking and auction systems for the first time. The Agreement shall terminate upon User's written notification to CARB under Section 2.5 of this Agreement or upon other termination or discontinuation of User's access to the tracking and auction systems, except that Sections 3, 4 and 5 survive any termination of this Agreement. CARB reserves the right to terminate this Agreement at any time, subject to the exception that Sections 3, 4 and 5 survive any termination of this Agreement.

7. Governing Law and General Provisions

This Agreement shall be governed by and construed in accordance with the laws of the State of California. The failure of CARB to exercise or enforce any right or provision of this Agreement shall not constitute a waiver of such right or provision. If any provision of this Agreement is found by a court of competent jurisdiction to be invalid, the parties agree that the court should endeavor to give effect to the parties' intentions as reflected in the provisions, and the other provisions of the Agreement remain in full force and effect.

This Agreement is not intended to modify and cannot modify any provision in the applicable regulation. If any part of this Agreement is found to conflict with any provision(s) in the applicable Regulation(s), the applicable Regulation(s) shall control.

This Agreement constitutes the entire agreement between User and CARB with respect to use of the tracking and auction systems. There are no understandings, agreements or representations with respect to the software program that are not specified ins this Agreement.

This Agreement may only be modified in a writing signed by User and the Executive Officer of the CARB.

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Appendix E Offset Project Activities Within the Scope of Regulatory Compliance Evaluation.

For all project types, projects that were not in compliance with requirements regarding occupational health and safety regulations, statutes, or laws, or the timely submittal of periodic reports required by permits, regulations, statutes, or laws, during the reporting period, are still eligible to receive ARB offset credits if the noncompliance has been resolved prior to the submittal of a request for issuance of ARB offset credits pursuant to section 95981. This appendix identifies the specific project activities considered for regulatory compliance by project type.

(a) Projects Using a Compliance Offset Protocol in Section 95973(a)(2)(C)1. All project activities associated with the collection, recovery, storage, transportation, mixing, and destruction of ODS, including the disposal of the associated post-destruction waste products must be in compliance with all requirements that have a bearing on the integrity of the generated offsets.

(b) Projects Using a Compliance Offset Protocol in Section 95973(a)(2)(C)2. All project activities associated with the installation and operation of the biogas control system that captures and destroys the methane must be in compliance with all requirements that have a bearing on the integrity of the generated offsets. Project activities begin at waste collection and end at onsite biogas usage and the disposal of associated digester effluents.

(c) Projects Using a Compliance Offset Protocol in Section 95973(a)(2)(C)3. All project activities associated with tree planting, care, and monitoring must be in compliance with all requirements that have a bearing on the integrity of the generated offsets. In situations where it is unclear if an activity is within the scope of the project as described in the project listing information, ARB will consider the activity within the scope of the project.

(d) Projects Using a Compliance Offset Protocol in Section 95973(a)(2)(C)4. All project activities within the project area that directly affect carbon stocks must be in compliance with all requirements that have a bearing on the integrity of the generated offsets. This includes site preparation, planting, harvesting, and monitoring. Activities external to the project area, such as transportation of logs to mills, mill operations, and landfilling, are outside the project regulatory compliance assessment.

(e) Projects Using a Compliance Offset Protocol in Section 95973(a)(2)(C)5. All project activities associated with the operation of equipment used to collect, treat, transport, or destroy mine gas or ventilation air must be in compliance with all requirements that have a bearing on the integrity of the generated offsets. The scope also includes the drilling and completion of additional wells or boreholes

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that are part of implementing the project. The drilling and completion of wells, boreholes, or vents at active underground mines for the purposes of mine safety is excluded from the project. Installation and operation of mine safety equipment such as a ventilation system at an active underground mine is also excluded from the scope of determining regulatory compliance and the scope of invalidation.

(f) Projects Using a Compliance Offset Protocol in Section 95973(a)(2)(C)6. All project activities beginning at field preparation for planting and continuing until the end of harvesting must be in compliance with all requirements that have a bearing on the integrity of the generated offsets.