Subchapter 10 Climate Change, Article 5, Sections 95800 to 96022, Title 17, California Code of Regulations, to read as follows:

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

**Note:** The pre-existing regulation text is set forth below in normal type. The amendments are shown in underline to indicate additions and strikeout to indicate deletions.

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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-Trade 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:

(1) "Accounts ~~a~~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.

(2) "Activity-~~s~~Shifting ~~l~~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.

(3) "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.

(4) "Adjusted Clinker and Mineral Additives Produced" means annual amount of clinker and mineral additives (limestone and gypsum)

derived by using the following metric: Adjusted clinker and mineral additives produced = clinker produced x (1 + (limestone and gypsum consumed)/clinker consumed)).

~~(4)~~(5) "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.

(6) "Air Dried Ton of Paper" means paper with 6% moisture content.

~~(5)~~(7) "Allowance" means a limited tradable authorization to emit up to one metric ton of carbon dioxide equivalent.

~~(6)~~(8) "Alternate ~~a~~Authorized ~~a~~Account ~~r~~Representative" means the single entity identified during the account application process who may act on behalf of the authorized account representative.

~~(7)~~(9) "Annual ~~a~~Allowance ~~b~~Budget" means the number of California Greenhouse Gas Allowances associated with one year of the California Cap-and-Trade Program in subarticle 6.

(10) "API Gravity" means a scale used to reflect the specific gravity (SG) of a fluid such as crude oil, water, or natural gas. The API gravity is calculated as [(141.5/SG) - 131.5], where SG is the specific gravity of the fluid at 60°F, where API refers to the American Petroleum Institute.

(11) "ARB Offset Credit" means a tradable compliance instrument issued or approved 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.

(12) "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.

~~(8)~~(13) "Asset ~~c~~Controlling ~~s~~Supplier" means any entity that owns or operates electricity generating facilities or serves as an exclusive marketer for certain generating facilities even though it does not own them, and is assigned a supplier-specific identification number and specified source emission factor by ARB for the wholesale electricity procured from its system and imported into California. ~~Asset controlling suppliers include~~ Bonneville Power Administration (BPA) is recognized by ARB as an asset controlling supplier ~~and the two multi-jurisdictional retail providers in California: PacifiCorp and Sierra Pacific Power Company~~.

(14) "Assigned Emissions" or "Assigned Emissions Level" means an amount of emissions, in $CO2_e$, assigned to the reporting entity by the Executive Officer under the requirements of section 95103(g) of MRR.

(15) "Associated Gas" or "Produced Gas" means a natural gas that is produced from gas wells or gas produced in association with the production of crude oil.

~~(9)~~(16) "Auction" means the process of selling California Greenhouse Gas Allowances by offering them up for bid, taking bids, and then distributing the allowances to winning bidders.

~~(10)~~(17) "Auction ~~p~~Purchase ~~l~~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.

~~(11)~~(18) "Auction ~~r~~Reserve ~~p~~Price" means a price for allowances below which bids at auction would not be accepted.

~~(12)~~(19) "Auction ~~s~~Settlement ~~p~~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.

~~(13)~~(20) “Authorized ~~a~~Account ~~r~~Representative” means an entity approved through the application process outlined in 95832 and legally bind each entity that owns compliance instruments held in the account in all matters pertaining to this article.

~~(14)~~(21) “Authorized Project Designee” means an entity authorized by an Offset Project Operator to act on behalf of the Offset Project Operator.

(22) "Aviation Gasoline" means a complex mixture of volatile hydrocarbons, with or without additives, suitably blended to be used in aviation reciprocating engines. Specifications can be found in ASTM Specification D910–07a, Standard Specification for Aviation Gasolines.

~~(15)~~(23) “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.

~~(16)~~(24) “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.

~~(17)~~(25) “Banking” means the holding of compliance instruments from one compliance period for the purpose of sale or surrender in a future compliance period.

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

~~(18)~~(27) “Beneficial Holding” means the holding of a compliance instrument in the holding account by one entity in which another entity has an ownership interest.

~~(19)~~(28) “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:

(A) Registered as a motor vehicle fuel or fuel additive under 40 CFR Part 7~~0~~9;

(B) A mono-alkyl ester;

(C) Meets American Society for Testing and Material designation ASTM D 6751-08 (*Standard Specification for Biodiesel Fuel Blendstock (B100) for Middle Distillate Fuels, 2008*);

(D) Intended for use in engines that are designated to run on conventional diesel fuel; and

(E) Derived from nonpetroleum renewable resources.

(29) "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.

~~(20)~~(30) "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.

~~(21)~~(31) "Biomass-~~d~~Derived ~~f~~Fuels" or "biomass ~~f~~Fuels" or "Biofuels" means fuels derived from biomass.

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

~~(22)~~(33) "Blendstocks" are petroleum products used for blending or compounding into finished motor gasoline. These include RBOB (reformulated blendstock for oxygenate blending) and CBOB (conventional blendstock for oxygenate blending), but exclude oxygenates, butane, and pentanes plus.

~~(23)~~(34) "Budget ~~y~~Year" means the annual allowance budget assigned pursuant to subarticle 6.

~~(24)~~(35) "Business-as-~~u~~Usual ~~s~~Scenario" means the set of conditions reasonably expected to occur within the offset~~s~~ 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.

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

~~(25)~~(37) "Calendar ~~y~~Year" means the time period from January 1 through December 31.

~~(26)~~(38) "California ~~e~~Electricity ~~t~~Transmission and ~~d~~Distribution ~~s~~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.

~~(27)~~(39) "California ~~g~~Greenhouse ~~g~~Gas ~~e~~Emissions ~~a~~Allowance" or "CA GHG Allowance" means an allowance issued by ARB and equal to up to one metric ton of $CO_2$ equivalent.

~~(28)~~(40) "Cap" means the total number of California ~~Greenhouse Gas~~ GHG Allowances that the Executive Officer issues over a given period of time.

(41) "Cap-and-Trade Program" means the requirements of this article.

~~(29)~~(42) “Carbon ~~d~~Dioxide” or “$CO_2$” means the most common of the six primary greenhouse gases, consisting on a molecular level of a single carbon atom and two oxygen atoms.

~~(30)~~(43) “Carbon ~~d~~Dioxide ~~e~~Equivalent" or “$CO_2$ equivalent” or “$CO_2$e” means the number of metric tons of $CO_2$ emissions with the same global warming potential as one metric ton of another greenhouse gas.

~~(31)~~(44) “Carbon ~~s~~Stock” means the quantity of carbon contained in an identified GHG reservoir.

(45) “Carbon Dioxide Supplier” or “$CO_2$ Supplier” means: (a) facilities with production process units that capture a $CO_2$ stream for purposes of supplying $CO_2$ for commercial applications 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 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) Importers or exporters of bulk $CO_2$.

~~(32)~~(46) “Cement” means a building material that is produced by heating mixtures of limestone and other minerals or additives at high temperatures in a rotary kiln to form clinker, followed by cooling and grinding with blended additives. Finished cement is a powder used with water, sand, and gravel to make concrete and mortar.

~~(33)~~(47) “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.

(48) “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.

(49) “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.

~~(34)~~(50) “Combustion ~~e~~Emissions” means greenhouse gas emissions occurring during the exothermic reaction of a fuel with oxygen.

~~(35)~~(51) “Compliance ~~a~~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 triennial compliance obligations.

~~(36)~~(52) “Compliance ~~i~~Instrument” means an allowance, ARB offset credit or sector-based offset credit. Each compliance instrument can be used to fulfill a compliance obligation equivalent to up to one metric ton of $CO_2e$.

~~(37)~~(53) “Compliance ~~o~~Obligation” means the quantity of verified reported emissions or assigned emissions for which a covered entity must submit compliance instruments to ARB.

~~(38)~~(54) “Compliance O~~o~~ffset P~~p~~rotocol” means an offset protocol adopted by the Board.

~~(39)~~(55) “Compliance ~~p~~Period” means the three-year period for which the compliance obligation is calculated for covered entities except for the first compliance period. The compliance obligation for the first compliance period only considers emissions from data years of 2013 and 2014.

~~(40)~~(56) “Conflict of ~~i~~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.

~~(41)~~(57) “Conservative” means, in the context of offsets, utilizing project baseline assumptions, emission factors, and methodologies that are more likely than not to understate net GHG reductions or GHG removal enhancements for an offset project to address uncertainties affecting the calculation or measurement of GHG reductions or GHG removal enhancements.

~~(42)~~(58) “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.

(59) "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.

~~(43)~~(60) “Counterparty” means the opposite party in a bilateral agreement, contract, or transaction.

~~(44)~~(61) “Covered ~~e~~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 2008 or any subsequent year more than the applicable threshold level specified in section 95812 (a) of this rule.

~~(45)~~(62) “Crediting ~~b~~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.

~~(46)~~(63) “Crediting ~~p~~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.

~~(47)~~(64) “Data ~~y~~Year” means the calendar year in which emissions occurred.

~~(48)~~(65) “Deforestation” means direct human-induced conversion of forested land to non-forested land.

~~(49)~~(66) “Delivered ~~e~~Electricity” means electricity that was distributed from a PSE and received by a PSE or electricity that was generated, transmitted and consumed.

~~(50)~~(67) “Diesel ~~f~~Fuel” means Distillate Fuel No. 1 and Distillate Fuel No. 2, including dyed and non-taxed fuels.

(68) “Direct Delivery of Electricity” means electricity that meets any of the following criteria:

(A) The facility has a first point of interconnection with a California balancing authority;

(B) The facility has a first point of interconnection with distribution facilities used to serve end users within a California balancing authority area;

(C) The electricity is scheduled for delivery from the specified source into a California balancing authority without replacement electricity from another source; or

(D) There is an agreement to dynamically transfer electricity from the facility to a California balancing authority.

~~(51)~~(69) “Direct GHG ~~e~~Emission ~~r~~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.

~~(52)~~(70) “Direct GHG ~~r~~Removal ~~e~~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.

~~(53)~~(71) “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).

~~(54)~~(72) “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).

~~(55)~~(73) “Distillate ~~f~~Fuel No. 4” is a distillate fuel oil made by blending distillate fuel oil and residual fuel oil, with a minimum flash point of 131 F.

~~(56)~~(74) “Distillate ~~f~~Fuel ~~o~~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).

(75) "Dolime" is calcined dolomite.

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

(77) “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 $CO_2$e and meets the requirements of section 95990(c).

(78) "Early Action Offset Program" means a program that meets the requirements of section 95990(a) and is approved by ARB.

(79) "Early Action Offset Project" means an offset project that is registered with an Early Action Offset Program and has been issued Early action offset credits.

(80) "Early Action Verification Report" means a verification report submitted to an Early Action Offset Program that covers GHG reductions or GHG removal enhancements achieved by an early action offset project over a specific time period.

(81) "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.

~~(57)~~(82) "Electrical ~~d~~Distribution ~~u~~Utility(ies)" means an Investor Owned Utility (IOU) as defined in the Public Utilities Code sections and 216, 218, or a local publicly owned electric utility (POU) as defined in Public Utilities Code section 224.3, that provides electricity to retail end users in California.

~~(58)~~(83) "Electricity ~~g~~Generating ~~f~~Facility" means a facility that generates electricity ~~whose sole purpose is to generate electricity~~ and includes one or more ~~electricity~~ generating units at the same location. ~~"Electricity generating facility" does not include a cogeneration facility or self-generation.~~

~~(59)~~(84) "Electricity ~~i~~Importers" are marketers and retail providers that hold title to imported electricity. For electricity delivered between balancing authority areas, the entity that holds title to delivered electricity is identified on the NERC E-tag as the purchasing-selling entity (PSE) on 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. 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). When PSEs are not subject to the regulatory authority of ARB~~, including tribal nations,~~ the electricity importer is the immediate downstream purchaser or recipient that is subject to the regulatory authority of ARB.

~~(60)~~(85) “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.

~~(61)~~(86) “Emissions ~~d~~Data ~~r~~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 regulation for the Mandatory Reporting of Greenhouse Gas Emissions~~.

~~(62)~~(87) “Emissions ~~e~~Efficiency ~~b~~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.

~~(63)~~(88) “End ~~u~~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.

~~(64)~~(89) “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.

~~(65)~~(90) “Enterer” means an entity that imports motor vehicle fuel, diesel fuel, fuel ethanol, biodiesel, or an~~y~~ other biomass-derived fuel or renewable fuel and who is the importer of record under federal customs law or the owner of fuel upon import if the fuel is not subject to federal customs law.

~~(66)~~(91) “Entity” means a person, firm, association, organization, partnership, business trust, corporation, limited liability company, company, or government agency.

~~(67)~~(92) “Environmental ~~i~~Impact ~~a~~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.

~~(68)~~(93) “Executive Officer” means the Executive Officer of the California Air Resources Board, or his or her delegate.

~~(69)~~(94) “External ~~g~~Greenhouse ~~g~~Gas ~~e~~Emissions ~~t~~Trading ~~s~~System” or “External GHG ETS” means an administrative system, other than the California Cap-and-Trade Program, that controls greenhouse gas emissions from sources in its program.

~~(70)~~(95) “Facility” 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.

(96) "Fiberglass Glass 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.

~~(71)~~(97) “First ~~d~~Deliverer of ~~e~~Electricity” means ~~either~~ the ~~owner or~~ operator of an electricity generating facility in California or an electricity importer.

~~(72)~~(98) “Flash ~~p~~Point” of a volatile liquid is the lowest temperature at which it can vaporize to form an ignitable mixture in air.

(99) "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.

~~(73)~~(100) “Fluorinated ~~g~~Greenhouse ~~g~~Gas” means sulfur hexafluoride (SF6), nitrogen trifluoride (NF3), and any fluorocarbon except for controlled substances as defined at 40 CFR Part 82, 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.

(101) “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.

~~(74)~~(102) “Forest B~~b~~uffer A~~a~~ccount” means a holding account for ~~forest~~ 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.

~~(75)~~(103) “Forest Owner” means the owner of any interest in the property involved in a forest offset project~~, but does not include the holder of a conservation easement~~. Generally, a ~~f~~Forest ~~o~~Owner is the owner in

fee of the 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 property are collectively considered the ~~f~~Forest ~~o~~Owners, however, a single Forest Owner must be identified as the Offset Project Operator. All ~~f~~Forest ~~o~~Owner(s) are ultimately responsible for all commitments associated with a forest offset project.

~~(76)~~(104) "Fossil ~~f~~Fuel" means natural gas, petroleum, coal, or any form of solid, liquid, or gaseous fuel derived from such material~~, including for example, consumer products that are derived from such materials and are combusted~~ for the purpose of creating useful heat.

~~(77)~~(105) "Fractionates" means the process of separating natural gas liquids into their constituent liquid products.

~~(78)~~(106) "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.

~~(79)~~(107) "Fuel ~~a~~Analytical ~~d~~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.

~~(80)~~(108) "Fuel supplier" means a supplier of petroleum products, a supplier of biomass-derived transportation fuels, a supplier of natural gas, or a supplier of liquid petroleum gas as specified in MRR.

~~(81)~~(109) "Fugitive ~~e~~Emissions" means those emissions which are unintentional and could not reasonably pass through a stack, chimney, vent, or other functionally-equivalent opening.

(110) "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.

~~(82)~~(111) “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.

(112) "Gaseous Hydrogen" means hydrogen in a gaseous state.

(113) “Geologic Sequestration” means the process of injecting $CO_2$ captured from an emissions source into deep subsurface rock formations for long-term storage.

~~(83)~~(114) “Global ~~w~~Warming ~~p~~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., $CO_2$.

~~(84)~~(115) “Greenhouse ~~g~~Gas” or “GHG” means carbon dioxide ($CO_2$), methane ($CH_4$), nitrous oxide ($N_2O$), sulfur hexafluoride ($SF_6$), hydrofluorocarbons (HFCs), perfluorocarbons (PFCs), ~~hydrocarbons,~~ and other fluorinated greenhouse gases as defined in this section.

~~(85)~~(116) “Greenhouse Gas ~~e~~Emission ~~r~~Reduction” or “GHG ~~e~~Emission ~~r~~Reduction” or “~~g~~Greenhouse ~~g~~Gas ~~r~~Reduction” or “GHG ~~r~~Reduction” means a calculated decrease in GHG emissions relative to a project baseline over a specified period of time.

~~(86)~~(117) “Greenhouse Gas ~~e~~Emissions ~~s~~Source” or “GHG ~~e~~Emissions ~~s~~Source” means, in the context of offset credits, any type of emitting activity that releases greenhouse gases into the atmosphere.

~~(87)~~(118) “Greenhouse Gas ~~r~~Removal” or “GHG ~~r~~Removal” means the calculated total mass of a GHG removed from the atmosphere over a specified period of time.

~~(88)~~(119) “Greenhouse Gas ~~r~~Removal ~~e~~Enhancement” or “GHG ~~r~~Removal ~~e~~Enhancement” means a calculated increase in GHG removals relative to a project baseline.

~~(89)~~(120) “Greenhouse Gas ~~r~~Reservoir” or “GHG ~~r~~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.

~~(90)~~(121) “Greenhouse ~~g~~Gas ~~s~~Sink” or “GHG ~~s~~Sink” means a physical unit or process that removes a GHG from the atmosphere.

~~(91)~~(122) “HD-5” or “Special Duty Propane” ~~means a consumer grade of liquefied petroleum gas that contains a minimum of 90% propane, and a maximum of 5% propylene and 5% butanes and ethane.~~ has the same meaning as contained in MRR.

~~(92)~~(123) “HD-10” ~~means liquefied petroleum gas with no more than 10% propylene.~~ has the same meaning as contained in MRR.

(124) "Heavy Crude Oil" means a category of crude oil characterized by relatively high viscosity, a higher carbon-to-hydrogen ratio, and a relatively higher density having an API gravity of less than 20.

~~(93)~~(125) “Hold” in the context of a ~~California~~ compliance instrument, is to have the serial number assigned to that instrument registered into a holding account.

(126) "Horsepower Tested" means the total horsepower of all turbine and generator set units tested prior to sale. For the purposes of this definition, multiple tests of the same unit will be additive.

(127) "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.

~~(94)~~(128) “Hydrocarbon” means a chemical compound containing predominantly carbon and hydrogen.

~~(95)~~(129) “Hydrofluorocarbon” or “HFC” means a class of GHGs consisting of hydrogen, fluorine, and carbon.

~~(96)~~(130) “Hydrogen” means the lightest of all gases, occurring chiefly in combination with oxygen in water; it exists also in acids, bases, alcohols, petroleum, and other hydrocarbons.

~~(97)~~(131) “Imported electricity” means electricity generated outside the state of California and delivered to serve load inside California. Imported electricity includes electricity delivered from a point of receipt located outside the state of California, to the first point of delivery 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 California over a balancing authority’s transmission and distribution system. Imported electricity includes electricity that is a result of cogeneration outside of California. Imported electricity does not include electricity wheeled through California, which is electricity that is delivered into California with final point of delivery outside California.

~~(98)~~(132) “Initial ~~c~~Crediting ~~p~~Period” means the crediting period that begins with the date that the first GHG emission reductions or GHG removal enhancements took place according to the first Positive O~~o~~ffset or Qualified Positive Offset V~~v~~erification S~~s~~tatement that is received by ARB.

~~(99)~~(133) “Intentional ~~r~~Reversal” means 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~~area~~.

~~(100)~~(134) "Intrastate ~~p~~Pipeline" means any pipeline wholly within the state of California that is not regulated as a public utility gas corporation by the California Public Utility Commission (CPUC), not a publicly owned

natural gas utility and is not regulated as an interstate pipeline by the Federal Energy Regulatory Commission.

~~(101)~~(135) “Interstate ~~p~~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.

~~(102)~~(136) “Inventory ~~p~~Position” means a contractual agreement with the terminal operator for the use of the storage facilities and terminaling services for the fuel.

~~(103)~~(137) “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 in an entity’s holding account.

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

~~(104)~~(139) “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.

(140) "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 ℉ at the 10 percent recovery point and a final maximum boiling point of 572 ℉. Included are Jet A, Jet A–1, JP–5, and JP–8.

~~(105)~~(141) “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.

~~(106)~~(142) “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 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) ~~(e)(2)(C)(xviii)~~.

(143) “Less Intensive Verification” means, for the purposes of this article, the offset verification services provided in interim years between full 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.

(144) "Light Crude Oil" means a category of crude oil characterized by relatively low viscosity, a lower carbon-to-hydrogen ratio, and a relatively lower density having an API gravity of greater than or equal to 20.

~~(107)~~(145) “Limited Use Holding Account” means an account in which allowances are placed ~~when~~ after an entity qualifies for a direct allocation under section 95890(b). Allowances placed in this account can only be removed for consignment to the auction pursuant to section 95831(a)(3).

~~(108)~~(146) “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.

(147) "Liquefied Hydrogen" means hydrogen in a liquid state.

~~(109)~~(148) “Liquefied Petroleum Gas” or “LPG” means a flammable mixture of hydrocarbon gases used as a fuel. LPG ~~can be~~ is primarily mixtures of ~~primarily~~ propane, ~~primarily~~ butane, propene (propylene) and ethane. The most common specification categories are ~~or mixtures of propane or butane.~~ ~~LPG includes~~ 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 ~~LGP, GLP, LP-Gas, and~~ propane.

~~(110)~~(149) “Listed Industrial Sector” means covered industrial sectors that are eligible for industry assistance specified in Table 8-1 of subarticle 8.

(150) "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.

~~(111)~~(151) “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).

~~(112)~~(152) “Market ~~i~~Index” means any published index of quantities or prices based on results of market transactions.

~~(113)~~(153) “Marketer” means a purchasing-selling entity that takes title to wholesale electricity and is not a retail provider.

~~(114)~~(154) “Market-~~s~~Shifting ~~l~~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.

~~(115)~~(155) “Methane” or “$CH_4$” means a GHG consisting on the molecular level of a single carbon atom and four hydrogen atoms.

~~(116)~~(156) “Metric Ton” or “MT” means a common international measurement for mass, equivalent to 2,204.6 pounds or 1.1 short tons.

(157) "Mixed Crude Oil" means a mix of both heavy and light crude oil.

~~(117)~~(158) “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.

(159) "Motor Gasoline (finished)" has the same definition as MRR.

~~(118)~~(160) “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.

~~(119)~~(161) “Municipal ~~s~~Solid ~~w~~Waste” or “MSW” means solid phase household, commercial/retail, and/or institutional waste.~~, such as yard waste and refuse.~~ 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.

~~(120)~~(162) “Natural ~~g~~Gas” means a naturally occurring mixture 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.

~~(121)~~(163) “Natural ~~g~~Gas ~~l~~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 ~~at lease separators and field facilities~~. Generally, such liquids consist of ethane, propane, butanes, and pentanes plus. ~~“~~Bulk NGLs~~”~~ refers to mixtures of NGLs that are sold or delivered as undifferentiated product from natural gas processing plants.

~~(122)~~(164) “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.

(165) "Nitric Acid" means $HNO_3$ of 100% purity.

~~(123)~~(166) “Notice of Delegation” means a formal notice used to delegate authority to make an electronic submission to the accounts administrator.

~~(124) "Offset Credit" means a tradable compliance instrument issued or approved by ARB that represents a GHG reduction or GHG removal enhancement of one metric ton of $CO_2$e. The GHG reduction or GHG removal enhancement must be real, additional, quantifiable, permanent, verifiable, and enforceable.~~

~~(125)~~(167) "Offset ~~m~~Material ~~m~~Misstatement" means a~~n error~~ discrepancy, omission, or 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~~%~~ percent. ~~Errors~~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.

~~(126)~~(168) "Offset ~~p~~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.

~~(127)~~(169) "Offset ~~p~~Project ~~b~~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.

~~(128)~~(170) "Offset ~~p~~Project ~~c~~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~~, the date of the beginning of construction, work,~~

~~or installation~~. 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.

~~(129)~~(171) "Offset Project Data Report" means the report prepared by an Offset Project Operator or Authorized Project Designee each year that provides the information and documentation required by this article or a ~~c~~Compliance ~~o~~Offset ~~p~~Protocol.

~~(130)~~(172) "Offset Project Operator" means the entity(ies) with legal authority to implement the offset project.

~~(131)~~(173) "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, and facilitates verification of Offset Project Data Reports for offset projects being implemented using a Compliance Offset Protocol.

~~(132)~~(174) "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.

~~(133)~~(175) "Offset ~~v~~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 calculation and reporting ~~GHG~~ project baseline emissions, project emissions, GHG reductions, ~~or~~ and GHG removal enhancements.

~~(134)~~(176) "Offset ~~v~~Verification ~~s~~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.

~~(135)~~(177) "Offset ~~v~~Verification ~~s~~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.

~~(136)~~(178) "Offset ~~v~~Verification ~~t~~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.

~~(137)~~(179) "Operational control" for a facility subject to this article means the authority to introduce and implement operating, environmental, health, and safety policies. In any circumstance where this authority is shared among multiple entities, the entity holding 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.

~~(138)~~(180) "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.

~~(139)~~(181) "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-Trade Program and be willing to be subject to the requirements set forth in this article.

(182) "Other Biomass $CO_2$" means biomass $CO_2$ emissions that will be required to hold a compliance obligation.

~~(140)~~(183) "Oxidation" means a reaction in which the atoms in an element lose electrons and the valence of the element is correspondingly increased.

~~(141)~~(184) "Ozone Depleting Substances" or "ODS" means a compound that contributes to stratospheric ozone depletion.

~~(142)~~(185) "Perfluorocarbons" or "PFCs" means a class of greenhouse gases consisting on the molecular level of carbon and fluorine.

~~(143)~~(186) "Permanent" means, in the context of offset credits, either that GHG reductions or GHG removal enhancements are not reversible, or when GHG reductions or GHG removal enhancements may be reversible, that mechanisms are in place to replace any reversed GHG emission reductions or GHG removal enhancements to ensure that all credited reductions endure for a period that is comparable to the atmospheric lifetime of an anthropogenic $CO_2$ emission.

~~(144)~~(187) "Permanent Retirement Registry" means the publicly available registry in which the Executive Officer will record the serial numbers of the retired compliance instruments.

~~(145)~~(188) "Petroleum" means oil removed from the earth and the oil derived from tar sands, and/or shale.

~~(146)~~(189) "Petroleum ~~r~~Refinery" or "~~r~~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.

(190) "Pickled Steel Sheet" means hot rolled steel sheet that is sent through a series of hydrochloric acid baths that remove the oxides.

(191) “Pipeline Quality Natural Gas” means natural gas having a high heat value greater than 970 Btu/scf and equal to or less than 1,100 Btu/scf, and which is at least ninety percent (90%) methane by volume, and which is less than five percent (5%) carbon dioxide by volume.

(192) "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.

(193) "Plasterboard" is a panel made of gypsum plaster pressed between two thick sheets of paper.

~~(147)~~(194) “Point of ~~d~~Delivery” 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.

~~(148)~~(195) “Point of ~~r~~Receipt” 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.

~~(149)~~(196) “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:

(A) The equipment is attached to a foundation;

(B) The equipment or a replacement resides at the same location for more than 12 consecutive months;

(C) 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

(D) The equipment is moved from one location to another in an attempt to circumvent the portable residence time requirements of this definition.

~~(150)~~(197) "Position ~~h~~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.

(198) "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 emissions data in the submitted emissions data report is free of material misstatement and that the emissions data conforms to the requirements of MRR.

(199) "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 product data in the submitted emissions data report is free of material misstatement and that the product data conforms to the requirements of MRR.

~~(151)~~(200) "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.

~~(152)~~(201) "Power" means electricity, except where the context makes clear that another meaning is intended.

(202) "Primary Refinery Products" means aviation gasoline, motor gasoline, kerosene-type jet fuel, distillate fuel oil, renewable liquid fuels, and asphalt. For the purpose of calculating this value for each refinery ARB will convert blendstocks into their finished fuel volumes by multiplying blendstocks by an assumed blending ratio.

~~(153)~~(203) “Proceeds” means monies generated as a result of an auction or from the Allowance Price Containment Reserve.

~~(154)~~(204) “Process” means the intentional or unintentional reactions between substances or their transformation, including the chemical or electrolytic reduction of~~r~~ metal ores, the thermal decomposition of substances, and the formation of substances for use as product or feedstock.

~~(155)~~(205) “Process ~~e~~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.

(206) “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.

~~(156)~~(207) “Producer” means a person who owns leases, operates, controls, or supervises a California production facility.

(208) “Product data verification statement” means the final statement rendered by a verification body attesting whether a reporting entity’s product data in their emissions data report is free of material

misstatement, and whether the product data conforms to the requirements of the MRR.

~~(157)~~(209) "Professional ~~j~~Judgment" means the ability to render sound decisions based on professional qualifications and relevant greenhouse gas accounting and auditing experience.

~~(158)~~(210) "Project ~~b~~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.

~~(159)~~(211) "Project ~~e~~Emissions" means any GHG emissions associated with the implementation of an offset project that must be accounted for in the Offset Project Data Report.

~~(160)~~(212) "Propane" is a paraffinic hydrocarbon with molecular formula $C_3H_8$.

~~(161)~~(213) "Property ~~r~~Right" means any type of right to specific property whether it is personal or real property, tangible or intangible.

~~(162)~~(214) "Public ~~u~~Utility ~~g~~Gas ~~c~~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.

~~(163)~~(215) "Publicly ~~o~~Owned ~~n~~Natural ~~g~~Gas ~~u~~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.

~~(164)~~(216) "Purchase ~~l~~Limit" means the maximum percentage of allowances that may be purchased by an entity of a group of affiliated entities at an allowance auction.

~~(165)~~(217) "Purchasing-~~s~~Selling ~~e~~Entity" or "PSE" means the functional entity that purchases or sells, and takes title to, energy, capacity, and reliability-related services. A PSE is identified on a NERC E-tag for each physical path segment.

(218) "Qualified Export" means emissions associated with electricity that is exported in the same hour as imported electricity and documented by NERC E-tags. Only electricity exported within the same hour and by the same PSE as the imported electricity is a qualified export. It is not necessary for the imported and exported electricity to enter or leave California at the same intertie. Emissions associated with qualified exports may be subtracted from the associated imports. Qualified exports shall not result in a negative compliance obligation for any hour.

~~(166)~~(219) "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 the quantification, monitoring, or metering requirements of this article and applicable Compliance Offset Protocol which do not result in an offset material misstatement.

~~(167)~~(220) "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 emissions data in the submitted emissions data report is free of material misstatement, but the emissions data may include one or more nonconformance(s) with requirements of MRR which do not result in a material misstatement.

(221) "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 product data in the submitted emissions data report is free of material misstatement, but the product data may include one or more nonconformance(s) with the requirements of MRR which do not result in a material misstatement.

~~(168)~~(222) “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.

~~(169)~~(223) “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.

~~(170)~~(224) “Rack” means a mechanism for delivering motor vehicle fuel or diesel from a refinery or terminal into a truck, trailer, railroad car, or other means of non-bulk transfer.

~~(171)~~(225) “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.

~~(172)~~(226) “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.

~~(173)~~(227) “Reasonable ~~a~~Assurance” means a high degree of confidence that submitted data and statements are valid.

(228) "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.

(229) "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.

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

~~(174)~~(231) "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.

~~(175)~~(232) "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).

~~(176)~~(233) "Register" in the context of a compliance instrument means the act of entering the serial number of a compliance instrument into an account.

~~(177)~~(234) "Registrant" or "Registered Entity" means ~~refers to~~ an entity that has completed the process for registration.

(235) "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.

~~(178)~~(236) "Registry Services" means all services provided by an ARB approved Offset Project Registry in section 95987.

(237) "Replacement Electricity" means electricity delivered to a first point of delivery in California to replace electricity from variable renewable

resources in order to meet hourly load requirements. The electricity generated by the variable renewable energy facility and purchased by the first deliverer is not required to meet direct delivery requirements. The physical location of the variable renewable energy facility busbar and the first point of receipt on the NERC E-tag for the replacement electricity must be located in the same Balancing Authority Area.

~~(179)~~(238) “Renewable ~~e~~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.

(239) “Renewable Energy Credit” or “REC” means a certificate of proof, issued through the accounting system established by the California Energy Commission pursuant to Public Utilities Code Section 399.13, that one megawatt hour of electricity was generated and delivered by an eligible renewable energy resource. As specified in Public Utilities Code Section 399.12, Subdivision (g)(2), a REC includes all renewable and environmental attributes associated with the production of electricity from an eligible renewable energy resource, except for an emissions reduction credit issued pursuant to Section 40709 of the Health and Safety Code and any credits or payments associated with the reduction of solid waste and treatment benefits created by the utilization of biomass or biogas fuels.

(240) "Renewable Liquid Fuels" means fuel ethanol, biomass-based diesel fuel, other renewable diesel fuel and other renewable fuels.

(241) “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. 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 and all reporting periods in any renewed crediting period must consist of 12 consecutive months.

~~(180)~~(242) "Reporting ~~y~~Year" means data year.

~~(181)~~(243) "Reserve ~~p~~Price" see "Auction reserve price."

~~(182)~~(244) "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.

(245) "Resource Shuffling" means any plan, scheme, or artifice to receive credit based on emissions reductions that have not occurred, involving the delivery of electricity to the California grid, for which:

(A) An emission factor below the default emission factor is reported pursuant to MRR for a generation source that has not historically served California load (excluding new or expanded capacity). And, during the same interval(s), electricity with higher emissions was delivered to serve load located outside California and in a jurisdiction that is not linked with California's Cap-and-Trade Program; or

(B) The default emission factor or a lower emissions factor is reported pursuant to MRR, for electricity that replaces electricity with an emissions factor higher than the default emission factor that previously served load in California; except when the replaced electricity no longer serves Californa load as a result of compliance with the Emission Performance Standards adopted by the California Energy Commission and the California Public Utilities Commission pursuant to Senate Bill 1368 (Perata, Chapter 598, Statutes of 2006).

~~(183)~~(246) "Retail ~~p~~Provider" means an entity that provides electricity to retail end users in California and is an electric 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.

~~(184)~~(247) "Retire" or "~~r~~Retired" or "~~r~~Retirement" means that the serial number for a compliance instrument is registered into the Retirement Compliance Account. Compliance instruments registered into this account cannot be used for further compliance.

~~(185)~~(248) "Reversal" means a GHG emission reduction or GHG removal enhancement for which ~~ARB has issued~~ an ARB offset credit or registry offset credit has been issued that is subsequently released or emitted back into the atmosphere due to any intentional or unintentional circumstance.

~~(186)~~(249) "Sector" or "~~s~~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.

~~(187)~~(250) "Sector-Based ~~c~~Crediting ~~p~~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.

~~(188)~~(251) "Sector-based ~~o~~Offset ~~c~~Credit" means a credit issued from a sector-based crediting program once the crediting baseline for a sector has been reached.

~~(189)~~(252) "Self-Generation of ~~e~~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.

~~(190)~~(253) “Serial ~~n~~Number” means a unique number assigned to each compliance instrument for identification.

~~(191)~~(254) “Sequestration” means the removal and storage of carbon from the atmosphere in GHG sinks or GHG reservoirs through physical or biological processes.

(255) "Soda Ash Equivalent" means the total mass of all soda ash, biocarb,borax, V-Bor, DECA, PYROBOR, Boric Acid, and Sulfate produced.

(256) "Solomon Energy Intensity Index®" means a proprietary energy efficiency index that adjusts for a refinery's complexity. This value is reported to, and validated by, Solomon Associates.

~~(192)~~(257) “Source” means greenhouse gas source; any physical unit, process, or other use or activity that releases a greenhouse gas into the atmosphere.

~~(193)~~(258) “Specified ~~s~~Source of ~~e~~Electricity” or “Specified ~~s~~Source” means a facility or unit which is permitted to be claimed as the source of imported electricity delivered by an electricity importer. The electricity importer must have either full or partial ownership in the facility/unit or a written contract 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.

~~(194)~~(259) “Standing ~~l~~Live ~~c~~Carbon ~~s~~Stocks” means the above ground carbon in live tree biomass. Live trees include the bole, stem, branches, roots, and leaves or needles.

~~(195)~~(260) “Stationary” means neither portable nor self-propelled, and operated at a single facility.

(261) "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.

~~(196)~~(262) “Supplier” means a producer, importer, or exporter of a fossil fuel or an industrial greenhouse gas.

~~(197)~~(263) “Terminal” means a motor vehicle fuel or diesel fuel storage and distribution facility that is supplied by pipeline or vessel, and from which motor vehicle fuel may be removed at a rack. “Terminal” includes a fuel production facility where motor vehicle fuel is produced and stored and from which motor vehicle fuel may be removed at a rack.

(264) "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.

(265) "Through Air Dried Tissue" means tissue paper manufactured using the through air drying (TAD) process. TAD involves passing hot air or gas through a porous material in order to evaporate the water in the sheet. TAD is differentiated from other conventional tissue papermaking technologies such as light dry crepe or heavy wet crepe.

(266) “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 chromium, metallic and oxide. Tin plate is used primarily in can making.

(267) “Tolling Agreement” means an agreement whereby a party rents a power plant from the owner. The rent is generally in the form of a fixed monthly payment plus a charge for every MW generated, generally referred to as a variable payment.

~~(198)~~(268) “Transfer” of a compliance instrument means the removal of the serial number of a compliance instrument from one account and placement into another account.

~~(199)~~(269) “Tribe” means a federally-recognized Indian tribe. ~~“Tribal Nation” means those Native American tribes in the United States and listed in the Federal Register.~~

~~(200)~~(270) “Unintentional ~~r~~Reversal” means any reversal, including wildfires or disease that is not the result of the forest owner’s negligence, gross negligence, or willful intent.

~~(201)~~(271) “Unspecified ~~s~~Source of ~~e~~Electricity” or “~~u~~Unspecified ~~s~~Source” means electricity generation that cannot be matched to a specific electricity generating facility or electricity generating unit or matched to an asset-controlling supplier recognized by ARB. Unspecified sources contribute to the bulk system power pool and typically are dispatchable, marginal resources that do not serve baseload.

~~(202)~~(272) “Vented ~~e~~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).

~~(203)~~(273) “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.

~~(204)~~(274) “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.

(275) “Verification statement” means the final statement rendered by a verification body attesting whether a reporting entity’s emissions data report is free of material misstatement, and whether the emissions data report it conforms to the requirements of this article. This applies to either the emissions data verification statement or the product data verification statement

~~(205)~~(276) “Verifier” means an individual accredited by ARB to carry out offset verification services as specified in sections 95977.1 and 95977.2.

~~(206)~~(277) "Vintage ~~y~~Year" means the budget year to which an individual Californian GHG allowance is assigned pursuant to subarticle 6.

~~(207)~~(278) "Voluntarily Associated Entity" 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. ~~The cap-and-trade program~~.

(279) "Voluntary Renewable Electricity Generator" means any entity that produces renewable electricity that will not sell or use that renewable electricity to meet any mandatory or voluntary renewable electricity requirements in California or any other jurisdiction.

(280) "Voluntary Renewable Energy" means the voluntary purchase of renewable energy or renewable energy credits from a renewable energy generator that meets the requirements set forth by the California Energy Commission for the Renewable Portfolio Standard. The renewable energy or renewable energy credits may not be used to meet any voluntary or statutory requirement within California, or any other state or jurisdiction.

(b) For the purposes of sections 95801 through 96022, the following acronyms apply:

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

(2) "ARB" means the California Air Resources Board.

(3) "BAU" means business as usual.

(4) "BPA" means Bonneville Power Administration.

(5) "CAR" means Climate Action Reserve.

(6) "CEC" means California Energy Commission.

(7) "CFR" means Code of Federal Regulations.

(8) "$CH_4$" means methane.

(9) "$CO_2$" means carbon dioxide.

(10) "$CO_2e$" means carbon dioxide equivalent.

(11) “CRT” means Climate Reserve Tonne.

(12) “DWR” means California Department of Water Resources.

(13) “F” means Fahrenheit.

(14) “GHG" means greenhouse gas.

(15) “GHG ETS” means greenhouse gas emissions trading system.

(16) “GWP” means global warming potential.

(17) “HFC” means hydrofluorocarbon.

(18) “LPG” means liquefied petroleum gas.

(19) “MMBtu” means one million British thermal units.

(20) “MRR” means the Air Resources Board’s Regulation for the Mandatory Reporting of Greenhouse Gas Emissions.

(21) “Mscf” means one thousand ~~million~~ standard cubic feet.

(22) “MWh” means megawatt-hour.

(23) “MT” means metric tons.

(24) “NAICS” means North American Industry Classification System.

(25) “NGLs” means natural gas liquids.

(26) “NERC” means North American Electric Reliability Corporation.

(27) “$N_2O$” means “nitrous oxide.”

(28) “PFC” means perfluorocarbon.

(29) “PSE” means purchasing-selling entity.

(30) “PUC” means the Public Utilities Code.

(31) “REC” means Renewable Energy Credit.

(32) “REDD” means reducing emissions from deforestation and degradation.

~~(33) “SAR” means the Intergovernmental Panel on Climate Change’s Second Assessment Report.~~

(33) “SCF” means standard cubic foot.

(34) “$SF_6$” means sulfur hexafluoride.

(35) “WAPA” means Western Area Power Administration.

~~(36) “WCI” means Western Climate Initiative.~~

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.

**Subarticle 3: Applicability**

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

**§ 95810. Covered Gases**

This article applies to the following greenhouse gases: carbon dioxide ($CO_2$), methane ($CH_4$), nitrous oxide ($N_2O$), sulfur hexafluoride ($SF_6$), hydrofluorocarbons (HFCs), perfluorocarbons (PFCs), nitrogen trifluoride ($NF_3$), and other fluorinated greenhouse gases.

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.

**§ 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) Lime manufacturing;

(7) Nitric acid production;

(8) Oil and natural gas systems;

(9) Petroleum refining;

(10) Pulp and paper manufacturing;

(11) Self-generation of electricity; or

(12) 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:

(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 liquid petroleum gas in California;

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

(3) A consignee of liquefied petroleum gas into California.

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

(g) ~~Suppliers of c~~Carbon dioxide ~~(CO2)~~ suppliers.

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. Reported ~~or reported~~ and verified annual emissions ~~could~~ must be ~~either~~ reported and verified pursuant to sections 95100 through 95133 of MRR ~~ARB Regulation for the Mandatory Reporting of Greenhouse Gas Emissions. or U.S. Environmental Protection Agency (EPA) Final Rule on Mandatory Reporting of Greenhouse Gases~~.

(b) If an entity's ~~aggregated,~~ reported~~,~~ or reported and verified annual emissions in any data year from 2008 to 2010 from the categories specified in section 95851(a) equal or exceed the thresholds identified below, that entity is classified as a covered entity as of January 1, 201~~2~~3 and for all future years until any requirement set forth in section 95812(e) 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.

(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.

(B) Electricity importers of specified sources of electricity. The applicability threshold for an electricity importer from specified sources is based on the annual emissions of the electricity generating facility from which the imported electricity originated. The applicability threshold for an electricity importer from a specified source which emits 25,000 metric tons or more of $CO_2e$ per year is zero metric tons.

(C) Electricity importers of unspecified sources of electricity. The applicability threshold for electricity delivered from unspecified sources is zero MWhs.

(3) Carbon Dioxide Suppliers. The applicability threshold for a carbon dioxide supplier is 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 supply for commercial applications or that it extracts or produces in order to utilize for geologic sequestration. The applicability threshold is 25,000 metric tons or more of $CO_2$e per year.

(4) Oil and Gas Production. The applicability threshold of oil and gas producers will be determined at the operating entity listed on the state well drilling permit or operating permit in accordance with section 95151(a)(1) of MRR. The applicability threshold for oil and gas producers is 25,000 metric tons or more of $CO_2$e per data year.

~~(c) The threshold for a carbon dioxide supplier is based on the sum of its imported and exported carbon dioxide into/out of California. The threshold is 25,000 metric tons of $CO_2$e per year.~~

(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) and (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 any requirement set forth in section 95812(e) is met.

(1) Fuel Suppliers. The threshold for a fuel supplier is 25,000 metric tons or more of $CO_2$e annually from the emissions of GHG that would result from full combustion or oxidation of the quantities of the fuels, identified in section 95811(c) through (f), which ~~that~~ are imported and/or delivered to California.

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

(e) Effect of Reduced Emissions on an Entity's Compliance Obligation. A covered entity continues to have a compliance obligation for each data year of a compliance period, until the ~~following~~ subsequent compliance period after one of the following conditions occurs:

(1) Annual reports demonstrate GHG emissions less than 25,000 metric tons of $CO_2e$ per year during one entire compliance period; or

(2) A covered entity has ceased reporting and shuts down all processes, units, and supply operations subject to reporting, and has followed the requirements of section 95101(h) of MRR.~~in which case an emissions data report must be submitted for the year in which a facility or supplier's GHG-emitting processes and operations ceased to operate and for the first full year of non-operation following a permanent shutdown.~~

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-Trade Program.

(b) An entity that voluntarily elects to participate in this program under this section must submit its request to the Executive Officer for approval pursuant to ~~subarticle 5,~~ section 95830(c). The Executive Officer shall evaluate such applications and designate approved applicants as opt-in covered entities.

(c) An opt-in covered entity is subject to all reporting, verification, enforcement, and compliance obligations that apply to covered entities.

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

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

(f) Opting out. After 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 for approval pursuant to subarticle 5.

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). <u>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. The following entities may qualify as voluntarily associated entities:</u>

~~(1) 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.~~

~~(2) The following entities may qualify as voluntarily associated entities:~~

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

~~(B) An entity operating an offset project that is registered with ARB pursuant to subarticle 13.~~

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

(2) An entity operating an offset project or early action offset project that is registered with ARB pursuant to subarticle 13 or 14; or

(3) 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 California Cap-and-Trade 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)).

(b) Other Registered Participants.

(1) The following entities do not qualify to hold compliance instruments but may qualify as a Registered Participant ~~to serve in the following functions~~:

(A) A verifier pursuant to section 95978;

(B) A verification body pursuant to section 95978;

(C) Offset Project Registries; or

(D) ~~Other third-party registrants~~Early Action Offset Programs approved pursuant to subarticle 14.

(2) To qualify as a Registered Participant the entity must obtain registration approval from the Executive Officer pursuant to section 95830-(c).

(c) A registered entity that has had its holding account revoked pursuant to section 95831(b) may not hold compliance instruments or register with the accounts administrator in the Cap-and-Trade Program in any capacity.

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.

## 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) ~~Within 15 days of the effective date of this article t~~The Executive Officer shall place these allowances into a holding account under the control of the Executive Officer pursuant to section 95831(c).

(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 95~~995~~854.

(c) Each compliance instrument issued by the Executive Officer represents a limited authorization to emit up to one metric ton in $CO_2$e 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.

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 o~~O~~ffset credits ~~recognized~~ issued for purposes of early action pursuant to section 95990; ~~and~~

(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~~995~~.

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.

## Subarticle 5: Registration and Accounts

### § 95830. Registration with ARB

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

(b) An entity cannot hold a~~n ARB-issued~~ compliance instruments until the Executive Officer approves the entity's registration with ARB ~~or the entity is registered with an external program approved by ARB pursuant to subarticles 12 or 14~~.

(c) Requirements for Registration.

(1) An entity must complete an application that contains the following information:

(A) Name and type of organization;

(B) Statement of basis for qualifying for registration pursuant to sections 95811, 95813, or 95814;

(C) Identification of all other entities registered pursuant to this subarticle with whom the entity has a direct or indirect corporate association pursuant to section 95833~~95914~~, and a brief description of the association;

(D) Identification of all entities registered pursuant to this subarticle for whose benefit the entity holds compliance instruments pursuant to section 95834; and

(E) Applicants may be denied registration based on (i) information provided; or (ii) if the Executive Officer determines the applicant has provided false or misleading information, or has withheld information pertinent to its application.

(2) If an entity qualifies as a voluntarily associated entity pursuant to section 95814(a)(3) then it does not need to include in its registration application pursuant to section 95830(c)(1)(D) information on entities for which it only takes temporary possession of allowances for the purpose of providing a market clearing service for transactions between two entities registered into the California Cap-and-Trade program. It must provide information pursuant to section 95830(c)(1)(D) if it has a corporate association with another registered entity pursuant to section 95833.

(~~2~~3) An entity must designate an authorized account representative pursuant to section 95832.

(d) Registration Deadlines.

(1) An entity that meets or exceeds the inclusion thresholds in section 95812 must register with the accounts administrator pursuant to this section:

(A) Within ~~45~~ 30 calendar days of the reporting deadline contained in ~~the~~ MRR if the entity is not a covered entity as of January 1, 2012; or

(B) Within 30 calendar days of the effective date of this regulation for an entity that exceeds the inclusion thresholds in section 95812 for any data year 2008 through 2010.

(2) An opt-in covered entity must register with the accounts administrator pursuant to section 95830:

(A) Within 30 calendar days of the effective date of this regulation for an entity voluntarily electing to be subject to a compliance obligation pursuant to section 95813 ~~during 2012~~ starting 2013; or

(B) By November 30 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.

(3) Any ~~voluntarily associated~~ entity not qualifying under sections 95830(d)(1) or (d)(2) that intends to hold an ARB-issued compliance instrument must register with the accounts administrator pursuant to section 95830 prior to acquiring such compliance instruments.

(e) Completion of Registration. Registration is completed when the Executive Officer approves the registration and informs the entity and the accounts administrator of the approval.

(f) Updating Registration Information.

(1) Registrants must update their registration information within ten working days of changes to the information listed in section 95830(c).

(2) Information may be directly entered into the tracking system operated by the accounts administrator, or if that is not available, submitted to the accounts administrator by the entity.

(3) Registration may be revoked, suspended, or restricted if an entity does not update its registration within 10 days of a change.

(g) Information Confidentiality

(1) Except when necessary in the course of enforcement investigation and prosecution, the following registration information will be treated by ARB and the accounts administrator as confidential:

(A) Beneficial holding as described in section 95830(c)(1)(D); and

(B) Information relating to the identity of real persons.

(2) All other registration information collected pursuant to section 95830(c) may be made publicly available by the accounts administrator.

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) Creation of Holding and Compliance Accounts.

(1) The Executive Officer shall not approve registration for more than one set of accounts for an entity.

(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 the accounts administrator will create a limited use holding account for the entity that shall be subject to the following restrictions:

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

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

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

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

(B) A covered entity or opt-in covered entity that is a Publicly Owned Electric Utility may transfer compliance instruments to the holding account of a Joint Powers Agency in which the Electrical Distribution Utility is a member and with which it has a power purchase agreement, pursuant to section 95892(b)(2). The Joint Powers Agency must transfer the compliance instruments received from a member utility to its compliance account within three days of receiving the allowances.

~~(B)~~(C) A compliance instrument transferred into a compliance account may not be removed by the ~~covered~~ entity.

(5) Exchange Clearing Holding Accounts. When the Executive Officer approves registration for an entity as a voluntarily associated entity pursuant to section 95814(a)(2)(C), then the accounts administrator will create an exchange clearing holding account for the entity.

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

(B) 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.

~~(b) Suspension, Revocation, or Restriction of Holding Accounts.~~

~~(1) The Executive Officer may revoke or suspend the registration and accounts of a voluntarily associated entity or opt-in covered entity for violations of this article.~~

~~(A) 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.~~

~~(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).~~

~~(2) The holding account of any entity may be restricted by the Executive Officer by either of the following:~~

~~(A) to hold a number of compliance instruments less than the holding limit established in section 95920(b); or~~

~~(B) to limit or prohibit transfers in or out of the holding account.~~

~~(c)~~(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(e)(3)~~95831(b)(1)(B)~~; and

(C) The limited use holding accounts of those entities consigning allowances to auction pursuant to section 95910~~subarticle 8~~.

(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 serial numbers of instruments they are retiring 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 ETS to which California links will be informed of the retirements.

(C) The Executive Officer will record the serial numbers of the retired instruments to 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 allocated by ARB for auction that remain unsold at auction will be transferred.

(B) Into which the serial numbers of allowances directly allocated to the Allowance Price Containment Reserve ~~under subarticle 8~~ pursuant to section 95870(a) will be transferred.

(C) Into which the serial numbers of allowances submitted to fulfill an entity's excess emissions obligation pursuant to section 95857(d)~~(c)~~ will be transferred.

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

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

(A) Into which ~~a percentage, of offset credits issued by ARB for Compliance Offset Protocol Forest Projects~~ ARB will place ARB offset credits pursuant to section 95983(a) ~~will be transferred. The percentage is determined pursuant to the Compliance Offset Protocol Forest Projects U.S.,~~; and

(B) From which ~~the Executive Officer~~ ARB may ~~withdraw~~ retire offset credits ~~in the case of unintentional project reversals~~ pursuant to sections 95983~~(d)~~(b)(2), (c)(3), and (c)(4)~~ and~~

~~95985(f). These offset credits will be transferred~~ and place them into to the Retirement Holding Account.

(6) ~~Reserve account for Voluntary Renewable Energy Allowance Electricity Set-Aside Account.~~ 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.

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 Authorized Account Representative**

(a) An application for an account must designate a single authorized account representative and a single alternate authorized account representative who may act on behalf of the authorized account representative. The agreement by which the alternate authorized account representative is selected shall include a procedure for authorizing the alternate authorized account representative to act in lieu of the authorized account representative. A complete application for an account shall be submitted to the accounts administrator and shall include the following elements:

(1) Name, address, E-mail address, telephone number, and facsimile transmission number of the authorized account representative and any alternate authorized account representative;

(2) Organization name;

(3) A list of all entities subject to a binding agreement for the authorized account representative or any alternate authorized account representative to represent their ownership interest with respect to the compliance instruments held in the account, including a statement of

each beneficial owner's percentage ownership interest and a statement of affiliations between beneficial owners;

(4) ~~The following certification statement by the authorized account representative and any alternate authorized account representative:~~ The authorized account representative and any alternate authorized account representative must attest, in writing, to ARB as follows: "I certify under penalty of perjury under the laws of the State of California that I was selected as the authorized account representative or the alternate authorized 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;"

(5) The signature of the authorized account representative and any alternate authorized account representative and the dates signed~~.~~; and

(6) An attestation as follows: "I certify that I have personally examined, and am familiar with, the statements and information submitted in this document and all its attachments. I also certify under penalty of perjury of the laws of the State of California that all information required to be 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) above 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 authorized 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 authorized account representative and any alternate authorized 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 authorized account representative or any alternate authorized account representative and such entity.

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

(d) Each submission concerning the account shall be submitted, signed, and ~~certified~~attested to by the authorized account representative or any alternate authorized account representative for the entities that own compliance instruments held in the account. Each such submission shall include the following ~~certification~~attestation statement by the authorized account representative or any alternate authorized 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 entities that own the compliance instruments held in the account. I certify under penalty of perjury ~~of law~~ 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. "~~are to the best of my knowledge and belief 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~~certified~~ in accordance with this section.

(f) Changing authorized account representative and alternate authorized account representative; changes in entities that own compliance instruments.

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

(2) The alternate authorized account representative for an account may be changed at any time upon receipt by the accounts administrator of a superseding complete application for an account under section

95830(c)-(1). Notwithstanding any such change, all representations, actions, inactions, and submissions by the previous authorized account representative, or the previous alternate authorized account representative, prior to the time and date when the accounts administrator receives the superseding application for an account shall be binding on the new alternate authorized account representative and the entities that own the compliance instruments in the account.

(3) In the event that a new entity owning compliance instruments in the account is not included in the list of entities in the application for an account, the new entity shall be subject to and bound by the application for an account, the representations, actions, inactions, and submissions of the authorized account representative and any alternate authorized account representative, and the decisions, orders, actions, and inactions of the accounts administrator, as if the new entity were included in such list.

(4) Within 1 day following any change in the entities that own compliance instruments in the account, including the addition or deletion of entities, the authorized account representative or any alternate authorized account representative shall submit a revision to the application for an account amending the list of entities that own the compliance instruments in the account to include the change.

(g) Objections concerning authorized account representative.

(1) Once a complete application for an account under section 95830(c)(1) 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)(1) is received by the accounts administrator.

(2) Except as provided in sections 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 authorized account representative or any alternate authorized

account representative for an account shall affect any representation, action, inaction, or submission of the authorized account representative or any alternate authorized account representative or the finality of any decision or order by the accounts administrator under ~~title 17, article 5, sections 95800 et seq~~ 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 authorized account representative or any alternate authorized account representative for an account, including private legal disputes concerning the proceeds of compliance instrument transfers.

(h) Delegation by authorized account representative and alternate authorized account representative.

(1) An authorized account representative may delegate, to one or more natural persons, his or her authority to make an electronic submission to the accounts administrator provided for under section 95832(c)-(2).

(2) An alternate authorized account representative may delegate, to one or more natural persons, his or her authority to make an electronic submission to the accounts administrator provided for under section 95832(c)-(2).

(3) In order to delegate authority to make an electronic submission to the accounts administrator in accordance with sections 95832(h)(1) and (2) the authorized account representative or alternate authorized account representative, as appropriate, must submit to the accounts administrator a notice of delegation, that includes the following elements:

(A) The name, address, E-mail address, telephone number, and facsimile transmission number of such authorized account representative or alternate authorized account representative;

(B) The name, address, email address, telephone number and facsimile transmission number of each such natural person, herein referred to as "electronic submission agent;"

(C) For each such natural person, a list of the type of electronic submissions for which authority is delegated to him or her; and

(D) The following certification statements by such authorized account representative or alternate authorized account representative:

~~(i)~~1. "I agree that any electronic submission to the accounts administrator that is by a natural person identified in this notice of delegation and of a type listed for such electronic submission agent in this notice of delegation and that is made when I am an authorized account representative or alternate authorized account representative, as appropriate, and before this notice of delegation is superseded by another notice of delegation under section 95832(h)(3) shall be deemed to be an electronic submission by me~~.~~;" or

~~(ii)~~2. "Until this notice of delegation is superseded by another notice of delegation under section 95832(h)(3), I agree to maintain an email account and to notify the accounts administrator immediately of any change in my email address unless all delegation authority by me is terminated."

(4) A notice of delegation submitted under section 95832(h)(3) shall be effective, with regard to the authorized account representative or alternate authorized account representative 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 authorized account representative or alternate authorized account representative as appropriate. The superseding notice of delegation may replace any previously identified electronic

submission agent, add a new electronic submission agent, or eliminate entirely any delegation of authority.

(5) Any electronic submission covered by the certification in section 95832(h)(3)(D) and made in accordance with a notice of delegation effective under section 95832(h)(3) shall be deemed to be an electronic submission by the authorized account representative or alternate authorized account representative submitting such notice of delegation.

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 Direct and Indirect Corporate Associations.**

(a) Entities registered pursuant to section 95830 must disclose direct and indirect corporate associations with other registered entities.

(1) An entity has a "direct corporate association" with another entity if either one of these entities:

(A) Holds more than twenty percent of any class of listed shares, the right to acquire such shares, or any option to purchase such shares of the other entity;

(B) Holds or can appoint more than twenty percent of common directors of the other entity;

(C) Holds more than twenty percent of the voting power of the other entity; or

(D) Controls more than twenty percent of the other entity's affairs through some other means.

(2) An entity has a "direct corporate association" with another registered entity when it holds compliance instruments in its own holding account in which another entity has an ownership interest, pursuant to section 95834(d), and the entity has attested to the Executive Officer that its relationships with the other entities constitute a corporate association.

(3) An entity has an "indirect corporate association" with another entity if one of these entities:

(A) Has a direct corporate association with another party that has a direct corporate association with the other entity in question, or through a longer line of direct corporate associations; and

(B) The percentage ownership of the entity in the other entity, obtained by multiplying the percentages of ownership at each association in a line of direct corporate associations, is more than twenty percent.

(4) 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 other rules.

(b) If California links to one or more GHG ETS pursuant to subarticle 12, then entities shall disclose corporate associations with entities registered with those linked programs.

(c) Each registered entity with a direct or indirect corporate association with another registered entity must disclose the following information:

(1) The name of the other entity;

(2) The type of corporate association (i.e., direct or indirect) and a brief description of the association, to include the following descriptors:

(A) Corporate parent;

(B) Subsidiary;

(C) Sister company;

(D) Partnership; and

(E) Other description.

(d) The entity must disclose the information to the Executive Officer:

(1) When registering pursuant to section 95830;

(2) At any time after registering when a disclosable association is created or exists;

(3) Within 30 days of a change to the information disclosed on direct and indirect corporate associations; and

(4) No later than the auction registration deadline established in section 95912 when reporting a change to the information disclosed, otherwise the entity may not participate in that 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.

**§ 95834. Disclosure of Beneficial Holding.**

(a) A beneficial holding relationship exists when:

(1) An entity holds compliance instruments in its holding account that are owned by a second registered entity. The entity acquires, holds, and disposes of the compliance instruments based on instructions from or an agreement with the second registered entity. There are two types of participants in a beneficial holdings relationship:

(A) The agent in the beneficial holdings relationship is the registered entity holding compliance instruments owned by another entity or to be transferred to another entity under an agreement disclosed to ARB.

(B) The principal in the beneficial holdings relationship is the registered entity that owns the compliance instruments held by an agent or to whom the compliance instruments will be transferred under an agreement disclosed to ARB.

(2) An electrical distribution utility informs ARB that it has established an agreement to serve as the agent in a beneficial holding relationship pursuant to section 95834(a)(1)(A) to purchase and hold allowances for the eventual transfer to a second registered entity with whom it has a long-term contract for the delivery of electricity for the sole purpose of supplying the second entity with compliance instruments to cover emissions resulting from satisfying the electricity contract.

(A) This disclosure must be made to ARB prior to any such purchases, and must include the terms of the contract governing the eventual transfer.

(B) An entity serving as agent in this type of a beneficial holding relationship may not also serve as the agent in a beneficial holding relationship with an entity with whom it does not have a long-term contract for the delivery of electricity.

(3) An entity informs ARB that it is purchasing and holding compliance instruments for the eventual transfer to registered entities that are part of a corporate association to be used for the affiliated entities' compliance obligations. An entity cannot have this type of beneficial holding relationship unless the corporate association is disclosed pursuant to section 95833.

(b) Disclosure of Beneficial Holding.

(1) An entity that establishes an agreement to hold allowances as an agent for the benefit of another entity must report the identity of the principal, its account information, and the nature of the relationship to the Executive Officer within 10 days of establishing the agreement, notwithstanding the other disclosure requirements in section 95834(a).

(2) The agent will disclose the identity and account number of the principal when acquiring or disposing of compliance instruments on behalf of a principal when reporting the transaction to the accounts administrator pursuant to section 95921.

(c) Multiple Beneficial Holding Relationships. If an entity with a beneficial holding relationship pursuant to section 95834(a)(1) above serves as an agent for more than one principal then the entity must either:

(1) Submit a statement to the Executive Officer, under penalty of perjury, that it:

(A) Does not share information on one principal's transaction strategies or holdings with any other principal with whom it has a beneficial holding relationship; and

(B) Conducts separate transactions for each principal with whom it has a beneficial holding relationship; or

(2) Submits a statement to the Executive Officer, that it has a corportate association with the principals with whom it has a beneficial holding relationship.

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.

## 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, 201~~2~~3, 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.

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 2012-2020**

The California GHG Allowance Budgets are set as described in Table 6-1.

***Table 6-1: California GHG Allowances Budgets***

| | *Budget Year* | *Annual Allowance Budget (Millions of CA GHG Allowances)* |
|---|---|---|
| First Compliance Period | ~~2012~~ | ~~165.8~~ |
| | 2013 | 162.8 |
| | 2014 | 159.7 |
| Second Compliance Period | 2015 | 394.5 |
| | 2016 | 382.4 |
| | 2017 | 370.4 |
| Third Compliance Period | 2018 | 358.3 |
| | 2019 | 346.3 |
| | 2020 | 334.2 |

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.

**§ 95841.1 Voluntary Renewable Electricity**

(a) Reporting Requirements:

(1) Annually, operators of voluntary renewable electricity generators, and REC marketers seeking allowance retirement must register with the ARB by submitting the following documentation and attestations by December 31 of the year in which the electricity was generated and RECs will be retired:

(A) Attest, in writing, 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 any renewable electricity credits or any claims

for electricity for which I am seeking ARB allowance retirement, in any other voluntary or mandatory program."

(B) Attest, in writing, to ARB as follows: "I understand I am voluntarily participating in the California Greenhouse Gas Cap-and-Trade 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 program and subject myself to the jurisdiction of California as the exclusive venue to resolve any and all disputes."

(2) Voluntary renewable electricity generators and marketers of RECs must report to ARB the MWhs purchased from a renewable electricity generator that meets the requirements of section 95841(a)(1). To be considered, the data report must document the following for voluntary renewable electricity purchases:

(A) Contracts for voluntary renewable electricity or REC purchases by retail customers, during the reporting period, from an eligible generator, as applicable.

(B) Proof that the voluntary renewable electricity or REC sales related to the voluntary renewable electricity was procured by the retail provider, as applicable.

(C) Time period when the retail purchase(s) was made.

(D) State where the electricity was generated or the REC was created, including facility name, generator identification number, and fuel type.

(E) Time period when the electricity was generated or the REC was created.

(b) If there is a REC associated with the renewable electricity submitted for the retirement of allowances from the Voluntary Renewable Electricity Reserve account , the REC must be retired prior to the retirement of allowances from the Voluntary Renewable Electricity Reserve account. If there is no REC associated with the renewable electricity submitted for the

Voluntary Renewable Electricity Reserve account, then the attestation in section 95841.1(a)(1) must be submitted prior to any retirement of allowances from the Voluntary Renewable Electricity Reserve account.

(c) RECs must be derived from generators that deliver electricity directly to the California electricity transmission and distribution system. Renewable electricity generators and REC marketers must provide the same information required by MRR section 95112 (a) for facilities, and section 95111 (a)(4), for electricity deliverers from a specified facility.

(d) Renewable electricity generators must be registered with the California Energy Commission as an eligible generator under the current Renewable Portfolio Standard.

(e) Application for Retirement of Voluntary Renewable Electricity Reserve Allowances. An entity may submit a written request to ARB for allowances to be retired from the Voluntary Renewable Electricity Reserve account. The request must be accompanied by a report of purchases of RECs that meet the requirements of this subarticle and contains the following data:

(A) The physical address where the electricity was generated or the REC was created, including the facility name, unique generator identification number, and fuel type;

(B) The time period when the electricity was generated and the REC was created; and

(C) The date certified RECs were retired.

(f) The number of megawatt hour(s) (MWh) of reported voluntary renewable electricity purchase is based on the report submitted required in section 95841.1(c) in a period and shall be multiplied by the default emission factor for unspecified power, pursuant to MRR. The number of MT $CO_2e$ to be retired from the Voluntary Renewable Electricity Reserve Account shall be calculated as follows:

Number of MT $CO_2e$= MWh x EF

Where:
"Number of MT $CO_2e$" rounded down to the nearest whole ton, is the number of allowances to be retired from the Voluntary Renewable Electricity Reserve Account;

"MWh" is the MWh of voluntary renewable electricity purchased from a generator that meets the requirements of this subarticle; and

"EF" is the $CO_2e$ emissions factor equivalent to the default emission factor for unspecified power, as determined by ARB.

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 section 95841.1(f).

(g) Once a voluntary renewable electricity tracking system is approved by the Executive Officer and it is in place, a voluntary renewable electricity generator or REC marketer which meets requirements section 95841.1(a)(1) will always be considered to have satisfied section 95841.1(a)(1), if they participate 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.

## Subarticle 7: Compliance Requirements for Covered Entities

### § 95850. General Requirements

(a) Reporting Requirements. Each covered entity identified in section 95811 is subject to ~~the~~ MRR.

(b) A covered entity's compliance obligation is based on the emissions number 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.

~~(b)~~(c) Record Retention Requirements. Each covered entity must retain all of the following records for at least 7~~10~~ consecutive years and must provide such records within 20 calendar days of receiving a written request from ~~the Executive Officer~~ARB, including:

(1) Copies of all data and reports submitted ~~to the Executive Officer~~ under this article and section 95105 of MRR~~the Mandatory Reporting Regulation, Document Retention and Recordkeeping Requirements~~;

(2) Records used to calculate a compliance obligation as specified in section 95853; ~~and~~

(3) Verification statement as required pursuant to section 95103(f) of ~~the Mandatory Reporting Regultion, Greenhouse Gas Reporting Requierments.~~ MRR; and

(4) Detailed verification reports as required pursuant to section 95131(r) 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 suppliers of $CO_2$ specified in section 95811(g) that meet or exceed the annual emissions threshold in section 95812(b) have compliance obligations beginning with the first compliance period.

(b) ~~The s~~Suppliers of natural gas, suppliers of RBOB and distillate fuel oils, and suppliers of liquefied petroleum gas specified in sections 95811(c), (d), and (e) ~~and~~ that meet or exceed the annual threshold in section 95812(d) will have a compliance obligation beginning with the second 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.

**§ 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(b)(1) has a compliance obligation for every metric ton of $CO_2e$ for which a positive or qualified positive verification statement is issued per section 95131(c)(5) of MRR or for which there are assigned emissions, both for process emissions and stationary combustion emissions. If ARB has assigned emissions for the sources subject to a compliance obligation under sections 95852 and 95852.1, 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 natural gas liquids are not included when calculating an entity's compliance obligation.

(b) First Deliverers of Electricity. A first deliverer of electricity covered under section~~s~~ 95811(b) ~~and 95812(b)(2)~~ has a compliance obligation for ~~every~~

~~metric ton of $CO_2$e emissions for which a positive verification statement or qualified positive verification statement is issued, and~~ every metric ton of $CO_2$e ~~of stationary combustion~~ emissions, subject to section 95852(b)(1) ~~from electricity generating facilities in California, and or emissions associated with electricity imported into California~~ 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 and where the thresholds set out in section 95812 have been reached and for which a positive or qualified positive emissions data verification statement is issued or there are assigned emissions.

(1) Resource shuffling is prohibited and is a violation of this article. ARB will not accept a claim that emissions attributed to electricity delivered to the California grid are at or below the default emissions factor if that delivery involves resource shuffling. Resource shuffling is a form of fraud. The following attestations must be delivered to ARB annually in writing, by certified mail only:

(A) "I certify under penalty of perjury of the laws of the state of California that [facility or company name] has not engaged in the activity of resource shuffling to reduce compliance obligation for emissions, based on emission reductions that have not occurred."

(B) "I understand I am participating in the California Greenhouse Gas Cap-and-Trade 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 program and subject myself to the jurisdiction of California as the exclusive venue to resolve."

(2) The following criteria must be met for electricity deliveries to calculate their compliance obligations based on an ARB facility specific emission factor less than the default emission factor for unspecified sources:

(A) They must be reported to ARB pursuant to MRR section 95111;

(B) The first deliverer must be the facility operator or have ownership or contract rights to electricity generated by the facility or unit claimed;

(C) First deliverers must report electricity from specified sources to ARB using the ARB specified source identification number assigned to the source pursuant to MRR; and

(D) If there are parties within the contract chain of custody, then the original source of generation and quantity of MWhs to be delivered under the original contract must be identified within the entire contract chain. The quantity of electricity delivered and for which a facility specific emission factor is claimed cannot exceed the original amount under ownership or contract rights pursuant to section 95852(b)(2)(A).

(3) Replacement electricity that substitutes for electricity from a variable renewable resource qualifies for the specific emission factor of the variable renewable resource under the following conditions:

(A) First deliverers of replacement electricity have a contract, or ownership, with the supplier of the replacement electricity, in addition to a contract with the variable renewable electricity source; and

(B) The amount of the reported replacement electricity does not exceed the amount for the reported annual variable renewable resource.

(C) Replacement electricity with an emission factor greater than the default emission factor for unspecified electricity is not eligible to receive an emission factor of zero metric tons $CO_2e$/MWh. For contracts that use replacement electricity for which the emission factor is greater than the default emission factor, the difference between the emission factor from the replacement electricity and the default emission factor will be used to calculate emissions with a compliance obligation.

(4) Claims to resources with zero direct emissions, emissions without a compliance obligation, or emissions lower than the default emissions value for unspecified sources, including renewable resources other than variable renewable resources must demonstrate, pursuant to MRR, direct delivery of electricity as defined in section 95802.

(5) Electricity generated from use of biomethane must comply with section 95852.2, and must meet verification requirements for use of biomethane pursuant to MRR.

(6) Qualified Exports. Emissions from qualified exports claimed by a first deliverer may be subtracted from the first deliverer's compliance obligation for imported electricity only if the electricity is exchanged within the same hour and by the same PSE. It is not necessary for the electricity to enter or leave California at the same intertie. Qualified exports shall not result in a negative compliance obligation for any hour.

(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, less the fuel that is delivered to covered entities.

(1) Suppliers of natural gas shall report the total metric tons $CO_2e$ of GHG emissions delivered to all end users in California as prescribed in section 95122 of MRR;

(2) ARB shall calculate the metric tons $CO_2e$ of GHG emissions for natural gas delivered to covered entities. The emissions will be the $CO_2e$ emissions that received a positive or qualified positive emissions data verification statement or the assigned emissions from natural gas delivered to the covered entity by the supplier of natural gas;

(3) ARB shall provide the supplier of natural gas a listing of all customers and aggregate natural gas volumes and emissions calculated from the supplier's natural gas delivered to covered entities;

(4) The Executive Officer shall provide to the supplier of natural gas, within 30 days of the verification deadline pursuant to section 95103(f) of MRR, the metric tons $CO_2e$ of GHG emissions for which the supplier of natural gas will be required to hold a compliance obligation.

(d) Suppliers of RBOB and Distillate Fuel Oils. A supplier of petroleum products covered under section 95811(d) or 95812(d) has a compliance obligation for every metric ton $CO_2e$ of GHG emissions 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 except for products for which a final destination outside California can be demonstrated: ~~imported and/or delivered to California:~~

(1) RBOB;

(2) Distillate Fuel Oil No. 1; or

(3) Distillate Fuel Oil No. 2.

(e) Suppliers of Natural Gas Liquids:

(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 that would result from full combustion or oxidation of all fuel sold, distributed, or otherwise transferred for consumption in California; and

(2) An importer consignee of liquefied petroleum gas covered under section 95811(e) has a compliance obligation for every metric ton $CO_2e$ of GHG emissions 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 based on the separate constituents of the blend.

(g) ~~Suppliers of~~ Carbon Dioxide Suppliers. An entity that supplies carbon dioxide covered under section 95811(g) has an aggregated compliance

obligation based on the sum of ~~imported and exported quantities of~~ $CO_2$ it supplies for use in California or exports for the purposes of geologic sequestration, minus $CO_2$ verified to be geologically sequestered through use of a Board-approved carbon capture and geologic sequestration quantification methodology that ensures that the emissions reductions are real, permanent, quantifiable, verifiable, and enforceable.

~~(h) The compliance obligation is calculated based on the sum of (i) emissions of $CO_2$, $CH_4$, and $N_2O$ resulted from combustion of fossil fuel; (ii) emissions of $CH_4$ and $N_2O$ resulted from combustion of all biomass-based fuel; (iii) emissions of $CO_2$ resulted from combustion of unverifiable biomass-derived fuels, as specified in section 95852.2; (iv) emissions of $CO_2$ resulted from combustion of biomass-derived fuels not listed in section 95852.2; and (v) all process and vented emissions of $CO_2$, $CH_4$, and $N_2O$ as specified in the Mandatory Reporting Rule except for those listed in section 95852.2(a)(6) below.~~

(h) Oil and Gas Production. The operator is the operating entity listed on the state well drilling permit, or the state operating permit for wells where no drilling permit is issued by the state, who operates onshore petroleum and natural gas production wells and controls by means of ownership (including leased and rented) and operation (including contracted) stationary and portable equipment located on all well pads within a single hydrocarbon basin as defined by the American Association of Petroleum Geologists (AAPG) three-digit Geological Province Code (published 1991) holds a compliance obligation.

(i) The compliance obligation is calculated based on the sum of the following:

(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-based fuel;

(3) Emissions of $CO_2$ which resulted from combustion of biomass-derived fuels that do not meet the requirements in section 95852.2;

(4) Emissions of $CO_2$ which resulted from combustion of biomass-derived fuels not listed in section 95852.2; and

(5) 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).

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 that has emissions from biomass-derived fuels is required to report and verify its emissions pursuant to ~~Mandatory Reporting Regulation section 95130~~ MRR and has a compliance obligation for every metric ton of $CO_2e$ emissions from ~~biomass-derived fuels that would result from full~~ combustion or oxidation of all biomass-derived fuel ~~for~~ from ~~emissions~~ sources identified below:

(a) ~~Emissions from s~~Source categories that are not listed under section 95852.2 below; or

(b) ~~Emissions from s~~Source categories listed in ~~95852.2, without information and documentation necessary to establish the validity of biomass-derived fuels which are considered unverifiable pursuant to MRR section 95131(i)~~ section 95852.2 whose emissions must be reported as Other Biomass $CO_2$ 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.

**§ 95852.1.1. Eligibility Requirements for Biomass-Derived Fuels.**

(a) Contracts for biogas and biomethane must meet one of the following criteria. Only the portion of the fuel that meets these criteria will be considered a biomass-derived fuel and is not subject to a compliance obligation if the emissions are reported as biomass $CO_2$ in an emissions data report that has received a positive or qualified positive emissions data verification statement:

(1) The contract for purchasing any biomass-derived fuel must be in effect prior to January 1, 2012 and remain in effect or have been renegotiated with the same California operator within one year of contract expiration;

(A) Physical transfer of the fuel must begin no later than 90 days after a signed contract; and

(B) If physical transfer of the fuel begins more than 90 days after the contract is signed then for the purposes of this provision the first date of physical fuel transfer shall be considered the contract signing date;

(2) The fuel being provided under a contract dated after January 1, 2012 must only be for an amount of fuel that is associated with an increase in the biomass-derived fuel producer's capacity, new production or recovery of the fuel that was previously destroyed without producing useful energy transfer. Increased capacity is considered any amount over the average of the last three calendar years production;

(3) The fuel being provided under a contract dated after January 1, 2012 is for a fuel that was previously eligible under (1) or (2) above, and the verifier is able to track the fuel to the previously eligible contract;

(4) Once a certification program is in place, a fuel which meets the requirements of sections 95852.1.1(a)(1) and 95852.1.1(a)(2) will always be considered to have met the requirements in section 95852.1; or

(5) 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 energy transfer.

(b) As part of a biomass-derived fuel's eligibility to avoid a compliance obligation no party may sell, trade, give away, claim or otherwise dispose of any of the carbon credits, carbon benefits, carbon emissions reductions, carbon offsets or allowances, howsoever entitled, attributed to the fuel production that would prevent the resulting combustion from not having a compliance obligation. Generation of Renewable Energy Credits is allowable and will not prevent a biomass-derived fuel that meets the requirements in this section from being exempt from 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.

**§ 95852.2. Emissions without a Compliance Obligation**

Emissions from the following source categories as identified in ~~sections 95100 through 95199 of the~~ MRR count toward applicable reporting thresholds but do~~es~~ not count toward a covered entity's compliance obligation set forth in this ~~regulation~~article unless those emissions are reported as Other Biomass $CO_2$ under MRR. ~~These source categories~~Emissions without a compliance obligation include:

(a) $CO_2$~~C~~combustion emissions from the following biomass-derived portion of biomass-derived fuels ~~(except biogas from digesters) from the following sources~~:

(1) Solid waste materials, including the biogenic content of solid waste materials that are not 100% biomass, as determined by methodology specified in ASTM D6866, based on exhaust sampling or fuel sampling (and fuel usage recordkeeping) at the specified frequency;

(2) Waste pallets, crates, dunnage, manufacturing and construction wood wastes, tree trimmings, mill residues, and range land maintenance residues;

(3) All agricultural crops or waste; or

(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;

(B) Harvested for the purpose of forest fire fuel reduction or forest stand improvement; and

(C) Do not transport or cause the transport of species known to harbor insect or disease nests outside zones of infestation or quarantine zones identified by the department of Food and Agriculture of the Department of Forestry and Fire Protection, unless approved by these agencies.

~~(b)~~(5) Biodiesel:

~~(1)~~(A) Agri-biodiesel derived solely from virgin oils, including esters derived from virgin vegetable oils from corn, soybeans, sunflower seeds, cottonseeds, canola, cramble, rapeseeds, safflowers, flaxseeds, rice bran, mustard seeds, and camelina, and from animal fats.

~~(2)~~(B) Biodiesel is defined as monoalkyl esters of long chain fatty acids derived from following plant or animal matter that meets the requirements of the American Society of Testing Materials (ASTM) D6751:

~~(A)~~1. Waste oils;

~~(B)~~2. Tallow; or

~~(C)~~3. Virgin oils.

~~(c)~~(6) Fuel ethanol(including denaturant):

~~(1)~~(A) Cellulosic biofuel produced from lignocellulosic or hemicellulosic material that has a proof of at least 150 without regard to denaturants;

~~(2)~~(B) Corn starch; or

~~(3)~~(C) Sugar cane.

~~(d)~~(7) Municipal Solid Waste (biogenic fraction only as determined by methodology specified in ASTM D6866):

~~(1)~~(A) Direct combustion; or

~~(2)~~(B) Conversion to a clean burning -fuel:

~~(A)~~1. Technology does not use air or oxygen in the conversion process except to maintain temperature control;

~~(B)~~2. Technology produces no discharges or emissions of air contaminan~~t~~es, including greenhouse gases;

~~(C)~~3. No discharges to surface or groundwater;

~~(D)~~4. Produces no hazardous wastes as identified in ASTM D6866-04a;

~~(E)~~5. Removes recyclable and green waste compostable materials, and recycles or composts these materials; ~~or~~

~~(F)~~6. Any wastes that comes to a facility ~~come~~ from an agency that diverts a~~l~~t least 30 percent of all solid waste collected through solid waste reduction, recycling, and composting; or

7. Tires.

~~(e)~~(8) Biomethane and biogas from the following sources:

(A) All animal and other organic waste; or

(B) Landfills and wastewater treatment plants.

~~(f)~~(9) Fugitive and process emissions from:

~~(1) $CO_2$ emissions from geothermal generating units;~~

~~(2) $CO_2$ and $CH_4$ emissions from geothermal facilities;~~

~~(3)~~(A) $CO_2$ emissions from natural gas hydrogen fuel cells;

~~(4)~~(B) ~~At petroleum refineries: a~~Asphalt blowing operations, equipment leaks, storage tanks, and loading operations at petroleum refineries; ~~or~~

~~(5)~~(C) ~~At the facility types listed in section 95101(e) of the Mandatory Reporting Regulation~~MRR~~, Petroleum and Natural Gas Systems:~~ ~~l~~Leak detection and leaker emission factors, and stationary fugitive and “stationary vented” sources on offshore

oil platforms at the facility types listed in section 95101(e) of MRR, Petroleum and Natural Gas Systems~~.~~;

(D) Methane from landfills;

(E) $CH_4$ and $N_2O$ from municipal wastewater treatment plants;

(F) Vented emissions from natural gas pneumatic high bleed device venting pursuant to section 95153(a) of MRR until January 1, 2015; or

(G) HFC emissions in electrical generation.

(b) Emissions from geothermal generating units and geothermal facilities, including geothermal geyser stem or fluids.

(c) Coal Storage.

(d) Asphalt blowing at refineries.

(e) Equipment leaks at refineries.

(f) Storage tanks at refineries.

(g) Product loading at refineries.

(h) Mobile equipment.

(i) Above ground coal mines when coal is broken or exposed to the atmosphere during mining.

(j) Low bleed pneumatic devices.

(k) High bleed pneumatic devices and pumps.

(l) Natural gas transmission storage tanks.

(m) Well-site centrifugal and reciprocating compressors when aggregate capacity at the well site is less than 250 horsepower.

(n) Leak detection and leaker emission factor sources.

(o) Population count and emission factor sources.

(p) Hydrogen liquids dissolved $CO_2$ (enhanced oil recovery).

(q) Vented emissions on offshore oil and gas platforms.

(r) Other venting and fugitive emissions not specified in the quantification methods.

(s) Direct combustion of municipal solid waste with energy recovery in an existing permitted facility.

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.

**~~§ 95852.3. Effect of Status of Verification Statement on Calculation of Compliance Obligations~~**

~~(a) In the case of a positive, or qualified positive verification statement, the compliance obligation equals the reported and verified emissions, as outlined in section 95131 of the Mandatory Reporting Requirements.~~

~~(b) In the case of an adverse verification statement, for every metric ton of $CO_2$e of GHG emissions, as determined by ARB, the compliance obligation equals the ARB-assigned emissions as outlined in section 95103 of the Mandatory Reporting Regulation.~~

~~(c) In the case that an entity does not submit an emissions data report or complete verification, then the Executive Officer will determine its compliance obligation as set forth in section 95103 of the Mandatory Reporting Regulation.~~

~~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 Triennial Compliance Obligation**

(a) A covered entity that exceeds the threshold in section 95812 in any of the three data years preceding the start of a compliance period is a covered entity for the entire compliance period. The covered entity's triennial compliance obligation in this situation is calculated as the total of the ~~verified~~ emissions <u>that received a positive or qualified positive emissions data verification statement, or were assigned emissions pursuant to section 95131(c)(5) of MRR</u> from all ~~three~~ 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 triennial compliance obligation in

this situation is calculated as the total of the ~~verified~~ emissions that received a positive or qualified positive emissions data verification statement, or were assigned emissions by the Executive Officer from all ~~three~~ data years of the compliance period.

(c) A covered entity that initially exceeds the threshold in section 95812 in the second year of the second or third ~~a~~ compliance period is a covered entity for the second and third years of these compliance periods. The covered entity's triennial compliance obligation in this situation is calculated as the total of the ~~verified~~ emissions that received a positive or qualified positive emissions data verification statement, or were assigned emissions by the Executive Officer from the second and third data years of the compliance period.

(d) A covered entity that initially exceeds the threshold in section 95812 in the second year of the first compliance period or the third year of a later compliance period has a compliance obligation for its ~~verified~~ emissions that received a positive or qualified positive emissions data verification statement, or were assigned emissions by the Executive Officer for that year, but the entity's triennial surrender 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 ~~e third year of the compliance period~~ will be added to the entity's triennial obligation for the subsequent compliance period.

(e) For a new entrant that is eligible to receive free allowances pursuant to subarticles 8 and 9, the first year for this entity to receive free allowances is the year following the first year in which its emissions exceed the threshold in section 95812. The number of free allowances for this new entrant to receive in that year is twice the number calculated pursuant to section 95891.

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) The total number of ~~offset credits~~ compliance instruments identified in section 95854(a) that each covered entity may surrender to ~~meet its annual or triennial~~ fulfill the entity's compliance obligation for a compliance period must conform to the following limit:

$$O_O/S \text{ must be less than or equal to } L_O$$

~~Where~~In which:

$O_O$ = Total number of compliance instruments identified in section 95854(a) submitted to fulfill the entity's compliance obligation for the compliance period ~~that are designated as subject to this quantitative usage limit pursuant to subarticle 4, section 95821(b), (c), and (d)~~. ~~Sector-based offset credits as defined in section 95821 cannot represent more than 25% of O in the first and second compliance periods and 50% of O in all other periods.~~

S = Covered entity's ~~annual or triennial~~ compliance obligation.

$L_O$ = Quantitative ~~offset credit~~ usage limit on compliance instruments identified in section 95854(a), set at 0.08.

(c) 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 compliance period and not more than 0.50 of the $L_O$ for subsequent compliance periods.

NOTE: Authority cited: Sections 38510, 38560, 38562, 38570, 38571, 38580, 39600 and 39601, Health and Safety Code.
Reference: Sections 38530, 38560.5, 38564, 38565, 38570 and 39600, 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 thirty percent of ~~positive qualified positive~~ emissions reported from the previous data year that received a positive or qualified positive emissions data verification statement, or were assigned emissions by the Executive Officer.

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 triennial compliance obligations calculated pursuant to this subarticle beginning with the emissions data report for 2013 and each subsequent year in which the covered entity has a compliance obligation.

(b) Compliance Instruments Valid for Surrender.

(1) A ~~California~~ compliance instrument ~~or an allowance~~ approved pursuant to subarticle~~s~~ 4~~, 12, or 14~~ may be used to satisfy a compliance obligation.

(2) To fulfill any compliance obligation, a compliance instrument must be issued from an allowance budget year within or before the year during which the compliance obligation is calculated, unless:

(A) The allowance was purchased from the Allowance Price Containment Reserve pursuant to section 95913; or

(B) The allowance is used to satisfy an excess emissions obligation.

(c) A covered entity must transfer from its holding account to its compliance account a sufficient number of compliance instruments to meet the compliance obligation set forth in sections 95853 and 95855.

(d) Deadline for Annual Surrender. For any year in which a covered entity has an annual compliance obligation pursuant to section 95855, it must fulfill that obligation~~.~~:

(1) By ~~May 15~~November 1 of the calendar year following the year for which the obligation is calculated if the entity reports by April 1 pursuant to section 95103 of ~~the~~ MRR; or

(2) By ~~July 15~~ November 1 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 ~~the~~ MRR.

(e) ~~Data Review and~~ Determination of Triennial Obligation.

(1) When a positive or qualified positive emissions data verification statement for any ~~third~~ year ~~of the compliance period~~ is received by ARB, then those reported and verified emissions for the sources in section 95852.1 equal the compliance obligation~~the Executive Officer will review the accuracy of the verification statement and determine the covered entity's triennial obligation~~ pursuant to section 95853.

(2) If a positive or qualified positive emissions data verification statement for ~~the third~~ any year of the compliance period is not received by ARB ~~on time~~by the applicable verification deadline as set forth in ~~the~~ MRR, ARB will assign emissions according to the requirements set forth in section ~~95153~~95103(g) of ~~the~~ MRR. The assigned emissions value then equals the compliance obligation.

~~(3) When the data review and reconciliation process, as stated in section 95104 of the Mandatory Reporting Regulation, for a covered entity has concluded, the Executive Officer shall issue a final determination of the covered entity's triennial compliance obligation.~~

(f) Triennial Surrender.

(1) The covered entity must transfer sufficient valid compliance instruments to its compliance account to fulfill its triennial surrender obligation by November 1 of the calendar year following the ~~third~~final year of the compliance period.

(2) The total number of allowances and offset credits submitted to fulfill the combined Annual and Triennial Surrender obligations is subject to the quantitative use limit on offset credits pursuant to section 95854.

(3) The Triennial Surrender obligation shall equal the Triennial Compliance Obligation calculated pursuant to section 95853 less allowances and offset credits, surrendered pursuant to the annual surrender obligation for the years in the compliance period.

(g) When the Executive Officer has determined the covered entity has met its surrender obligations, the Executive ~~o~~Officer shall:

(1) Retire the compliance instruments surrendered; and

(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.

**§ 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 annual or triennial compliance pursuant to section 95856 is subject to the compliance obligation for excess emissions 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 ~~reversal~~ invalidation of an ARB offset credit by the Executive Officer pursuant to section 9598~~3~~5 until ~~3~~90 days after notice of ~~reversal~~invalidation.

(b) Excess Emissions and Calculation of the Untimely Surrender Obligation.

(1) The quantity of excess emissions is the difference between the compliance obligation calculated pursuant to this subarticle and any compliance instruments timely surrendered by the covered entity;

(2) The covered entity's compliance obligation for untimely surrender is calculated as four times the entity's excess emissions; ~~and~~

(3) A covered 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~~.~~; and

(4) The untimely surrender obligation is due within three days of the latter either of the first auction or reserve sale conducted by ARB following the applicable surrender date.

(c) ~~Recovery of the Untimely Surrender Obligation.~~ If an entity with an untimely surrender obligation fails to satisfy the obligation pursuant to section 95857(b)(4), then:

~~(1) The obligation to surrender allowances for excess emissions is immediately due;~~

~~(2) Immediately upon determining that a covered entity has excess emissions, the Executive Officer shall prevent any transfers of compliance instruments from the holding account controlled by the covered entity;~~

~~(3) The Executive Officer shall transfer any remaining allowances from the Holding Account controlled by the covered entity with excess emissions to its compliance account until the retirement obligations of this section are met;~~

~~(4) If the Executive Officer is unable to retrieve sufficient allowances using the above process, the Executive Officer shall provide the deficient covered entity 30 days to secure the allowances needed to cover its untimely surrender obligation;~~

~~(5) If the covered entity fails to transfer allowances equal to the untimely surrender obligation pursuant to this section to its compliance account within the period specified in 95857(c)(4), the Executive Officer will:~~

~~(A) Identify holding accounts controlled by affiliates of the deficient covered entity to which the covered entity has transferred compliance instruments during the compliance period for which a compliance obligation remains unfilled; and~~

~~(B) The Executive Officer will prevent transfers from the holding accounts identified in (A) above, and retrieve allowances from those accounts to meet the untimely surrender obligation pursuant to this section.~~

~~(6) Additionally, if the covered entity or opt-in covered entity does not surrender sufficient allowances equal to its untimely surrender obligation pursuant to this section by the end of the 30-day period, the Executive Officer may pursue enforcement activities pursuant to subarticle 15.~~

(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)(4) upon which the number of violations will be calculated. The new untimely surrender obligation is immediately due.

(d) When the covered entity or opt-in covered entity meets its obligations pursuant to ~~sub~~section 95857(a) through ~~(c)~~(d) ~~above~~, the Executive Officer shall:

~~(1) Remove the restrictions on transfers from the holding accounts controlled by the covered entity and affiliated entities;~~

~~(2)~~(1) Transfer the allowances used to fulfill the untimely surrender obligation in the following manner:

(A) ~~Three fourths~~One fourth to ~~the highest priced~~ each tier of the Allowance Price Containment Reserve Account; and

(B) One fourth to the Retirement Account.

~~(3)~~(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.

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

If, after an entity has surrendered its compliance instruments for a compliance period pursuant to section 95856, 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 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 section 95856 and what is determined by the Executive Officer to be under-reported for the sum of those emissions is less than five percent, 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 section 95856 and what was determined by the Executive Officer to be under-reported for the sum of those emissions is more than five percent, then the entity must surrender compliance instruments for the following amount:

$$\mathrm{Cla} = \mathrm{EMd} - \mathrm{CO} - (\mathrm{CO} * 0.05)$$

Where:

'Cla' is the number of additional compliance instruments that must be surrendered to ARB;

'CO' is the emissions number used for the compliance obligation surrendered pursuant to section 95856 for the previous compliance period; 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 will have six months from the time of notification by the Executive Officer to surrender additional compliance instruments for under reporting emissions under MRR as determined pursuant to this section. The provisions of section 95857 shall not apply during these six months. The entity may use compliance instruments from subsequent compliance periods to meet these requirements. The entity may only use CA GHG allowances or allowances issued pursuant to subarticle 12 to meet the requirements of 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.

**Subarticle 8: Disposition of Allowances**

**§ 95870. Disposition of Allowances**

(a) Allowance Price Containment Reserve. On ~~December 15, 2011~~July 18, 2012, the Executive Officer shall transfer allowances to the Allowance Price Containment Reserve, as follows:

(1) One percent of the allowances from budget years 2012-2014;

(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. On ~~December 15, 2011~~July 18, 2012, the Executive Officer shall transfer ~~two~~ ten percent of the allowances from budget years 2015-2020 to the Auction Holding Account.

(1) These allowances shall be auctioned pursuant to section 95910.

(2) The proceeds from the sale of these allowances will be deposited into the Air Pollution Control Fund and will be available upon appropriation by the Legislature for the purposes designated in California Health and Safety Code sections 38500 et seq.

(c) Recognition of Voluntary Renewable Electricity Emissions Reductions. On December 15, 2011, the Executive Officer shall transfer allowances to the Voluntary Renewable Electricity Reserve, 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

~~(c)~~(d) Allocation to ~~Public Utilities.(1)~~ Electrical Distribution Utilities. The Executive Officer will place an annual individual allocation in the holding account of each eligible distribution utility on or before January 15 of each calendar year from 201~~2~~3-2020 pursuant to section 95892. Allowances available for allocation to electrical distribution utilities shall be ~~89~~97.7 million multiplied by the cap adjustment factor in Table 9.2 for each budget year 201~~2~~3-2020.

~~(2) Reserved for Natural Gas Distribution Utilities.~~

~~(d)~~(e) Allocation to Industrial Covered Entities. Allowances allocated for the purposes of industry assistance shall be transferred to holding accounts for industrial sectors listed in Table 8-1.

(1) The Executive Officer will place an annual individual allocation in the holding account of each eligible covered entity on or before January 15 of each calendar year 201~~2~~3-2020.

(2) Allocation to eligible covered entities shall be conducted using the assistance factors specified for each listed industrial sector 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 section 95870(a) through (~~c~~d). 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 section~~s~~ 95870(a) through (~~c~~d) compared to total allowances that would be distributed according to the methodology set forth in section 95891.

## Table 8-1: Industry Assistance

| ~~Leakage Risk~~ | ~~ARB Classification~~ | ~~NAICS~~ | ~~Industry Assistance Factor (AF) by Budget Year~~ | | |
|---|---|---|---|---|---|
| | | | ~~2012-2014~~ | ~~2015-2017~~ | ~~2018-2020~~ |
| ~~High~~ | ~~Oil and gas extraction~~ | ~~211111~~ | ~~100%~~ | ~~100%~~ | ~~100%~~ |
| | ~~Natural gas liquid extraction~~ | ~~211112~~ | ~~100%~~ | ~~100%~~ | ~~100%~~ |
| | ~~Soda ash mining and manufacturing~~ | ~~212391~~ | ~~100%~~ | ~~100%~~ | ~~100%~~ |
| | ~~Reconstituted Wood Product Manufacturing~~ | ~~321219~~ | ~~100%~~ | ~~100%~~ | ~~100%~~ |
| | ~~Paper manufacturing~~ | ~~322121~~ | ~~100%~~ | ~~100%~~ | ~~100%~~ |
| | ~~Paperboard manufacturing~~ | ~~322130~~ | ~~100%~~ | ~~100%~~ | ~~100%~~ |
| | ~~All Other Basic Inorganic Chemical Manufacturing~~ | ~~325188~~ | ~~100%~~ | ~~100%~~ | ~~100%~~ |
| | ~~Flat glass manufacturing~~ | ~~327211~~ | ~~100%~~ | ~~100%~~ | ~~100%~~ |
| | ~~Glass container manufacturing~~ | ~~327213~~ | ~~100%~~ | ~~100%~~ | ~~100%~~ |
| | ~~Cement manufacturing~~ | ~~327310~~ | ~~100%~~ | ~~100%~~ | ~~100%~~ |
| | ~~Lime manufacturing~~ | ~~327410~~ | ~~100%~~ | ~~100%~~ | ~~100%~~ |
| | ~~Iron and steel mill~~ | ~~331111~~ | ~~100%~~ | ~~100%~~ | ~~100%~~ |
| ~~Medium~~ | ~~Food manufacturing~~ | ~~311~~ | ~~100%~~ | ~~75%~~ | ~~50%~~ |
| | ~~Cut and sew apparel mfg~~ | ~~3152~~ | ~~100%~~ | ~~75%~~ | ~~50%~~ |
| | ~~Breweries~~ | ~~312120~~ | ~~100%~~ | ~~75%~~ | ~~50%~~ |
| | ~~Sawmills~~ | ~~321113~~ | ~~100%~~ | ~~75%~~ | ~~50%~~ |
| | ~~Petroleum refining~~ | ~~324110~~ | ~~100%~~ | ~~75%~~ | ~~50%~~ |
| | ~~Pesticide and agricultural chemical manufacturing~~ | ~~325320~~ | ~~100%~~ | ~~75%~~ | ~~50%~~ |
| | ~~Polystyrene foam product mfg~~ | ~~326140~~ | ~~100%~~ | ~~75%~~ | ~~50%~~ |
| | ~~Gypsum product manufacturing~~ | ~~327420~~ | ~~100%~~ | ~~75%~~ | ~~50%~~ |
| | ~~Mineral wool manufacturing~~ | ~~327993~~ | ~~100%~~ | ~~75%~~ | ~~50%~~ |
| | ~~Rolled steel shape manufacturing~~ | ~~331221~~ | ~~100%~~ | ~~75%~~ | ~~50%~~ |
| | ~~Secondary smelting and alloying of aluminum~~ | ~~331314~~ | ~~100%~~ | ~~75%~~ | ~~50%~~ |
| | ~~Secondary smelting, refining, and alloying of nonferrous metal (except copper and aluminum)~~ | ~~331492~~ | ~~100%~~ | ~~75%~~ | ~~50%~~ |
| | ~~Iron foundries~~ | ~~331511~~ | ~~100%~~ | ~~75%~~ | ~~50%~~ |
| | ~~Turbine and turbine generator set units manufacturing~~ | ~~333611~~ | ~~100%~~ | ~~75%~~ | ~~50%~~ |
| ~~Low~~ | ~~Pharmaceutical and medicine mfg~~ | ~~325412~~ | ~~100%~~ | ~~50%~~ | ~~30%~~ |
| | ~~Aircraft manufacturing~~ | ~~336411~~ | ~~100%~~ | ~~50%~~ | ~~30%~~ |

| Leakage Risk Classification | NAICS Sector Definition | NAICS Code | Activity(a) | Industry Assistance Factor ($AF_a$) by Budget Year | | |
|---|---|---|---|---|---|---|
| | | | | 2013-2014 | 2015-2017 | 2018-2020 |
| High | Crude Petroleum and Natural Gas Extraction | 211111 | Heavy (API < 20) Crude Oil Extraction | 100% | 100% | 100% |
| | | | Light (API >= 20) Crude Oil Extraction | 100% | 100% | 100% |
| | Natural Gas Liquid Extraction | 211112 | Natural Gas Liquid Processing | 100% | 100% | 100% |
| | Potash, Soda, and Borate Mineral Mining | 212391 | Mining and Manufacturing of Soda Ash and Related Products | 100% | 100% | 100% |
| | All Other Nonmetallic Mineral Mining | 212399 | Diatomaceous Earth Mining | 100% | 100% | 100% |
| | Paper (except Newsprint) Mills | 322121 | Through Air Dried Tissue Manufacturing | 100% | 100% | 100% |
| | Paperboard Mills | 322130 | Recycled Boxboard Manufacturing | 100% | 100% | 100% |
| | | | Recycled Linerboard (Testliner) Manufacturing | 100% | 100% | 100% |
| | | | Recycled Medium (Fluting) Manufacturing | 100% | 100% | 100% |
| | All Other Basic Organic Chemical Manufacturing | 325199 | All Other Basic Organic Chemical Manufacturing | 100% | 100% | 100% |
| | Nitrogenous Fertilizer Manufacturing | 325311 | Nitric Acid Production | 100% | 100% | 100% |
| | | | Calcium Ammonium Nitrate Solution Production | 100% | 100% | 100% |
| | Flat Glass Manufacturing | 327211 | Flat Glass Manufacturing | 100% | 100% | 100% |
| | Glass Container Manufacturing | 327213 | Container Glass Manufacturing | 100% | 100% | 100% |
| | Cement Manufacturing | 327310 | Cement Manufacturing | 100% | 100% | 100% |

| Leakage Risk Classification | NAICS Sector Definition | NAICS Code | Activity(a) | Industry Assistance Factor ($AF_a$) | | |
|---|---|---|---|---|---|---|
| | Lime Manufacturing | 327410 | Dolime Manufacturing | 100% | 100% | 100% |
| | Iron and Steel Mills | 331111 | Steel Production Using Electric Arc Furnace | 100% | 100% | 100% |
| | Rolled Steel Shape Manufacturing | 331221 | Hot Rolled Steel Sheet Production | 100% | 100% | 100% |
| Medium | Food Manufacturing | 311 | Food Manufacturing | 100% | 75% | 50% |
| | Cut and Sew Apparel Manufacturing | 3152 | Cut and Sew Apparel Manufacturing | 100% | 75% | 50% |
| | Breweries | 312120 | Brewing | 100% | 75% | 50% |
| | Petroleum Refineries | 324110 | Petroleum Refining | 100% | 75% | 50% |
| | All Other Petroleum and Coal Products Manufacturing | 324199 | Coke Calcining | 100% | 75% | 50% |
| | Industrial Gas Manufacturing | 325120 | Gaseous Hydrogen Production | 100% | 75% | 50% |
| | | | Liquefied Hydrogen Production | 100% | 75% | 50% |
| | Biological Product (Except Diagnostic) Manufacturing | 325414 | Biological Product (Except Diagnostic) Manufacturing | 100% | 75% | 50% |
| | Gypsum Product Manufacturing | 327420 | Plaster Manufacturing | 100% | 75% | 50% |
| | | | Plaster Board Manufacturing | 100% | 75% | 50% |
| | Mineral Wool Manufacturing | 327993 | Fiber Glass Manufacturing | 100% | 75% | 50% |
| | Rolled Steel Shape Manufacturing | 331221 | Picked Steel Sheet Production | 100% | 75% | 50% |
| | | | Cold Rolled and Annealed Steel Sheet Production | 100% | 75% | 50% |
| | | | Galvanized Steel Sheet Production | 100% | 75% | 50% |
| | | | Tin Steel Plate Production | 100% | 75% | 50% |
| | Secondary Smelting and Alloying of Aluminum | 331314 | Secondary Smelting and Alloying of Aluminum | 100% | 75% | 50% |

| Leakage Risk Classification | NAICS Sector Definition | NAICS Code | Activity(a) | Industry Assistance Factor ($AF_a$) | | |
|---|---|---|---|---|---|---|
| | Secondary Smelting, Refining, and Alloying of Nonferrous Metal (Except Copper and Aluminum) | 331492 | Secondary Smelting, Refining, and Alloying of Nonferrous Metal (Except Copper and Aluminum) | 100% | 75% | 50% |
| | Iron Foundries | 331511 | Iron Foundries | 100% | 75% | 50% |
| | Turbine and Turbine Generator Set Units Manufacturing | 333611 | Testing of Turbines and Turbine Generator Sets | 100% | 75% | 50% |
| Low | Pharmaceutical and Medicine Manufacturing | 325412 | Pharmaceutical and Medicine Manufacturing | 100% | 50% | 30% |
| | Aircraft Manufacturing | 336411 | Aircraft Manufacturing | 100% | 50% | 30% |
| | Support Activities for Air Transportation | 4881 | Support Activities for Air Transportation | 100% | 50% | 30% |

~~(e) Reserved for Allocation to Voluntary Renewable Energy Allowance Set-Aside.~~

(f) Auction Proceeds for AB 32 Statutory Objectives. All remaining allowances not allocated for uses specified in sections 95870(a) through (e) will be designated for sale at auction. The proceeds from the sale of these allowances will be deposited into the Air Pollution Control Fund and will be available for appropriation by the Legislature for the purposes designated in California Health and Safety Code sections 38500 et seq.

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.

## 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 ~~the~~ MRR and has obtained a positive or qualified positive product data verification statement pursuant to ~~the~~ MRR.

(b) Eligibility Requirements for Electrical Distribution Utilities. An electrical distribution utility shall be eligible for direct allocation of California GHG allowances if it has complied with the requirements of ~~the~~ MRR and has obtained a positive or qualified positive verification statement ~~on its sales number~~ for the prior year pursuant to ~~the~~ MRR.

~~(c) Reserved for Natural Gas Distribution Utilities.~~

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 Industry Assistance**

(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 benchmarking allocation calculation methodology specified in ~~subsection~~ section 95891(b) if the entity is from the sector 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 ~~thermal~~ energy-based benchmarking allocation calculation methodology specified in subsection (c) if the entity is from the sector listed in Table 8-1 but not listed in Table 9-1.

(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:

$$\cancel{A_t = \sum_{a=1}^{n} Output_{a,t} * B_a * AF_{I,t} * c_{I,t}}$$

$$A_t = \sum_{a=1}^{n} O_{a,t} * B_a * AF_{a,t} * c_{a,t} + \sum_{a=1}^{n} O_{a,trueup} * B_a * AF_{a,t-2} * c_{a,t-2}$$

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";

"t" is the budget year from which the direct allocation occurs;

"t-2" is the year two years prior to year "t";

~~"t-3" is the year three years prior to year "t";~~

~~"t-4" is the year four 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;

"$Output_{a,t}$" ~~is the~~ annual arithmetic mean amount of manufactured product output from a specific activity at a given facility for the data years "t-2," "t-3," and "t-4," will be calculated by the Executive Officer as the output in year "t-2" as reported to ARB. ~~under the MRR using the output metrics identified in Table 9-1. If three years of data are unavailable the Executive Officer may employ a shorter time period to calculate the annual average;~~

"$O_{a,trueup}$" adjusts for any output not properly accounted for in prior years' allocations. The Executive Officer will calculate this term using the difference between the output reported in data year "t-4" and the output reported in data year "t-2."

"$B_a$" is the emissions efficiency benchmark per unit of output ~~assigned by the Executive Officer to~~ for each eligible activity defined in Table 9-1;

"$AF_{a,t}$" is the assistance factor for budget year "t" assigned to each activity "a" ~~listed industrial sector "I"~~ as specified in Table 8-1; and

"$c_{a,t}$" is the adjustment factor for budget year "t" assigned to each activity "a" ~~listed industrial sector "I"~~ to account for cap decline as specified in Table 9-2.

***Table 9-1: Product Based ~~Output for Establishing~~ Emissions Efficiency Benchmarks***

| ~~Sector~~ | ~~NAICS code~~ | ~~Activity~~ | ~~Product Output~~ |
|---|---|---|---|
| ~~Oil and gas extraction~~ | ~~211111~~ | ~~Crude oil extraction by thermal production technique~~ | ~~Barrel of crude oil by thermal production~~ |
| - | - | ~~Crude oil extraction by non-thermal production technique~~ | ~~Barrel of crude oil by non-thermal production~~ |
| - | - | ~~Natural gas extraction~~ | ~~Mscf of natural gas~~ |
| ~~Soda ash manufacturing~~ | ~~212391~~ | ~~Soda ash mining and manufacturing~~ | ~~Ton of soda ash~~ |
| ~~Paper manufacturing~~ | ~~322121~~ | ~~Paper manufacturing from purchased pulp~~ | ~~Ton of paper products~~ |
| ~~Paperboard manufacturing~~ | ~~322130~~ | ~~Paperboard manufacturing from purchased pulp~~ | ~~Ton of paperboard products~~ |
| ~~Petroleum refining~~ | ~~324110~~ | ~~Petroleum refining~~ | ~~Barrel of petroleum products~~ |
| - | | ~~Petroleum refining~~ | ~~Energy intensity index~~ |
| ~~Flat glass manufacturing~~ | ~~327211~~ | ~~Flat glass manufacturing~~ | ~~Ton of flat glass pulled~~ |
| ~~Container glass manufacturing~~ | ~~327213~~ | ~~Container glass manufacturing~~ | ~~Ton of container glass pulled~~ |
| ~~Cement manufacturing~~ | ~~327310~~ | ~~Cement manufacturing~~ | ~~Ton of cement produced~~ |
| ~~Lime manufacturing~~ | ~~327410~~ | ~~Dolime manufacturing~~ | ~~Ton of dolime produced~~ |
| ~~Gypsum manufacturing~~ | ~~327420~~ | ~~Gypsum manufacturing~~ | ~~Ton of gypsum products~~ |
| ~~Mineral wool manufacturing~~ | ~~327993~~ | ~~Fiber glass manufacturing~~ | ~~Ton of fiber glass pulled~~ |
| ~~Steel mill using electric arc furnace~~ | ~~331111~~ | ~~Steel production using electric arc furnace~~ | ~~Ton of steel produced~~ |
| ~~Hot rolled steel manufacturing~~ | ~~331221~~ | ~~Hot rolled steel production from purchased steel~~ | ~~Ton of rolled steel produced~~ |

| NAICS Sector Definition | NAICS code | Activity (a) | Benchmark ($B_a$) | Benchmark Units |
|---|---|---|---|---|
| Crude Petroleum and Natural Gas Extraction | 211111 | Heavy (API < 20) Crude Oil Extraction | 0.0654 | Allowances / Barrel of Heavy Crude Oil Eqv. |
| | | Light (API >= 20) Crude Oil Extraction | 0.01 | Allowances / Barrel of Light Crude Oil Eqv. |
| Natural Gas Liquid Extraction | 211112 | Natural Gas Liquid Processing | 0.0146 | Allowances / Barrel of Natural Gas Liquids Produced |
| Potash, Soda, and Borate Mineral Mining | 212391 | Mining and Manufacturing of Soda Ash and Related Products | 0.948 | Allowances / Short Ton of Soda Ash Equivalent (Soda Ash, Biocarb, Borax, V-Bor, DECA, PYROBOR, Boric Acid, and Sulfate) |

| NAICS Sector Definition | NAICS code | Activity (a) | Benchmark ($B_a$) | Benchmark Units |
|---|---|---|---|---|
| Paper (except Newsprint) Mills | 322121 | Through Air Dried Tissue Manufacturing | 1.3 | Allowances / Air Dried Short Ton of TAD tissue |
| Paperboard Mills | 322130 | Recycled Boxboard Manufacturing | 0.499 | Allowances / Air Dried Short Ton of recycled boxboard |
| | | Recycled Linerboard (Testliner) Manufacturing | 0.468 | Allowances / Air Dried Short Ton of recycled linerboard |
| | | Recycled Medium (Fluting) Manufacturing | 0.394 | Allowances / Air Dried Short Ton of recycled medium |
| Petroleum Refineries | 324110 | Petroleum Refining (simple barrel) | 0.0465 | Allowances / Barrel of Primary Refinery Products |
| All Other Petroleum and Coal Products Manufacturing | 324199 | Coke Calcining | 0.341 | Allowances/Short Ton Calcined Coke |
| Industrial Gas Manufacturing | 325120 | Gaseous Hydrogen Production | 8.51 | Allowances / Short Ton of Hydrogen Gas |
| | | Liquid Hydrogen Production | TBD | Allowances / Short Ton of Liquid Hydrogen |

| NAICS Sector Definition | NAICS code | Activity (a) | Benchmark ($B_a$) | Benchmark Units |
|---|---|---|---|---|
| Nitrogenous Fertilizer Manufacturing | 325311 | Nitric Acid Production | 0.349 | Allowances / Short ton of nitric acid (HNO3 100%) |
| | | Calcium Ammonium Nitrate Solution Production | 0.0902 | Allowances / Short ton of calcium ammonium nitrate solution |
| Flat Glass Manufacturing | 327211 | Flat glass Manufacturing | 0.471 | Allowances / Short Ton of Flat Glass Pulled |
| Glass Container Manufacturing | 327213 | Container Glass Manufacturing | 0.264 | Allowances / Short Ton of Container Glass Pulled |
| Mineral Wool Manufacturing | 327993 | Fiber Glass Manufacturing | 0.394 | Allowances / Short Ton of Fiberglass Pulled |
| Cement Manufacturing | 327310 | Cement Manufacturing | 0.713 | Allowances / Short ton of adjusted clinker and mineral additives produced |
| Lime Manufacturing | 327410 | Dolime Manufacturing | 1.4 | Allowances / Short Ton of Dolime Produced |
| Gypsum Product Manufacturing | 327420 | Plaster Manufacturing | 0.0454 | Allowances / Short Ton of Plaster |
| | | Plaster Board Manufacturing | 0.134 | Allowances / Short Ton of Plaster Board |
| Iron and Steel Mills | 331111 | Steel Production Using an Electric Arc Furnace | 0.17 | Allowances / Short ton of Steel produced using EAF |

| NAICS Sector Definition | NAICS code | Activity (a) | Benchmark ($B_a$) | Benchmark Units |
|---|---|---|---|---|
| Rolled Steel Shape Manufacturing | 331221 | Hot Rolled Steel Sheet Production | 0.0843 | Allowances / Short ton of hot rolled steel |
| | | Picked Steel Sheet Production | 0.0126 | Allowances / Short ton of pickled steel |
| | | Cold Rolled and Annealed Steel Sheet Production | 0.0313 | Allowances / Short ton of cold rolled and annealed steel |
| | | Galvanized Steel Sheet Production | 0.0504 | Allowances / Short ton of galvanized steel |
| | | Tin Steel Plate Production | 0.0197 | Allowances / Short ton of tin plate |
| Turbine and Turbine Generator Set Units Manufacturing | 333611 | Testing of Turbines and Turbine Generator Sets | 0.00782 | Allowances / Horsepower tested |

(c) ~~Thermal~~ Energy Based Allocation Calculation Methodology. The Executive Officer shall calculate the amount of California GHG Allowances directly allocated under the ~~thermal~~ energy based methodology annually using the following formula:

$$\cancel{A_t = \left(Steam * B_{Steam} + TE * B_{Fuel}\right) * AF_{I,t} * c_{I,t}}$$

$$\underline{A_t = \left(S_{Consumed} * B_{Steam} + F_{Consumed} * B_{Fuel} - e_{Sold} B_{Electricity}\right) * AF_{I,t} * c_{I,t}}$$

Where:

"$A_t$" is the amount of California GHG allowances directly allocated to the operator of an industrial facility with an ~~thermal~~ energy-based allocation from budget year "t";

"t" is the budget year from which the direct allocation occurs;

"$S_{Consumed}$ ~~team~~" 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 ~~include~~ exclude any steam used to produce electricity or steam produced from a cogeneration unit ~~used to generate electricity consumed on-site but shall exclude any steam used to generate electricity for sale or transfer to off-site end users~~;

"$B_{Steam}$" is the emissions efficiency benchmark per unit of steam, 0.06244 California GHG Allowances/MMBtu Steam;

"~~TE~~$F_{Consumed}$" is the historical baseline annual arithmetic mean amount of ~~thermal~~ energy produced ~~from~~ due to fuel combustion at a given facility, measured in MMBtus. 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 used to generate electricity consumed on-site but shall exclude any energy used to generate electricity for sale or transfer to off-site end users.~~ This value shall include any energy from fuel combusted in an 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**;**

"$e_{Sold}$" is the historical baseline annual arithmetic mean amount of electricity sold or provided to off-site end users, measured in MWhs;

"$B_{Electricity}$" is the emissions efficiency benchmark per unit of electricity sold or provided to off-site end users, 0.431 California GHG Allowances/MWh;

"$AF_{I,t}$" is the assistance factor for budget year "t" assigned to each listed industrial sector "I" as specified in Table 8-1; and

"$c_{I,t}$" is the adjustment factor for budget year "t" assigned to each listed industrial sector "I" to account for cap decline as specified in Table 9-2.

(1) Data Sources.

(A) The baseline annual amount of California GHG Allowances directly allocated under the energy based methodology to each eligible entity will be representative of current activity but provide appropriate credit for early voluntary reductions in greenhouse gas emissions.

(B) In determining the appropriate ~~average annual~~ baseline values, the Executive Officer may employ all available data reported to ARB under ~~the~~ MRR for data years 2008-2010~~ and third party verified data reported to the California Climate Action Registry for data years 2000-2007~~. If necessary, the Executive Officer will solicit additional data to establish a representative baseline allocation.

(C) 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) Maximum Free Allocation. The Executive Officer shall ensure that the annual amount of California GHG Allowances directly allocated under the ~~thermal~~ energy based methodology to a covered entity for operations at a facility shall not exceed 110% of the maximum annual level of greenhouse gas emissions emitted during the historical data years used in establishing the baseline allocation for ~~of 2000-2010 from~~ the facility in question.

(3) New Entrants. Covered entities of facilities that were not in operation prior to 2011 and are eligible for free allocation under the ~~thermal~~ energy-based methodology shall be assessed a baseline annual ~~steam and/or thermal energy use values~~ allocation based on expected activity levels as determined by the Executive Officer.

(4) Facility Closures. Covered entities that are no longer subject to the Cap-and-Trade Program due to reduced emissions or facility closure as determined subject to section 95812(b) shall no longer be eligible to receive allowances.

***Table 9-2: Cap Adjustment Factors for Allowance Allocation ~~Assistance to Industry~~***

| ***~~Cap Adjustment Factors for Assistance to Industry~~*** | | |
|---|---|---|
| ***Budget Year*** | ***Cap Adjustment Factor (c) for All Other ~~Industries~~ Direct Allocation*** | ***Cap Adjustment Factor (c) for Cement Manufacturing (NAICS 327310)*** |
| ~~2012~~ | ~~1.000~~ | ~~1.000~~ |
| 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 |

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) ~~Reserved for allocation to electrical distribution utilities.~~ Any allowance allocated to electrical distribution utilities must be used exclusively for the benefit of retail ratepayers of each such electrical distribution utility, consistent with the goals of AB 32, and may not be used for the benefit of entities or person other than such ratepayers.

(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. At least 90 days prior to receiving a direct allocation of allowances, publicly owned electric utilities will inform the Executive Officer of the share of their allowances that is to be placed:

(A) In the publicly owned electric utility's compliance account~~,~~ or compliance account of a Joint Powers Agency in which the Electrical Distribution Utility is a member and with which it has a power purchase agreement; or

(B) In the publicly owned electric utility's limited use holding account.

(c) Monetization Requirement. Monetization Requirement. ~~Each calendar year, an electrical distribution utility must offer for sale at auction all allowances in a 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.~~

(1) In 2012 an investor owned utility must offer one-sixth of the allowances placed in its limited use holding account in 2012 for sale at each of the two auctions scheduled for 2012.

(2) Within each calendar year after 2012, an electrical distribution utility must offer for sale at auction all allowances in a limited use holding account that were issued:

(A) From budget years that correspond to the current calendar year; and

(B) From budget years prior to the current calendar year.

(d) Limitations on the Use of Auction Proceeds and Auction Value.

(1) Proceeds obtained from the monetization of allowances directly allocated to a publicly owned electric utility shall be subject to any limitations imposed by the governing body of the utility and to the additional limitations set forth in sections 95892(d)(3) and 95892(e) ~~below~~.

(2) Proceeds 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 limitations set forth in sections 95892(d)(3) and 95892(e) ~~below~~.

(3) Auction proceeds obtained by an electrical distribution utility shall be used exclusively for the benefit of retail ratepayers of each electrical distribution utility, consistent with the goals of AB 32, and may not be used for the benefit of entities or persons other than such ratepayers.

(A) Investor owned utilities shall ensure equal treatment of their own customers and customers of electricity service providers and community choice aggregators.

(B) To the extent that an electrical distribution utility uses auction proceeds to provide ratepayer rebates, it shall provide such rebates with regard to the fixed portion of ratepayers' bills or as a separate fixed credit or rebate.

(C) To the extent that an electrical distribution utility uses auction proceeds to provide ratepayer rebates, these rebates shall not be based solely on the quantity of electricity delivered to ratepayers from any period after January 1, 2012.

(e) Reporting on the Use of Auction Proceeds and Allowance Value. No later than June 30, 2013, and each calendar year thereafter, each electrical distribution utility shall submit a report to the Executive Officer describing the disposition of any auction proceeds and allowance value received in the prior calendar year. This report shall include:

(1) The monetary value of auction proceeds received by the electrical distribution utility.

(2) How the electrical distribution utility's disposition of such auction proceeds complies with the requirements of this section and the requirements of California Health and Safety Code sections 38500 et seq.

(3) The monetary value of allowances received by the electrical distribution utility which were deposited directly into its compliance account. The value of these allowances shall be quantified based on the average market clearing price of the four quarterly auctions held in the same calendar year that the allowances are allocated.

(4) How the electrical distribution utility's disposition of the monetary value of allowances, deposited directly into its compliance account, complies with the requirements of this section and the requirements of California Health and Safety Code sections 38500 et seq..

(f) Prohibited Use of Allocated Allowance Value. Use of the value of any allowance allocated to an electrical distribution utility, other than for the benefit of retail ratepayers consistent with the goals of AB32 is prohibited, including use of such allowances to meet compliance obligations for electricity sold into the California Independent System Operator markets.

***Table 9-3: Percentage of Electric Sector Allocation Allocated to Each Utility***

| **Utility Name** | **Utility Type (1)** | **Annual % of Total Electric Sector Allocation to Utility** | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| | | **2013** | **2014** | **2015** | **2016** | **2017** | **2018** | **2019** | **2020** |
| PG&E | IOU | 26.121% | 26.436% | 26.099% | 26.296% | 27.298% | 27.002% | 27.310% | 27.343% |
| LADWP | POU | 14.215% | 14.221% | 14.037% | 14.463% | 14.944% | 15.313% | 14.997% | 14.087% |
| SCE | IOU | 34.118% | 33.681% | 34.137% | 32.788% | 30.417% | 29.941% | 29.576% | 29.838% |
| SDG&E | IOU | 7.231% | 6.973% | 6.979% | 7.100% | 7.301% | 7.260% | 7.300% | 7.404% |
| SMUD | POU | 3.298% | 3.299% | 3.228% | 3.316% | 3.464% | 3.589% | 3.723% | 3.854% |
| City of Anaheim | POU | 2.152% | 2.199% | 2.195% | 2.280% | 2.292% | 2.348% | 2.372% | 2.408% |
| City of Azusa (Azusa Light & Water) | POU | 0.181% | 0.185% | 0.189% | 0.194% | 0.201% | 0.206% | 0.211% | 0.218% |
| City of Banning | POU | 0.098% | 0.102% | 0.103% | 0.107% | 0.111% | 0.114% | 0.117% | 0.121% |
| City of Burbank | POU | 0.837% | 0.857% | 0.875% | 0.900% | 0.925% | 0.951% | 0.971% | 0.994% |
| City of Cerritos | POU | 0.018% | 0.019% | 0.019% | 0.020% | 0.021% | 0.021% | 0.022% | 0.022% |
| City of Colton | POU | 0.245% | 0.252% | 0.259% | 0.265% | 0.275% | 0.279% | 0.286% | 0.293% |

| Utility Name | Utility Type (1) | Annual % of Total Electric Sector Allocation to Utility | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| | | 2013 | 2014 | 2015 | 2016 | 2017 | 2018 | 2019 | 2020 |
| City of Glendale (Glendale Water and Power) | POU | 0.660% | 0.664% | 0.662% | 0.673% | 0.692% | 0.697% | 0.714% | 0.741% |
| City of Pasadena (Pasadena Water and Power) | POU | 0.812% | 0.822% | 0.828% | 0.843% | 0.856% | 0.891% | 0.912% | 0.940% |
| City of Riverside | POU | 1.181% | 1.194% | 1.208% | 1.264% | 1.286% | 1.321% | 1.326% | 1.347% |
| City of Vernon | POU | 0.414% | 0.420% | 0.430% | 0.433% | 0.443% | 0.442% | 0.439% | 0.435% |
| Imperial Irrigation District | POU | 1.650% | 1.685% | 1.700% | 1.754% | 1.814% | 1.831% | 1.832% | 1.845% |
| Modesto ID | POU | 1.267% | 1.286% | 1.276% | 1.308% | 1.347% | 1.356% | 1.371% | 1.405% |
| City of Alameda | POU | 0.053% | 0.057% | 0.059% | 0.061% | 0.063% | 0.072% | 0.074% | 0.076% |
| City of Biggs | POU | 0.007% | 0.007% | 0.007% | 0.007% | 0.007% | 0.007% | 0.007% | 0.007% |
| City of Gridley | POU | 0.015% | 0.016% | 0.016% | 0.016% | 0.017% | 0.017% | 0.017% | 0.017% |
| City of Healdsburg | POU | 0.033% | 0.033% | 0.032% | 0.034% | 0.036% | 0.038% | 0.039% | 0.042% |

| Utility Name | Utility Type (1) | Annual % of Total Electric Sector Allocation to Utility | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| | | 2013 | 2014 | 2015 | 2016 | 2017 | 2018 | 2019 | 2020 |
| City of Lodi | POU | 0.167% | 0.169% | 0.165% | 0.168% | 0.175% | 0.176% | 0.176% | 0.181% |
| City of Lompoc | POU | 0.050% | 0.050% | 0.049% | 0.052% | 0.054% | 0.055% | 0.055% | 0.057% |
| City of Palo Alto | POU | 0.357% | 0.359% | 0.351% | 0.356% | 0.368% | 0.368% | 0.367% | 0.376% |
| City of Redding | POU | 0.449% | 0.505% | 0.503% | 0.512% | 0.532% | 0.548% | 0.548% | 0.562% |
| City of Roseville | POU | 0.489% | 0.502% | 0.510% | 0.532% | 0.557% | 0.549% | 0.547% | 0.552% |
| City of Ukiah | POU | 0.035% | 0.035% | 0.033% | 0.036% | 0.039% | 0.042% | 0.044% | 0.045% |
| Plumas-Sierra Rural Electric Cooperation | POU | 0.064% | 0.066% | 0.067% | 0.068% | 0.069% | 0.069% | 0.069% | 0.069% |
| Port of Oakland | POU | 0.033% | 0.033% | 0.034% | 0.034% | 0.035% | 0.035% | 0.035% | 0.034% |
| Silicon Valley Power | POU | 1.138% | 1.155% | 1.145% | 1.214% | 1.303% | 1.340% | 1.344% | 1.393% |
| Truckee-Donner Public Utility District | POU | 0.121% | 0.124% | 0.128% | 0.131% | 0.135% | 0.137% | 0.141% | 0.144% |
| Turlock Irrigation District | POU | 0.943% | 0.974% | 0.990% | 1.015% | 1.057% | 1.071% | 1.071% | 1.090% |

| **Utility Name** | **Utility Type (1)** | **Annual % of Total Electric Sector Allocation to Utility** | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| | | **2013** | **2014** | **2015** | **2016** | **2017** | **2018** | **2019** | **2020** |
| Anza Electric Cooperative, Inc. | POU | 0.020% | 0.021% | 0.022% | 0.022% | 0.023% | 0.023% | 0.024% | 0.024% |
| Bear Valley Electric Service | POU | 0.000% | 0.000% | 0.000% | 0.000% | 0.000% | 0.000% | 0.000% | 0.000% |
| City of Needles | POU | 0.010% | 0.011% | 0.011% | 0.012% | 0.012% | 0.013% | 0.013% | 0.013% |
| City of Rancho Cucamonga | POU | 0.026% | 0.027% | 0.028% | 0.028% | 0.029% | 0.030% | 0.030% | 0.031% |
| City and County of San Francisco | POU | 0.099% | 0.116% | 0.134% | 0.154% | 0.174% | 0.196% | 0.220% | 0.242% |
| City of Shasta Lake (Shasta Dam Area Public Utility District) | POU | 0.052% | 0.054% | 0.055% | 0.057% | 0.060% | 0.061% | 0.063% | 0.065% |

| Utility Name | Utility Type (1) | Annual % of Total Electric Sector Allocation to Utility | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| | | 2013 | 2014 | 2015 | 2016 | 2017 | 2018 | 2019 | 2020 |
| Lassen Municipal Utility District | POU | 0.051% | 0.053% | 0.055% | 0.056% | 0.059% | 0.059% | 0.061% | 0.062% |
| Merced Irrigation District | POU | 0.171% | 0.177% | 0.183% | 0.188% | 0.195% | 0.198% | 0.203% | 0.208% |
| Moreno Valley Utilities | POU | 0.039% | 0.041% | 0.042% | 0.043% | 0.045% | 0.045% | 0.047% | 0.048% |
| Mountain Utilities | POU | 0.003% | 0.003% | 0.003% | 0.003% | 0.004% | 0.004% | 0.004% | 0.004% |
| Port of Stockton | POU | 0.005% | 0.006% | 0.006% | 0.006% | 0.006% | 0.006% | 0.006% | 0.006% |
| Power and Water Resource Pooling Authority | POU | 0.067% | 0.069% | 0.070% | 0.074% | 0.080% | 0.082% | 0.084% | 0.088% |
| Sierra Pacific Power Company | POU | 0.226% | 0.235% | 0.243% | 0.250% | 0.259% | 0.262% | 0.268% | 0.273% |
| Surprise Valley Electrical Corporation | POU | 0.054% | 0.056% | 0.058% | 0.059% | 0.062% | 0.062% | 0.064% | 0.065% |
| Trinity Public Utility District | POU | 0.000% | 0.000% | 0.000% | 0.000% | 0.000% | 0.000% | 0.000% | 0.000% |

| Utility Name | Utility Type (1) | Annual % of Total Electric Sector Allocation to Utility | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| | | 2013 | 2014 | 2015 | 2016 | 2017 | 2018 | 2019 | 2020 |
| USBR WAPA Boulder City Area Parker-Davis | POU | 0.333% | 0.355% | 0.378% | 0.391% | 0.416% | 0.415% | 0.427% | 0.430% |
| Valley Electric Association, Inc. | POU | 0.000% | 0.000% | 0.000% | 0.000% | 0.000% | 0.000% | 0.000% | 0.000% |
| Victorville Municipal | POU | 0.024% | 0.025% | 0.026% | 0.026% | 0.027% | 0.028% | 0.028% | 0.029% |
| Hercules | POU | 0.007% | 0.007% | 0.007% | 0.007% | 0.007% | 0.008% | 0.008% | 0.008% |
| City of Industry | POU | 0.009% | 0.009% | 0.010% | 0.010% | 0.010% | 0.011% | 0.011% | 0.011% |
| Corona | POU | 0.061% | 0.063% | 0.064% | 0.066% | 0.069% | 0.070% | 0.072% | 0.073% |
| Pittsburg Power/ Island | POU | 0.004% | 0.004% | 0.005% | 0.005% | 0.005% | 0.005% | 0.005% | 0.005% |
| Eastside | POU | 0.005% | 0.005% | 0.006% | 0.006% | 0.006% | 0.006% | 0.006% | 0.006% |
| PacifiCorp | IOU | 0.281% | 0.285% | 0.282% | 0.297% | 0.316% | 0.333% | 0.347% | 0.369% |
| (1) IOU = Investor Owned Electric Utility, POU = Publicly Owned Electric Utility | | | | | | | | | |

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.

### § 95893. Reserved for Allocation to Natural Gas Distribution Utilities for Protection of Natural Gas Ratepayers

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.

## Subarticle 10: Auction and Sale of California Greenhouse Gas Allowances

### § 95910. ~~Timing of~~ Auction of California GHG Allowances.

(a) Timing of the Allowance Auctions.

(1) In 2012, auctions will be held on August 15 and November 14. ~~The first auction shall be conducted on February 14, 2012.~~

(2) Beginning in 2013, ~~Subsequent~~ auctions shall be conducted on the twelfth business day of the ~~first~~ second month of each calendar quarter.

(b) An allowance may be designated for auction prior to its vintage year.

(c) For each quarterly auction:

(1) Auction of Allowances from Current Budget Year. ~~From the budget year that matches the current calendar year, one quarter of the allowances designated for auction pursuant to section 95870(f) will be offered.~~; Beginning in 2013, one quarter of the allowances designated for auction from the budget year that matches the current calendar year pursuant to section 95870(f) will be offerred.

(2) Auction of Allowances from Future Budget Years. ~~From the budget year three years subsequent to the current calendar year, one quarter of the allowances designated for advance auction pursuant to section 95870(b) will be offered.~~

(A) At each auction taking place in 2012, one half of the allowances designated for advance auction pursuant to section 95870(b) from the 2015 budget will be offered.

(B) Beginning in 2013, one quarter of the allowances designated for advance auction pursuant to 95870(b) from the budget year three years subsequent to the current calendar year will be offered.

(3) Auctions of allowances from different budget years will be conducted separately.

(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.

(2) When the Executive Officer withdraws allowances or ARB offset credits from suspended or revoked holding accounts pursuant to section 95831(b)(1):

(A) Allowances shall be consigned to the next auction.

(B) If, after review, the Executive Officer determines the withdrawn ARB offset credits are valid, the Executive Officer will retire them, withdraw a similar number of allowances from the Auction Holding Account, and consign those allowances to auction in place of the retired ARB offset credits.

(3) Each consigning entity agrees to accept the auction settlement price for allowances sold at auction.

(4) Deadline for Consignment. ~~Allowances consigned to auction at least 60 days prior to the regular quarterly auction will be offered for sale at that auction.~~

(A) For the auctions conducted in 2012, allowances designated for consignment pursuant to section 95892(c) must be transferred to the Auction Holding Account at least 10 days before each auction.

(B) Beginning in 2013, allowances consigned to auction through a transfer to the Auction Holding Account at least ~~60~~75 days prior to the regular quarterly auction will be offered for sale at that 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.

**§ 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 ~~metric tons of $CO_2e$~~ California GHG allowances.

(4) Bid prices must be submitted in whole dollars and whole cents.

(b) Auction Reserve Price Schedule.

(1) Each auction will be conducted with an auction reserve price.

(2) No allowances will be ~~awarded for~~ sold at bids lower than the auction reserve price.

(3) If an auction settlement price equals the reserve price:

(A) The auction operator will fulfill winning bids with allowances from consignment sources in the following order:

~~(i)~~1. Allowances consigned to auction pursuant to section 95910(d)(2);

~~(ii)~~2. Allowances consigned from limited use holding accounts pursuant to ~~subarticle 5~~ section 95910(d)(2);

~~(iii)~~3. Allowances directly allocated by ARB to auction pursuant to subarticle 8.

(B) When there are insufficient winning bids to exhaust the allowances from a consignment source in section 95911(b)(3)(A), the auction operator will sell an equal ~~number~~

proportion of allowances from each consigning entity in that source.

(4) Disposition of allowances allocated for auction when an auction settlement price equals the reserve price: ~~Allowances designated by ARB for an auction which remain unsold when the auction settlement price equals the auction reserve price shall be transferred to the highest priced tier in the Allowance Price Containment Reserve Account.~~

(A) Unsold current vintage allowances shall be transferred equally to the three tiers in the Allowance Price Containment Reserve Account. If the number of allowances unsold is not divisible by three, the transfer of the final allowances shall be to the lowest-price tiers.

(B) Unsold future vintage allowances auctioned pursuant to section 95910(c) will be returned to the Auction Holding Account for sale at the next auction.

(5) 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 returned to the respective source accounts.

(B) Allowances consigned to auction pursuant to section 95831(b)(1) that remain unsold at auction will be held in the Auction Holding Account until the next auction.

(6) Method for Setting the Auction Reserve Price.

(A) For auctions conducted in calendar year 2012 and 2013 the Reserve Price shall be $10 per metric ton of $CO_2e$ for vintage ~~2012~~2013 allowances. For auctions conducted in 2012, the Reserve Price shall be~~and $11.58~~ $10.00 per metric ton of $CO_2e$ for vintage 2015 allowances.

(B) For auctions conducted in calendar years after ~~2012~~2013 the Reserve Prices shall be the Auction Reserve Prices for the

previous calendar year increased annually by 5 percent plus the rate of inflation as measured by the Consumer Price Index for All Urban Consumers.

~~(c) Auction Purchase Limit. For auctions conducted from January 1, 2012, through December 31, 2014, the share of allowances of any vintage year offered at any quarterly auction which may be purchased by one entity or a group of entities with a corporate association pursuant to 95914 shall be limited to less than:~~

~~(1) For covered entities and opt-in covered entities: ten percent of the allowances offered for auction.~~

~~(2) For investor owned electrical utilities receiving a direct allocation of allowances pursuant to 95892(b) and subject to the monetization requirement pursuant to 95892(c): the auction purchase limit in (A) does not apply. This subsection (B) shall not be interpreted to exempt said investor owned electrical utilities from any other requirements of this article; and~~

~~(3) For all other auction participants: four percent of the allowances offered for auction.~~

(c) Auction Purchase Limit.

(1) The auction purchase limit is the maximum number of allowances offered at each quarterly auction which can be purchased by any entity or group of entities with a disclosable corporate association pursuant to section 95833.

(2) The purchase limit will apply to auctions conducted from January 1, 2012 through December 31, 2014.

(3) For the advance auction of future vintage allowances conducted pursuant to section 95910(c) the purchase limit is 25 percent.

(4) For the auction of current vintage allowances:

(A) The purchase limit for covered entities and opt-in covered entities will be 10 percent of the allowances offered for auction;

(B) The purchase limit does not apply to electrical distribution utilities receiving a direct allocation of allowances pursuant to section 95892(b) and subject to the monetization requirement pursuant to section 95892(c). This provision shall not be interpreted to exempt said electrical distribution utilities from any other requirements of this article; and

(C) The purchase limit for all other auction participants is four percent of the allowances offered for auction.

(d) 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 metric tons of $CO_2e$, desired at that price.

(2) Each bidder may submit multiple bids.

(3) Beginning with the highest bid price, bids will be considered in declining order by price, and the auction operator shall reject a bid:

(A) If acceptance of the bid would result in violation of the purchase limit pursuant to sections 95911(c), 95914, and 95915;

(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(i).

(4) Beginning with the highest bid price, bids will be considered in declining order by price and entities submitting bids at that price will be ~~awarded~~ sold allowances until either:

(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 ~~awarded~~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(d)(5) shall apply.

(5) Resolution of tie bids:

(A) If the quantity of allowances contained in the bids placed at the lowest bid is greater than the quantity of allowances available to be sold at that price, then the auction operator will assign a random number to each bundle of 1,000 metric tons of $CO_2e$ contained in each of the bids at that price.

(B) Beginning with the lowest random number assigned and working in increasing order of the random numbers assigned, the auction operator shall sell allowances to the bidder assigned the random number until the remaining allowances are sold.

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 Registration**

(a) Administration. ~~The Executive Officer may serve as auction administrator or designate an entity to serve as auction administrator.~~

(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 subarticle.

(b) The Executive Officer may direct that the California 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 with this article.

(c) Auction Registration Requirements. An entity that intends to participate in the auction must complete an auction registration at least thirty days prior to the auction.

(1) The details of the auction and the requirements for registration will be provided in a public notice by the ~~Executive Officer~~ auction administrator no later than 60 days prior to the auction.

(2) An entity will be required to complete a registration application at least 30 days prior to an auction in which it intends to participate. The entity must provide information and documentation ~~which must include~~including:

(A) Information and documentation regarding the corporate identity, ownership, and capital structure of the applicant;

(B) The existence of any direct or indirect corporate associations pursuant to section 95914;

(C) Declarations as to the beneficial holding, pursuant to section 95914), of any compliance instrument that may be acquired through the auction ~~which requires disclosure of bidding associations pursuant to 95915,~~ or that already exists prior to the auction;

(D) The identification of any indictment or felony conviction of the bidder, or any member, director, principal, partner, or officer of the applicant or any associated or related entity;

(E) The identification of any previous or pending investigation with respect to any alleged violation of any rule, regulation, or law associated with any commodity market or exchange.

(F) The applicant's holding account number.

(3) The Executive Officer must approve an entity's registration before that entity may participate in an auction.

~~(d) Protection of Confidential Information.~~

~~(1) An entity approved for auction participation shall not publicly release confidential information related to its auction participation, including:~~

~~(A) Qualification status;~~

~~(B) Bidding strategy;~~

~~(C) Bid price or bid quantity information;~~

~~(D) Information on the financial security it provides to the auction administrator;~~

~~(E) Other information identified in the auction application by the auction administrator.~~

~~(2) If an entity participating in an auction has retained the services of an advisor regarding auction bidding strategy, the entity must ensure against the advisor transferring information to other auction participants or coordinating the bidding strategy among participants.~~

~~(3) To the extent permitted by state law, the Executive Officer will treat the information contained in the auction application as confidential business information.~~

~~(4) Following the auction, the Executive Officer may release 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.~~

~~(e) If the Executive Officer determines that a bidder has provided false or misleading information, or has withheld pertinent information in its application, or has violated any part of the auction rules, the bidder may be prohibited from participating in any future auctions. This prohibition shall be in addition to any other penalties, fines, and additional remedies available at law.~~

~~(f) An entity registering as an auction participant must also be registered as provided in sections 95811, 95813, or 95814, as applicable.~~

~~(g) An entity whose holding account has been revoked or is currently suspended pursuant to section 96011 cannot participate in an auction.~~

(d) Maintenance and Modification of Registration.

(1) Once the Executive Officer has approved an entity's registration, the entity need not complete another application for subsequent auctions unless there is a material change to the information contained in the application or the Executive Officer has made a determination restricting an entity's auction participation pursuant to section 95914(c).

(2) An entity approved for auction participation must inform the auction operator at least 30 days prior to an auction when reporting a change to the information disclosed, otherwise the entity may not participate in that auction.

(e) A registered entity may not communicate information on auction participation with any other entity that is not part of an association disclosed pursuant to section 95914, except as requested by the auction operator to remediate an auction application.

(f) Protection of Confidential Information.

(1) To the extent permitted by state law, the Executive Officer, the auction administrator, and the financial services administrator will treat the information contained in the auction application as confidential business information.

(2) Following the auction, the Executive Officer will release 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.

~~(e) If the Executive Officer determines that a bidder has provided false or misleading information, or has withheld pertinent information in its application, or has violated any part of the auction rules, the bidder may be prohibited from participating in any future auctions. This prohibition shall be in addition to any other penalties, fines, and additional remedies available at law.~~

~~(f)~~ ~~An entity registering as an auction participant must also be registered as provided in sections 95811, 95813, or 95814, as applicable.~~

~~(g)~~ ~~An entity whose holding account has been revoked or is currently suspended pursuant to section 96011 cannot participate in an auction.~~

~~(h)~~(g) All bids shall be submitted ~~on a schedule and in a form and manner prescribed by~~ to the Executive Officer and will be considered binding offers for the purchase of allowances under the rules of the auction.

~~(i)~~(h) Registrants must provide a bid guarantee to the ~~auction~~ financial services administrator at least one week prior to the auction.

(1) The bid guarantee must be in one or a combination of the following forms:

(A) A bond issued by a financial institution with a United States banking license**.**

(B) Cash in the form of a wire transfer or certified funds, such as a bank check or cashier's check.

(C) An irrevocable letter of credit issued by a financial institution with a United States banking license.

(D) If California participates in a joint auction with one or more Canadian Provinces pursuant to section 95912-(b) then bonds or irrevocable letters of credit issued by a financial institution with a Canadian banking license will be acceptable.

(2) The amount of the bid guarantee must be greater than or equal to the sum of the value of the bids submitted by the auction participant.

~~(j)~~(i) At least 60 days prior to each auction the auction administrator shall publish on the following information:

(1) The date and time of the auction;

(2) ~~a~~Application instructions for applying to participate in the auction;

(3) ~~t~~The form and manner for submitting bids;

(4) ~~t~~The procedures for conducting the auction;

(5) ~~t~~The administrative requirements for participation; and

(6) ~~t~~The number of CA GHG Allowances that will be available at each auction.

~~(k)~~(j) To conduct the auction the auction administrator will:

(1) ~~process~~ Obtain a determination from the financial services administrator of the acceptance of the registration bid guarantees;

(2) ~~d~~Determine that bids and bid quantities conform with purchase limits set for the auction pursuant to section 95911(c), the holding limit pursuant to section 95920(b), and the amount of the bid guarantee provided by the registrant;

(3) ~~d~~Determine the winning bids and auction price; and

(4) ~~i~~Inform the Executive Officer of the auction results.

~~(l)~~(k) Following the auction, the Executive Officer will:

(1) Certify whether the auction was operated pursuant to this article;

(2) After certification, direct the ~~auction operator~~ financial services administrator to:

(A) Collect payments from winning bidders;

(B) Declare forfeit and retain the bid guarantee mechanism submitted pursuant to section 95912(i) for any bidder that fails to tender full payment when due for allowances awarded at auction, in an amount equal to any unpaid balance.

(C) Deposit auction proceeds from sales of ARB allowances sold at auction into the Air Pollution Control Fund.

(D) Distribute auction proceeds to entities that consigned allowances for auction pursuant to section 95910(d).

(3) Upon determining that the payment for allowances has been deposited into the Air Pollution Control Fund or transferred to entities that consigned allowances, transfer the serial numbers of the allowances purchased into each winning bidder's Holding Account, or to its Compliance Account if needed to comply with the holding limit;

(4) Inform each approved external GHG emissions trading system and the associated tracking system of the serial numbers of allowances purchased at auction; and

(5) Publish the auction results in the manner set forth in section 95912(d)(2) 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.

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

(a) The Executive Officer may serve as reserve sale administrator to ~~administer~~ conduct sales from the Allowance Price Containment Reserve (Reserve) or ~~contract with~~ designate an entity to ~~administer sales from the Allowance Price Containment Reserve~~ 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) If California links to an external greenhouse gas emissions trading system (GHG ETS) pursuant to subarticle 12, ~~then~~ the linkage agreement will specify whether covered entities in the linked GHG ETS will be eligible to purchase from a jointly operated ~~Allowance Price Containment~~ Reserve, or whether each GHG ETS will operate ~~such~~ separate Reserves ~~separately~~.

(c) Timing, Eligible participants, and Limitations.

(1) Eligible participants. Only covered entities (including opt-in covered entities) registered as provided in sections 95811 or 95813 shall be eligible to purchase allowances from the Reserve.

~~(A) Only covered entities (including opt-in covered entities) registered as provided in sections 95811 or 95813 shall be eligible to purchase allowances from the Allowance Price Containment Reserve.~~

~~(B) Only covered entities (including opt-in covered entities) which hold no compliance instruments in their holding accounts or limited use holding accounts may purchase allowances from the Allowance Price Containment Reserve.~~

(2) The reserve sale administrator of the ~~Allowance Price Containment~~ Reserve shall offer all of the allowances in the ~~Allowance Price Containment~~ Reserve ~~Account~~ at each reserve sale.

(3) Timing.

(A) The first ~~r~~Reserve sale will be conducted on March ~~4~~ 8, ~~2012~~2013.

(B) Subsequent sales shall be conducted ~~three~~ six weeks after each quarterly allowance auction pursuant to section 95910.

(C) The Reserve sale administrator shall provide all eligible participants with written notice of the number of allowances available for sale and the terms of the sale at least four weeks prior to the sale.

(4) Limitation. Allowances purchased from the ~~Allowance Price Containment~~ Reserve are subject to the Holding Limit established pursuant to section 95920.

(d) Reserve Tiers.

(1) Creation of Reserve Tiers. Prior to the first Reserve sale, ~~T~~the ~~Executive Officer~~ reserve sale administrator shall divide allowances allocated to the ~~Allowance Price Containment~~ Reserve into three equal-sized tiers.

(2) Reserve Tier Prices. Sales of ~~r~~Reserve allowances in calendar year ~~2012~~2013 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.

(3) Increase in Release Prices. In calendar years subsequent to ~~2012~~2013, allowances from each tier shall be offered at prices equal to the offer price for each tier from the previous calendar year increased by 5 percent plus the rate of inflation as measured by the Consumer Price Index for All Urban Consumers.

(e) Submissions of Bids to Purchase. At least two weeks prior to the scheduled sale, a covered entity shall submit ~~to the reserve sale administrator~~:

(1) To the reserve sale administrator a bid consisting of a price equal to one of the three tier prices and a quantity of allowances, and ~~A bid consisting of a price equal to one of the three tier prices and a quantity of allowances, and a schedule of bids containing the number of allowances the entity intends to purchase from each of the three reserve tiers, in multiples of 1,000 metric tons of $CO_2$e, up to the covered entity's holding limit; and~~

(2) To the financial services administrator a ~~A~~bid guarantee in an amount greater than or equal to the sum of the maximum value of the bids submitted by the covered entity, in one or a combination of the following forms:

(A) A bond issued by a financial institution with a United States banking license.

(B) Cash in the form of a wire transfer or certified funds, such as a bank check or cashier's check.

(C) An irrevocable letter of credit issued by a financial institution with a United States banking license.

(D) If California participates in a joint Allowance Price Containment Reserve with one or more GHG ETS programs in the Canadian Provinces to which it links and covered entities from linked systems are eligible to purchase from the Reserve pursuant to

section 95913(b), then bonds or irrevocable letters of credit issued by a financial institution with a Canadian banking license will be acceptable.

(E) 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 financial services administrator.

(f) Purchase Determinations.

(1) The reserve sale administrator will conduct sales from each tier in succession, beginning with the lowest to the highest priced tier, until either all allowances are sold from the reserve or all the accepted bids are filled.

(2) ~~For each tier the~~ The reserve sale administrator will only accept a bid

(A) If acceptance of the bid would not result in violation of the holding limit pursuant to section 95920(b); or

(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(e)(2).

~~(3) If the sum of bids accepted by the reserve sale administrator for a tier is less than or equal to the number of allowances in the tier, the reserve sale administrator will determine the total amount to be distributed from each tier to each covered entity as equal to the number of allowances for which the entity submitted bids which were accepted by the reserve sale administrator.~~

(3) 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:

(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.

(B) If allowances remain in the tier after the sales pursuant to section 95913(f)(3)(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 allowances to the bidder assigned the random number until the remaining allowances in the tier are sold or all bids have been fulfilled.

(4) 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 ~~each~~ 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.

(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 (f)(2)(A) above by the number of allowances in the tier, rounding the number down to the nearest whole number.

~~(5) Inform the Executive Officer of the calculated distributions as required.~~

(5) After completing the sales for each tier the reserve sale administrator will repeat the processes in sections 95913(f)(3) and (f)(4) above for the next highest price tier until all bids have been filled or until the Reserve is depleted. At that time the reserve sale administrator will inform the Executive Officer of the sales from the Reserve to each participant.

(g) Resolution of Sales. Following each sale of allowances from the ~~Allowance Price Containment~~ Reserve, the Executive Officer shall:

(1) Certify that the reserve sale administrator ~~was~~ conducted the reserve sale pursuant to this article;

(2) Upon certification of the sale results, authorize the ~~reserve sale~~ financial services administrator to process payments from covered entities and deposit proceeds into the Air Pollution Control Fund;

(3) Upon determining that the financial services administrator has deposited the payment for allowances ~~has been deposited~~ into the Air Pollution Control Fund, transfer the serial numbers of the allowances purchased from the Allowance Price Containment Reserve Account into each winning bidder's compliance account;

(4) Inform each approved external GHG emissions trading system and the associated tracking system of the serial numbers of allowances sold; and

(5) 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. ~~Disclosure of Direct and Indirect Corporate Associations~~Auction Participation and Limitations**

(a) An entity registering as an auction participant must be registered as provided in sections 95811, 95813, or 95814, as applicable.

(b) An entity whose holding account has been revoked or is currently suspended pursuant to section 96011 cannot participate in an auction.

(c) If the Executive Officer determines that a bidder has provided false or misleading information, or has withheld material information in its application, or has violated any part of the auction rules set forth in subarticle 10, then:

(1) The Executive Officer may instruct the auction operator to not accept auction applications from the bidder or any agent or affiliate of the

bidder intending to purchase allowances at auction for subsequent transfer to the bidder through either a beneficial holding or corporate association pursuant to section 95834.

(2) This exclusion from auction participation shall be in addition to any other penalties, fines, and additional remedies available at law.

(3) This exclusion from auction participation may be permanent or for a specified number of auctions.

(d) Non-disclosure of Bidding Information Among Auction Participants.

(1) An entity approved for auction participation shall not release any confidential information related to its auction participation, including:

(A) Qualification status;

(B) Bidding strategy;

(C) Bid price or bid quantity information;

(D) Information on the financial security it provided to the auction administrator;

(E) Other information identified in the auction application by the auction administrator.

(2) If an entity participating in an auction has retained the services of an advisor regarding auction bidding strategy, then:

(A) The entity must ensure against the advisor transferring information to other auction participants or coordinating the bidding strategy among participants.

(B) The entity will inform the advisor of the prohibition of sharing information to other auction participants and ensure the advisor has read and acknowledged the prohibition under penalty of perjury.

(C) Any entity that has retained the services of an advisor must inform ARB of the advisor's retention.

(3) Restrictions on disclosure of information on auction participation between members of a beneficial holdings relationship.

(A) A principal may only disclose confidential information related to its auction participation with another principal or with more than one agent.

(B) An agent in a beneficial holdings relationship may not disclose confidential information related to auction participation to anyone other than the principal who made the original disclosure.

(4) Any disclosure of auction participation information to entities that are not subject to exclusion pursuant to section 95914(d)(1) shall be a violation of this article pursuant to section 96012 and subject to penalties pursuant to section 96013.

(e) Application of the Corporate Association Disclosures to the Auction Purchase Limit.

(1) The total number of compliance instruments which may be purchased in a single auction by a group of entities with a disclosed corporate association is limited pursuant to section 95911(c).

(2) Entities that are part of a corporate association or are subject to a JPA and transfer compliance instruments to the compliance account of a JPA pursuant to section 95831(a)(4)(B) may allocate shares of the purchase limit among themselves. Each entity will then have a specified percentage share of the association's purchase limit. The sum of the shares allocated among the entities must sum to one.

(A) The group of associated entities must inform the Executive Officer when submitting the auction application of an allocation of the purchase limit among the associated entities, if applicable;

(B) The allocation will be in effect for the auction for which the associated entities submitted the application; and

(C) Each associated entity's allocated purchase share times the number of allowances being auctioned becomes the purchase limit for that entity.

(3) If entities with a corporate association do not allocate shares of the purchase limit among themselves, then the auction administrator will apply the purchase limit to the entities as follows:

(A) The administrator will order the entities' bids from highest to lowest bid price.

(B) Working from the highest to the lowest bid, the auction administrator will accept bids until the purchase limit for the associated entities is met.

(C) The auction operator will conduct this procedure before conducting the auction pursuant to section 95911.

~~(a) Entities registered pursuant to 95830 must disclose direct and indirect corporate associations with other registered entities.~~

~~(1) An entity has a "direct corporate association" with another entity if either one of these entities:~~

~~(A) Holds more than twenty percent of any class of listed shares, the right to acquire such shares, or any option to purchase such shares of the other entity;~~

~~(B) Holds or can appoint more than twenty percent of common directors of the other entity;~~

~~(C) Holds more than twenty percent of the voting power of the other entity; or~~

~~(D) Controls more than twenty percent of the other entity's affairs through some other means.~~

~~(E) Holds compliance instruments in its own holding account in which the other entity has an ownership interest.~~

~~(2) An entity has an "indirect corporate association" with another entity if one of these entities:~~

~~(A) Has a direct corporate association with another party that has a direct corporate association with the other entity in question, or through a longer line of direct corporate associations; and~~

~~(B) The percentage ownership of the entity in the other entity, obtained by multiplying the percentages of ownership at each association in a line of direct corporate associations, must be more than twenty percent.~~

~~(b) If California links its ETS program with one or more GHG ETS programs in Canadian Provinces, then entities shall disclose corporate associations with entities registered into those ETS programs.~~

~~(c) If a registered entity has a direct or indirect corporate association with another registered entity, the information that must be disclosed includes:~~

~~(1) The name of the other entity;~~

~~(2) The share of the corporate association's purchase and holding limits assigned to the entity and associated entities pursuant to 95914(e) and 95914 (f);~~

~~(3) The type of corporate association (i.e., direct or indirect) and a brief description of the association, to include the following descriptors:~~

~~(A) Corporate parent;~~

~~(B) Subsidiary;~~

~~(C) Sister company;~~

~~(D) Partnership; and~~

~~(E) Other description.~~

~~(d) The entity must disclose the information to the Executive Officer:~~

~~(1) When registering pursuant to section 95830;~~

~~(2) At any time after registering when a disclosable association is created or exists;~~

~~(3) Within 30 days of a material change to the information disclosed on direct and indirect corporate associations; and~~

~~(4) At least 60 days prior to an auction when reporting a material change to the information disclosed, otherwise the entity may not participate in that auction.~~

~~(e) Application of the Corporate Association Disclosure to the Purchase Limit at Auction.~~

~~(1) The total number of compliance instruments which may be purchased in a single auction by a group of entities with a disclosed corporate association is limited pursuant to section 95911(c).~~

~~(2) Entities part of a corporate association may allocate shares of the purchase limit among themselves, if:~~

~~(A) The group of associated entities must inform the Executive Officer when submitting the auction application of an allocation of the purchase limit among the associated entities; this allocation results in each entity having a specified percentage share of the group's purchase limit.~~

~~(B) The sum of the shares allocated to each entity must be less than or equal to the purchase limit pursuant to section 95911(c).~~

~~(C) Each associated entity's allocated purchase share becomes the purchase limit for that entity.~~

~~(3) If entities with a corporate association do not allocate shares of the purchase limit among themselves, then the auction administrator will apply the purchase limit to the entities as follows:~~

~~(A) The administrator will order the entities' bids from highest to lowest bid price.~~

~~(B) Working from the highest to the lowest bid, the auction administrator will accept bids until the purchase limit for the associated entities is met.~~

~~(C) The auction operator will conduct this procedure before conducting the auction pursuant to section 95911.~~

~~(f) Application of the Corporate Association Disclosure to the Holding Limit.~~

~~(1) The total number of compliance instruments held by a group of entities with a disclosable corporate association must sum to less than the holding limit of the group of associated entities pursuant to section 95920(b).~~

~~(2) Entities part of a corporate association may allocate shares of the holding limit among themselves.~~

~~(A) The group of associated entities must inform the Executive Officer of the allocation or changes to the allocation pursuant to section 95914(d); this allocation results in each entity having a specified percentage share of the group's holding limit.~~

~~(B) The sum of the shares allocated to each entity must be less than or equal to the holding limit.~~

~~(3) If entities with a corporate association do not allocate shares of the holding limit among themselves, the accounts administrator will not record any transaction which would result in the entities with a corporate association exceeding the holding limit.~~

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. Identifying Disclosable Bidding Associations.~~**

~~(a) Entities registering for the auction pursuant to section 95912 must disclose bidding associations with other entities also registered into the California cap-and-trade system or registered into one or more GHG ETS programs in Canadian Provinces to which California has linked.~~

~~(b) An entity has a disclosable "bidding association" with another entity if it:~~

~~(1) Has any form of agreement with another entity;~~

~~(2) Is partnered with the other entity for bidding purposes.~~

~~(3) Has agreed to provide assistance in any other way with the exception of investment or auction advisory services with the other entity.~~

~~(c) Disclosure requirements.~~

~~(1) Disclosable bidding associations must be reported in the auction registration application pursuant to section 95912(c).~~

~~(2) A complete description of the agreement or association, including parties to the agreement; their relationships, including which entity is purchasing and holding compliance instruments on behalf of a recipient; and any terms or conditions. A copy of any documents that constitute or memorialize the agreement or association must be~~

~~provided. If no such documents exist, the description of the agreement must explain how the agreement or association was created.~~

~~(d) Timing of Disclosure.~~

~~(1) The entity must disclose the information to the auction operator at least 30 days prior to an auction when reporting a material change to the information disclosed, otherwise the entity may not participate in that auction.~~

~~(2) Within 30 days of an auction or after filing an auction application, an entity may not communicate information on auction participation with any other entity that has not been disclosed as part of a bidding association, except as requested by the auction operator to remediate an auction application.~~

~~(3) Since an entity may not re-file the auction application after the deadline, an entity that makes a material change after the deadline may not participate in the auction.~~

~~(e) Application of the Bidding Association Disclosure to the Purchase Limit at Auction.~~

~~(1) The auction operator shall apply the purchase limit for an entity designated as the "recipient" in a bidding association to the bids submitted by that entity alone.~~

~~(2) Entities part of a bidding association may allocate shares of the purchase limit among themselves.~~

~~(A) The group of associated entities must inform the Executive Officer of an allocation of the purchase limit among the associated entities, such that the sum of the shares allocated to each entity sums to the purchase limit.~~

~~(B) Each associated entity's allocated purchase share becomes the purchase limit for that entity.~~

~~(3) If entities with a bidding association do not allocate shares of the purchase limit among themselves, the auction operator shall calculate the purchase limit for an entity or entities designated as a "purchaser"~~

~~in a bidding association as the limit less the sum of bids submitted by the entity or entities in the bidding association designated as the "recipient," divided by the number of entities in the bidding association designated as "purchaser."~~

~~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.~~

## Subarticle 11: Trading and Banking

### § 95920. Trading

~~(a) General Prohibitions on Trading. The following practices involving any California compliance instruments are prohibited:~~

~~(1) A trade involving a counterparty whose identity is not disclosed to the Executive Officer;~~

~~(2) A trade involving, related to, or associated with:~~

~~(A) Any manipulative or deceptive device in violation of this article;~~

~~(B) A corner or an attempt to corner the market for a regulated 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 regulated compliance instrument;~~

~~(E) An application, report, statement, or document required to be filed pursuant to this article, a statement which is false or misleading with respect to a material fact, or which omits any material fact required to be stated therein or 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 or provided to an entity on or~~

~~through which transactions in regulated instruments occur, are settled, or are cleared.~~

~~(b) Holding Limit.~~

~~(1) The holding limit is the maximum number of California GHG allowances that may be held by an entity or group of associated entities registered pursuant to section 95830.~~

~~(2) The holding limit will apply to each entity with a holding account.~~

~~(3) Calculation. The holding limit will be calculated and applied within each calendar year using the following formula:~~

~~Holding Limit = 0.1*Base + 0.025*(Annual Allowance Budget – Base)~~

~~In which:~~

~~"Base" equals 25 million metric tons of $CO_2$e.~~

~~"Annual Allowance Budget" is the number of allowances associated with the current budget year pursuant to subarticle 6.~~

~~(4) Limited Exemption from the Holding Limit.~~

~~(A) Allowances transferred by a covered entity or an opt-in covered entity to its compliance account during a single calendar year are exempt from the holding limit up to an amount equal to the emissions reported in a positive or qualified positive verification statement or assigned emissions covering the previous calendar year.~~

~~(B) The limited exemption for a calendar year is the sum of all previous annual transfer limits.~~

~~(C) On December 31 of the calendar year following the end of a compliance period, the limited exemption will be will be reduced by the sum of the entity's verified emissions over that compliance period.~~

~~(D) If a positive or qualified positive verification statement is not received by ARB on time as set forth in the MRR, then ARB will~~

~~calculate the exemption based on emissions assigned according to the requirements set forth in article 2, section 95130, title 17, California Code of Regulations, Requirements for Verification of Emissions Data Reports.~~

~~(5) If the Executive Officer determines that a reported transaction would result in an entity's holdings exceeding the holding limit, then the Executive Officer shall not approve the transaction pursuant to section 95921(a).~~

~~(6) The application of the holding limit will treat holdings of entities with a corporate association pursuant to section 95914 as being held by a single entity unless existing law or regulation prohibits coordinated market activity by the associated entities, including the transfer of instruments between accounts controlled by associated entities.~~

~~(7) The application of the holding limit will treat beneficial holdings by an agent as part of the holding of the owner.~~

~~(c) Restrictions on Registered Entities. The Executive Officer may impose the following restrictions on entities registered pursuant to section 95830 that violate any provision specified in this article:~~

~~(1) The number of compliance instruments held by a covered entity or opt-in covered entity may be restricted to an amount sufficient to cover its reported emissions;~~

~~(2) A covered entity or an opt-in covered entity may be subject to additional annual surrender requirements; and~~

~~(3) The registration of opt-in covered entities, voluntarily associated entities, and other registered participants under section 95830 may be suspended or revoked.~~

(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 corporate association, as defined in section 95833 at any point in time.

(b) Application

(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 created pursuant to section 95831.

(3) Application of the holding limit to exchange clearing holding accounts. Compliance instruments contained in an exchange clearing holding account will be included in the calculation of the holding limit for the entity listed as the purchaser in the transaction reported to the accounts administrator pursuant to section 95921 for the transaction being cleared.

(4) If the Executive Officer determines that a reported transaction 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 transaction pursuant to section 95921(a)(1). If the violation is not discovered until after the transaction is recorded, then the transaction may be reversed pursuant to section 95921(a)(2) and penalties may be imposed pursuant to section 96013.

(c) The holding limit will be separately calculated to holdings of:

(1) Allowances which may be used during the current compliance period, including:

(A) Allowances issued for current and previous compliance periods;

(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 now usable for compliance during the current compliance period.

(2) Allowances issued for future compliance periods that may not be used for compliance during the current compliance period pursuant to section 95856(b).

(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*Base + 0.025*(Annual Allowance Budget – Base)

In which:

"Base" equals 25 million metric tons of $CO_2e$.

"Annual Allowance Budget" is the number of allowances issued for the current budget year.

(2) A Limited Exemption from the Holding Limit calculated as:

(A) The limited exemption is the number of allowances which are exempt from the holding limit calculation after they are transferred by a covered entity or an opt-in covered entity to its compliance account.

(B) On January 1 of the first year of the first compliance period, the limited exemption will equal the most recent positive or qualified positive verified annual emissions report received.

(C) On October 1 of each year the limited exemption will be increased by the amount of emissions contained in the positive or qualified positive verified annual emissions report received during that year.

(D) If for any year ARB has assigned emissions to an entity in the absence of a positive or qualified positive emissions report the calculation of the limited exemption will use the assigned emissions.

(E) For the first compliance period all emissions reports or assigned emissions used to calculate the limited exemption will include only the reported emissions associated with the scope for the program during the first compliance period.

(F) Beginning in 2015, all emissions reports or assigned emissions used to calculate the limited exemption will include the emissions associated with the change in scope taking place in 2015.

(G) On January 1, 2015 the limited exemption will be increased by the amount of emissions included in the report received during 2014 but not yet included in the limited exemption pursuant to section 95920(d)(2)(E).

(H) On December 31 of the calendar year following the end of a compliance period, the limited exemption will be reduced by the sum of the entity's compliance obligation over that compliance period.

(e) The holding limit will be calculated for allowances qualifying pursuant to section 95920(c)(2) as the number given by the following formula:

Holding Limit = 0.1*Base + 0.025*(Compliance Period Budget – Base)

In which:

"Base" equals 75 million metric tons of $CO_2e$.

"Compliance Period Budget" is the number of allowances issued for the future compliance period from which the allowances were sold at the advance auction.

(f) The application of the holding limit will treat holdings of entities with a corporate association pursuant to section 95833 as being held by a single entity unless any law or regulation prohibits coordinated market activity by the associated entities, including the transfer of instruments between accounts controlled by associated entities.

(g) Application of the Corporate Association Disclosure to the Holding Limit.

(1) The total number of compliance instruments held by a group of entities with a disclosable corporate association pursuant to section 95833 in their holding accounts must sum to less than the holding limit pursuant to section 95920(e).

(2) The limited exemption for each entity which is part of a corporate association is the same as defined in section 95920(f).

(3) Entities that are part of a corporate association may allocate shares of the holding limit among themselves. This allocation results in each entity having a specified percentage share of the group's holding limit. The sum of the shares allocated among the entities must sum to one.

(A) The group of associated entities must inform the accounts administrator of the allocation when registering pursuant to section 95833.

(B) The allocation will remain in effect until the group of associated entities informs the accounts administrator of subsequent changes to the allocation.

(4) If entities with a corporate association do not allocate shares of the holding limit among themselves, the accounts administrator will not record any transaction which would result in the entities with a corporate association exceeding the holding limit.

(h) The application of the holding limit will treat beneficial holding by an agent as part of the holding of the owner.

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.

**§ 95921. Conduct of Trade**

(a) Transactions. ~~Each trade must meet the requirements set forth in this subarticle or the trade will not be accepted by the accounts administrator.~~

(1) Except when the transaction is undertaken by the Executive Officer, the California Cap and Trade system will not register a change in ownership of a compliance instrument until:

(A) The two parties to the change in ownership report the transaction to the accounts administrator within three calendar days of settlement of the transaction agreement; and

(B) The Executive Officer has determined the transaction meets the requirements of this article.

(2) Except when the transaction is undertaken by the Executive Officer, all transactions between two entities will involve transfers between holding accounts.

(b) If transactions reported by a registered entity to the accounts administrator violate the requirements of this subarticle, then:

(1) If the violation is detected before the transaction is recorded into the tracking system, the accounts administrator will not accept the transaction for registration;

(2) If the violation is detected after the transaction is recorded into the tracking system, the Executive Officer will direct the accounts administrator to reverse the transaction and adjust the accounts involved accordingly; and

(3) Penalties may be imposed on the parties to the transaction pursuant to section 96013.

~~(b)~~(c) Information Requirements. The following information must be provided for the accounts administrator to record the transaction:

(1) Holding ~~A~~account number and authorized account representative of seller;

(2) Holding ~~A~~account number and authorized account representative of purchaser;

(3) Serial number of the compliance instruments;

(4) Date and time of the transaction agreement;

(5) Settlement date and time, if not the same as date and time of transaction agreement;

(6) Price of the compliance instrument in U.S. dollars. If California links to Canadian provinces pursuant to subarticle 12, the price of the compliance instrument may be reported in Canadian dollars;

(7) Holding ~~A~~account number and authorized representative of an entity for whom the compliance instrument is to be held in benefit;

~~(c) The seller and buyer must report each transaction within three calendar days of settlement of the transaction agreement.~~

(d) Protection of Confidential Information. The Executive Officer will ensure that the accounts administrator:

(1) Releases information on the transaction price and quantity of compliance instruments in a timely manner;

(2) Except as needed for market oversight and investigation by the Executive Officer, protects as confidential all other information obtained through transaction reports;

(3) Protects as confidential the quantity and serial numbers of compliance instruments contained in holding accounts; and

(4) Releases information on the quantity and serial numbers of compliance instruments contained in compliance accounts in a timely manner.

(e) General Prohibitions on Trading. The following practices involving any compliance instruments are prohibited:

(1) A trade in which the parties to a transaction reported to the accounts administrator fail to disclose the ownership interest of a registered account holder in the sale or purchase of a compliance instrument until after a transaction is recorded by the accounts administrator;

(2) A trade involving, related to, or associated with:

(A) Any manipulative or deceptive device in violation of this article;

(B) A corner or an attempt to corner the market for a regulated 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;

(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 or provided to an entity on or through which transactions in compliance instruments occur, are settled, or are cleared.

(f) Restrictions on Registered Entities. If an entity registered pursuant to section 95830 violates any provision specified in this article 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; or

(A) 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.

(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).

(4) Limit or prohibit transfers in or out of the holding account; and

(5) All of the above.

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 approved pursuant to subarticle 12 may be held ("banked") by an entity registered pursuant to section 95930.

(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 95930.

(c) Expiration of Compliance Instruments. A California compliance instrument does not expire and is not removed from 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 California system is linked as provided in subarticle 12.

(d) Voluntary Retirement of Compliance Instruments.

(1) An entity registered pursuant to section 95930 may voluntarily submit any compliance instrument for retirement.

(2) To voluntarily retire a compliance instrument, the registered entity submits a transaction report to the accounts administrator listing its account number, the serial numbers of the instruments to be retired, and the ARB Retirement Account as the destination account.

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.

## 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 sections 95941 and 95942.

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 public notice and opportunity for public comment in accordance with the Administrative Procedure Act (Government Code sections 11340 et seq.). 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.

### § 95942. Approval of Compliance Instruments from External GHG ETS

(a) Once a linkage is approved, a compliance instrument issued by the approved external GHG ETS, as specified in section 95942, may be used to meet a compliance obligation under this Article.

(b) An allowance issued by an approved external GHG ETS and specified in section 95942 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.

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.

### § 95943. Reserved for Linkage

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.

## Subarticle 13: ARB Offset Credits ~~Issued by ARB~~and Registry Offset Credits

### § 95970. General Requirements for ARB Offset Credits ~~Issued by ARB~~

~~An Offset Project Operator or its Authorized Project Designee must meet the requirements for offset credits issued by ARB. An offset credit issued by ARB must:~~

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

~~(b) when used for compliance under this Article be subject to the quantitative usage limit pursuant to section 95855;~~

~~(c) result from the use of a Compliance Offset Protocol adopted by the Board pursuant to section 95971;~~

~~(d) result from an offset project that meets the requirements specified in section 95973;~~

~~(e) result from an offset project that is listed pursuant to section 95975;~~

~~(f) follows the monitoring, reporting and record retention requirements pursuant to section 95976;~~

~~(g) be verified pursuant to sections 95977 through 95978;~~

~~(h) be issued pursuant to sections 95980 through 95981; and~~

~~be registered pursuant to section 95982.~~

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 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) Follows the monitoring, reporting and record retention requirements pursuant to section 95976;

(6) Be 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.

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

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.

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) ~~a~~Accurately determine the extent to which GHG emission reductions or GHG removal enhancements are achieved by the offset project type;

(2) ~~e~~Establish data collection and monitoring procedures relevant to the type of GHG emissions sources ~~or~~ and GHG sinks for that offset project type;

(3) ~~e~~Establish a project baseline that reflects a conservative estimate of business-as-usual performance or practices for the offset project type;

(4) ~~a~~Account for activity-shifting leakage and market-shifting leakage for the offset project type;

(5) ~~a~~Account for any uncertainty in quantification factors for the offset project type;

(6) ~~e~~Ensure GHG emission reductions are permanent;

(7) ~~i~~Include a mechanism to ensure permanence of GHG removal enhancements for sequestration offset project types; ~~and~~

(8) ~~e~~Establish the length of the crediting period pursuant to section 95972(b) for the relevant offset project type; and

(9) Consist of approved standardized methods.

(b) Crediting Periods. The crediting period for a non-sequestration project must be no less than 7 years and no greater than 10 years. The crediting period for a sequestration 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 its Territories, Canada, or Mexico.

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 ~~must~~:

(1) ~~m~~Meets all of the requirements in a Compliance Offset Protocol approved by the Board pursuant to section 95971;

(2) ~~m~~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. Early action offset projects which transition to the compliance offset program pursuant to section 95990(k) must meet the requirements of section 95990(k)(1):

(A) ~~t~~The ~~GHG emission reduction or GHG removal enhancement~~ activities~~,~~ that result in GHG reductions or GHG removal enhancements~~, is~~ are not required by law, regulation, or any legally binding mandate applicable in the project's jurisdiction, ~~or any~~ and ~~GHG reduction or GHG removal enhancement activities that~~ would not otherwise occur in a conservative business-as-usual scenario;

(B) ~~t~~The Offset Project ~~c~~Commencement date occurs after December 31, 2006 except as provided in section 95973(c); and

(C) ~~t~~The GHG reductions or GHG removal enhancements resulting from the offset project exceed the project baseline calculated by the Compliance Offset Protocol for that offset project type as set forth in the following:

~~(i)~~1. Compliance Offset Protocol Ozone Depleting Substances Projects, incorporated by reference [DATE];

~~(ii)~~2. Compliance Offset Protocol Livestock Projects, incorporated by reference [DATE];

~~(iii)~~3. Compliance Offset Protocol Urban Forest Projects, incorporated by reference [DATE]; and

~~(iv)~~4. Compliance Offset Protocol U.S. Forest Projects ~~U.S.~~, incorporated by reference [DATE].

(3) ~~be~~Is located in the United States or its Territories, Canada, or Mexico.

(b) Local, Regional, and National Environmental Impact Assessment Requirements. An Offset Project Operator or Authorized Project Designee must fulfill all local, regional and national requirements on environmental impact assessments that apply based on the offset project location.

(c) Early Action Offset Project Commencement Date. Offset projects that generate early action offset credits approved pursuant to section 95990 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):

(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.

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). The Offset Project Operator must identify to ARB or an Offset Project Registry the rights and responsibilities they are assigning or delegating to an Authorized Project Designee ~~at the time of offset project listing~~.

(1) The Offset Project Operator may assign ownership rights of ARB offset credits or registry offset credits to the following:

(A) Authorized Project Designee; or

(B) ~~a~~Any other third party not otherwise prohibited by this article.

(2) The Offset Project Operator may delegate responsibility to the Authorized Project Designee for performing or meeting the requirements of sections 95975, 95976, ~~and~~ 95977, 95977.1, and 95977.2.

(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 ARB or an 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.

**§ 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, its Authorized Project Designee or another third party as provided in section 95974(a)(1) must ~~be~~:

(1) ~~r~~Register~~ed~~ with ARB pursuant to section 95830; and

(2) ~~Must n~~Not be subject to any Holding Account restrictions imposed pursuant to section 96011.

~~(3) An offset project must be listed by an Offset Project Registry approved pursuant to section 95986, if the offset project listing is not being originated by ARB.~~

(b) If the offset project is not listed by ARB, it must be listed by an Offset Project Registry approved pursuant to section 95986.

~~(b)~~(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 ~~or~~ 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 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-Trade 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."; ~~and~~

(3) Attest in writing to ARB as follows:
"I understand I must fulfill all applicable local, regional, and national regulatory requirements 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 or GHG removal enhancements that are not in compliance with the requirements of the cap and trade program";

~~(3)~~(4) ~~p~~Provide all documentation required pursuant to section 95975~~(c)~~(e) to ARB or an Offset Project Registry~~.~~; and

~~(4) The attestations in section 95975(b)(1), and 95975(b)(2), may be provided to an Offset Project Registry with the listing information but must be provided to ARB when the requirements in section 95981(d)(1) apply.~~

(5) Disclose GHG reductions or GHG removal enhancements issued credit by any voluntary or mandatory programs for the same offset project being listed, or any GHG reductions or GHG removal enhancements used for any GHG mitigation requirement.

(d) The attestations in section 95975(c)(1), 95975(c)(2), and 95975(c)(3) may be provided to an Offset Project Registry with the listing information but must be provided to ARB when the requirements in section 95981(b) apply.

~~(c)~~(e) Offset Project Listing Information Requirements. Before an offset project is publicly listed for an initial or renewed crediting period the Offset Project Operator or Authorized Project Designee must provide the listing information in a Compliance Offset Protocol for that offset project type as set forth in:

(1) Compliance Offset Protocol Ozone Depleting Substances Projects, [DATE];

(2) Compliance Offset Protocol Livestock Projects, [DATE];

(3) Compliance Offset Protocol Urban Forest Projects, [DATE]; and

(4) Compliance Offset Protocol U.S. Forest Projects [DATE].

~~(d)~~(f) Notice of Completeness for Offset Project Listing Information. The Offset Project Operator or Authorized Project Designee will be notified after review by ARB or the Offset Project Registry, if the information submitted pursuant to section 95975~~(c)~~(e) is complete and may be listed. If it is determined that the information submitted pursuant to section 95975~~(c)~~(e) is incomplete, the Offset Project Operator or Authorized Project Designee will be notified within 30 calendar days by ARB or an Offset Project Registry.

~~(e)~~(g) 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~~(c)~~(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 to ARB or an Offset Project Registry pursuant to section 95976.

~~(f)~~(h) 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~~(c)~~(e), and ARB or the Offset Project Registry has reviewed the offset project against the additionality requirements in section 95973(a)(2), 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 project meets the requirements in section 95975 to be listed for an initial crediting period by the Offset Project Registry. In making this determination, ARB may consult with the Offset Project Registry before making the final determination.

~~(g)~~(i) Timing for Offset Project Listing in a Renewed Crediting Period. The Offset Project Operator or Authorized Project Designee must submit the information in section 95975~~(c)~~(e) for a renewed crediting period to ARB or an Offset Project Registry no earlier than 18 months and no later than 9

months ~~from~~ before conclusion of the initial crediting period or a previous renewed crediting period.

~~(h)~~(i) Listing Status of Offset Projects in a Renewed Crediting Period. After the Offset Project Operator or Authorized Project Designee submits the offset project for listing in a renewed crediting period and the required documentation pursuant to section 95975~~(c)~~(e), and ARB or the Offset Project Registry has reviewed the offset project against the additionality requirements in section 95973(a)(2)(A) and (a)(2)(C) as of the date of the commencement of the renewed crediting period, the offset project listing status will be "Proposed Renewal." 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 project meets the requirements in section 95975 to be listed for a renewed crediting period by the Offset Project Registry. In making this determination, ARB may consult with the Offset Project Registry before making the final determination.

~~(i)~~(k) Limitations for Crediting Period Renewals. A crediting period may be renewed if the offset project meets the requirements for additionality pursuant to subsections 95975~~(f)~~(h) and ~~(h)~~(j).

(1) The crediting period for ~~non- sequestration~~ 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.

(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 ARB and the State of California, in the courts of the State of California, with respect to any action in law or equity commenced by ARB or the State of California 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.

(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-Trade 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.

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

(a) General Requirements for Monitoring Equipment for Offset Projects. The Offset Project Operator or Authorized Project Designee must employ the procedures in the Compliance Offset Protocol for monitoring measurements and project performance for offset projects. All required monitoring equipment must be maintained and calibrated in a manner and at a frequency required by the equipment manufacturer. All modeling,

monitoring, sampling, or testing procedures must be conducted in a manner consistent with the applicable procedure.

(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 a Compliance Offset Protocol for that offset project type as set forth in:

(1) Compliance Offset Protocol Ozone Depleting Substances Projects, [DATE];

(2) Compliance Offset Protocol Livestock Projects, [DATE];

(3) Compliance Offset Protocol Urban Forest Projects, [DATE]; and

(4) Compliance Offset Protocol U.S. Forest Projects [DATE].

(d) Offset Project Reporting Requirements. An Offset Project Operator or Authorized Project Designee shall submit an Offset Project Data Report to ARB or an Offset Project Registry annually ~~and cover a calendar year~~ for each Reporting Period. 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. The Offset Project Operator or Authorized Project Designee must submit an Offset Project Data Report to ARB or an Offset Project Registry within 24 months of listing their offset project pursuant to section 95975. The Offset Project Data Report shall contain the information required by a Compliance Offset Protocol for that offset project type as set forth in:

(1) Compliance Offset Protocol Ozone Depleting Substances Projects, [DATE];

(2) Compliance Offset Protocol Livestock Projects, [DATE];

(3) Compliance Offset Protocol Urban Forest Projects, [DATE]; and

(4) Compliance Offset Protocol U.S. Forest Projects, ~~;~~ [DATE].

(5) The Offset Project Operator or Authorized Project Designee 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 approved protocol] and all information required to be submitted to ARB in the Offset Project Data Report is true, accurate, and complete."

This attestation may be provided to an Offset Project Registry with the Offset Project Data Report but must be provided to ARB when the requirements in section 95981(d)(1) apply.

(6) All Offset Project Data Reports ~~for the previous year's reported data are due April 1~~ must be submitted within four months after the conclusion of each Reporting Period.

(7) If an Offset Project Data Report is not submitted to ARB or an Offset Project Registry by the applicable reporting deadline, the GHG reductions or GHG removal enhancements quantified and reported in the Offset Project Data Report are not eligible to ~~receive~~ be issued ARB offset credits pursuant to section 95981.

(e) Requirements for Record Retention for Offset Projects. An Offset Project Operator or its Authorized Project Designee must meet the following requirements:

(1) The Offset Project Operator or Authorized Project Designee must retain the following documents:

(A) ~~a~~All information submitted as part of the Offset Project Data Report;

(B) ~~d~~Documentation of the offset project boundary, including a list of all GHG emissions sources and GHG sinks included in the offset project boundary and the project baseline, and the calculation of the project baseline, project emissions, GHG emission reductions, ~~or~~ and GHG removal enhancements;

(C) ~~f~~Fuel use and any other underlying measured or sampled data used to calculate project baseline emissions, GHG emission reductions, ~~or~~ and GHG removal enhancements for each source, categorized by process and fuel, or material type;

(D) ~~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 and GHG sinks for quantifying project baseline emissions, project emissions, GHG emission reductions, ~~or~~ and GHG removal enhancements;

(E) ~~d~~Documentation of all project baseline emissions, project emissions, GHG emission reductions, or GHG removal enhancements;

(F) ~~a~~All point of origin and chain of custody documents required by a Compliance Offset Protocol, if applicable;

(G) ~~a~~All chemical analyses, results, and testing-related documentation for material and sources used for inputs to project baseline emissions, project emissions, GHG emission reductions, ~~or~~ and GHG removal enhancements;

(H) ~~a~~All model inputs or assumptions used for quantifying project baseline emissions, project emissions, GHG emission reductions, ~~or~~ and GHG removal enhancements;

(I) ~~a~~Any data used to assess the accuracy of project baseline emissions, GHG emission reductions, ~~or~~ and GHG removal enhancements from each offset project GHG emissions source or GHG sink, categorized by process;

(J) ~~q~~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, ~~or~~ and GHG removal enhancements;

(K) ~~a~~A detailed technical description of any offset project continuous measurement/monitoring system, including documentation of any findings and approvals by federal, state, ~~or~~ and local agencies;

(L) ~~r~~Raw and aggregated data from any measurement system;

(M) ~~d~~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, ~~or~~ and GHG removal enhancements;

(N) ~~f~~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) ~~a~~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 ~~five years after the end of the crediting period for non-sequestration offset projects or, for sequestration offset projects, the length of time that the offset project is issued offset credits plus 100 years~~ a minimum of 15 years following the issuance of 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 Gas or Fuel Analytical and Monitoring Equipment Data Collection. This section only applies if a Compliance Offset Protocol does not already include methods for collecting or accounting for data in the event of missing data due to an unforeseen breakdown of gas or fuel analytical monitoring data equipment.

(1) In the event of an unforeseen breakdown of ~~an~~ offset project data monitoring equipment and gas or fuel flow monitoring devices required for the GHG emission reductions or 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) ~~t~~The breakdown may result in a loss of more than 20 percent of the source's gas or fuel data for the year covered by an Offset Project Data Report;

(B) ~~t~~The gas or fuel analytical 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) ~~t~~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) ~~t~~The request was submitted within 30 calendar days of the breakdown of the gas or fuel analytical data monitoring equipment.

(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) ~~t~~The proposed start date and end date of the interim procedure;

(B) ~~a~~A detailed description of what data are affected by the breakdown;

(C) ~~a~~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~~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(e)(2)(C)(xvii)~~ 95977.1(b)(3)(Q) of 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.

**§ 95977. Verification of GHG Emission Reductions ~~or~~ and GHG Removal Enhancements from Offset Projects**

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

(b) Schedule for Verification of Non-Sequestration Offset Projects. The verification of GHG emission reductions or GHG removal enhancements for non-sequestration offset projects must be performed annually and cover ~~a calendar year~~ the Reporting Period for which the most recent Offset Project Data Report was submitted. ~~If an Offset Project Commencement date is during a calendar year, the verification of GHG emission reductions or GHG removal enhancements may be included in the verification for the next full calendar year~~.

(c) Schedule for Verification of Sequestration Offset Projects. The verification of GHG emission reductions ~~or~~ and GHG removal enhancements for sequestration offset projects must be performed at least once every six years and may cover up to six ~~years of GHG reductions or GHG removal enhancements by calendar year~~ Reporting Periods for which Offset Project Data Reports were submitted. After an initial verification with a Positive Offset Verification Statement, reforestation offset projects may defer the second verification for twelve years, but verification of Offset Project Data Reports must be performed at least once every six years thereafter.

(d) 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 ~~by October 1~~ within nine months after the conclusion of each Reporting Period ~~of the year in which the Offset Project Data Report was submitted~~. If the Offset Verification Statement is not submitted to ARB or an Offset Project Registry by the verification deadline, the GHG reductions ~~or~~ 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.

~~(e) Requirements for Offset Verification Services.~~

~~(1) Rotation of Verification Bodies. An offset project shall not have more than six consecutive years of offset project data verified by the same verification body or verifier(s). An Offset Project Operator or Authorized Project Designee may contract with a previous verification body or verifier(s) only after three years of offset project data have been verified by a different verification body or verifier(s).~~

~~(2) Offset Verification Services. GHG emissions, GHG reductions, or GHG removal enhancements from a listed offset project must be verified according to the following verification requirements.~~

~~(A) Notice of Verification Services for Offset Projects. Before offset verification services may begin, the verification body must submit a Notice of Verification Services to ARB and an Offset Project Registry, if applicable. The verification body may begin offset verification services for the Offset Project Operator or Authorized Project Designee ten working days after the Notice for Verification Services is received by ARB or the Offset Project Registry, or earlier if approved by ARB in writing. The Notice for Verification Services must include the following information:~~

~~(i) the name of the offset project type, including the length of the offset project crediting period, and title of the Compliance Offset Protocol used to implement the offset project;~~

~~(ii) a list of staff who will be designated to provide offset verification services as part of an offset verification team, including the names 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 verification process;~~

~~(iii) 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 specialist for an offset project of that type; and~~

~~(iv) general information on the Offset Project Operator or Authorized Project Designee, including:~~

~~a. the name of the Offset Project Operator or Authorized Project Designee, including contact information, address, telephone number, and E-mail address;~~

~~b. the locations that will be subject to offset verification services;~~

~~c. the date(s) of on-site visits, with address and contact information; and~~

~~d. a brief description of expected offset verification services to be performed, including expected completion date.~~

~~(B) If any information submitted pursuant to sections 95977(e)(2)(A)(ii) and 95977(e)(2)(A)(iv) changes after the Notice for Verification Services is submitted to ARB and the Offset Project Registry, if applicable, the verification body must notify ARB and the Offset Project Registry, if applicable, at least five days prior to the start of offset verification services. If any information submitted pursuant to sections 95977(e)(2)(A)(ii) and 95977(e)(2)(A)(iv) changes during verification services, the verification body must notify ARB and the Offset Project Registry, if applicable, before the offset verification statement is provided to ARB or the Offset Project Registry.~~

~~(C) Offset verification services must include the following:~~

~~(i) Verification Plan for Offset Projects. The offset verification team must obtain information from the Offset Project~~

~~Operator or Authorized Project Designee necessary to develop a Verification Plan. Such information must include the following:~~

~~a. information to allow the offset verification team to develop a general understanding of offset project boundaries, operations, project baseline emissions, and annual GHG reductions or GHG removal enhancements;~~

~~b. information regarding the training or qualifications of personnel involved in developing the Offset Project Data Report;~~

~~c. 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~~

~~d. 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.~~

~~(ii) The offset verification team must develop an Offset Verification Plan that includes, at a minimum:~~

~~a. dates of proposed meetings and interviews with personnel related to the offset project;~~

~~b. dates of proposed site visits;~~

~~c. types of proposed document and data reviews; and~~

~~d. expected date for completing offset verification services.~~

~~(iii) 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 initial 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.~~

~~(iv) Site Visits for Offset Projects. For a non-sequestration offset project, at least one accredited offset verifier in the offset verification team, including the project specialist, must make at least one site visit every year to each offset project location for which an Offset Project Data Report is submitted. For a forest or urban forest offset project, at least one accredited offset verifier in the offset verification team, including the project specialist, must make a site visit every year that offset verification services are provided. A site visit is also required after the first full calendar year of operations of an offset project. During the site visit, the offset verification team member(s) must conduct the following:~~

~~a. during the initial site visit the offset verification team members must:~~

~~(i) assess offset project eligibility and additionality according to section 95973 and the applicable Compliance Offset Protocol;~~

~~(ii) confirm that the project boundary is appropriately defined;~~

~~(iii) review project baseline calculations and modeling;~~

~~(iv) assess the operations, functionality, data control systems, and review GHG measurement and monitoring techniques; and~~

~~(v) confirm that all applicable eligibility criteria to design, measure, and monitor the offset project conforms to the requirements of the applicable Compliance Offset Protocol; and~~

~~b. during the initial and each subsequent site visit the offset verification team must:~~

~~(i) check that all project boundaries, GHG emissions sources, GHG sinks, and GHG reservoirs in the applicable Compliance Offset Protocol are identified appropriately;~~

~~(ii) 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;~~

~~(iii) interview key personnel involved in collecting offset project data and preparing the Offset Project Data Report;~~

~~(iv) make direct observations of equipment for data sources and equipment supplying data for sources in the sampling plan determined to be high risk;~~

~~(v) collect and review other information that, in the professional judgment of the team, is needed in the verification process;~~

~~(vi) confirm the offset project conforms with all local, state, or federal environmental regulatory requirements; and~~

~~(vii) review all chain of custody documents as required in the Compliance Offset Protocol, if applicable.~~

~~(viii) If the offset project is found by the offset verification team to not meet the requirements of section 95977(e)(2)(C)(iv)(b.)(vi) the offset project is ineligible to~~

~~receive offset credits for GHG reductions or GHG removals quantified and reported in the Offset Project Data Report.~~

~~(v) 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 the GHG emissions inventory and each type of GHG emissions source and GHG sink 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.~~

~~(vi) 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 annual GHG emissions, GHG reductions, and GHG removal enhancements and other information required by the applicable Compliance Offset Protocol.~~

~~(vii) 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:~~

~~a. 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 system, 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;~~

~~b. 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 $CO_2$e emissions, GHG reductions, or GHG removal enhancements, and a ranking of GHG emissions sources, GHG sinks, or GHG reservoirs with the largest calculation uncertainty; and~~

~~c. The offset verification team must include a qualitative narrative of uncertainty risk assessment in the following areas as applicable to the Compliance Offset Protocol:~~

~~(i) data acquisition equipment;~~

~~(ii) data sampling and frequency;~~

~~(iii) data processing and tracking;~~

~~(iv) project baseline and annual GHG emissions, GHG reductions, and GHG removal enhancement calculations;~~

~~(v) data reporting;~~

~~(vi) chain of custody requirements; and~~

~~(vii) management policies or practices in developing Offset Project Data Reports.~~

~~(viii) After completing the analysis in sections 95977(e)(2)(C)(vii)(a.) through 95977(e)(2)(C)(vii)(c.), the offset verification team must include in the sampling plan a list which includes the following:~~

~~a. 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 95977(e)(2)(C)(xii), and an explanation of why they were chosen;~~

~~b. methods used to conduct data checks for each GHG emissions source, GHG sinks, and GHG reservoirs; and~~

~~c. a summary of the information analyzed in the data checks and document reviews conducted for each GHG emissions source, GHG sink, or GHG reservoir.~~

~~(ix) The sampling plan list prepared pursuant to section 95977(e)(2)(C)(viii) must be updated and finalized prior to the completion of verification services.~~

~~(x) The offset verification team must revise the sampling plan to describe tasks completed or needed to be completed by the 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 subarticle.~~

~~(xi) The verification body must retain the sampling plan in paper, electronic, or other format for a period of not less than ten years following the submission of each Offset Verification Statement. The sampling plan must be made available to ARB or the Offset Project Registry within 10 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 ten 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 Offset Verification Statement.~~

~~(xii) 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, or GHG removal enhancements, and the offset verification team must:~~

~~a. use data checks to ensure that the appropriate methodologies and GHG emission factors have been applied in calculating the project baseline and annual GHG emissions, project emissions, GHG reductions, or GHG removal enhancement calculations in the Compliance Offset Protocol;~~

~~b. chose 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;~~

~~c. 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 annual reported GHG reductions or 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 subarticle. At a minimum a data check must include the following:~~

~~(i) tracing data in the Offset Project Data Report to its origin;~~

~~(ii) looking at the process for data compilation and collection;~~

~~(iii) reviewing all GHG inventory designs, and sampling procedures, if applicable;~~

~~(iv) recalculating GHG emissions, project emissions, GHG reductions, or GHG enhanced removals estimates to check original calculations;~~

~~(v) reviewing calculation methodologies used by the Offset Project Operator or Authorized Project Designee for conformance with the Compliance Offset Protocol and this subarticle;~~

~~(vi) reviewing meter and fuel analytical instrumentation calibration, if applicable; and~~

~~(vii) reviewing the quantification from models approved for use in the Compliance Offset Protocol, if applicable; and~~

~~d. compare its own calculated results with the reported offset project data in order to confirm the extent and impact of any omissions and errors. Any discrepancies must be investigated. The comparison of data checks must provide enough detail 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, and any discrepancies that were identified.~~

~~(xiii) 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 or corrections to the submitted Offset Project Data Report, and a revised Offset Project Data Report must be submitted to ARB or the Offset Project Registry. 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).~~

~~(xiv) 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, 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 subarticle 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 subarticle and the Compliance Offset Protocol.~~

~~(xv) Issues Log. The offset verification team must keep a log of any issues identified in the course of offset verification activities that may affect determinations of offset material misstatement and nonconformance. The issues log must identify the section of this subarticle or Compliance Offset Protocol related to the nonconformance, if applicable, and indicate if the issues were corrected by the Offset Project Operator or Authorized Project Designee prior to completing the offset verification services. 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.~~

~~(xvi) An assessment of offset material misstatement is conducted for annual net GHG reductions or GHG removal~~

~~enhancements relative to the project baseline in metric tons of $CO_2$e.~~

~~(xvii) The offset verification team must determine whether the GHG reductions or GHG removal enhancements quantified and reported in the Offset Project Data Report contain an offset material misstatement using the following equation:~~

$$\cancel{Percent\ accuarcy} = 100\% - \sum \frac{[Errors + Omissions + Misreporting]\ x\ 100\%}{Total\ reported\ emissions}$$

~~Where:~~

~~"Errors" means any differences between the reported GHG emissions, project emissions, GHG reductions, or GHG removal enhancements and GHG emissions, project emissions, GHG reductions, or GHG removal enhancements for a data source subject to data checks in 95977(e)(2)(C)(xii) calculated by the offset verification team.~~

~~"Omissions" means any GHG emissions, GHG reductions, project emissions, or GHG removal enhancements 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.~~

~~"Misreporting" means duplicative, incomplete, or other GHG emissions, project emissions, GHG reductions, or GHG removal enhancements the offset verification team concludes should, or should not, be part of the Offset Project Data Report.~~

~~"Total reported emissions" means annual reported net GHG reductions or GHG removal enhancements relative to the project baseline in metric tons $CO_2e$.~~

~~(xviii) Completion of offset verification services must include:~~

~~a. Offset Verification Statement. Upon completion of the offset verification services pursuant to section 95977(e)(2) the verification body must complete an Offset Verification Statement, 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(d). 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 verification services for that Offset Project Operator or Authorized Project Designee during that year.~~

~~b. The independent reviewer shall serve as the final check of the offset verification team's work to identify any significant concerns, including:~~

~~(i) errors in planning;~~

~~(ii) errors in data sampling; and~~

~~(iii) errors in judgment by the offset verification team that are related to the draft offset verification statement.~~

~~c. 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 relevant to~~

~~the offset verification services provided and identify any failure to comply with the requirements of this subarticle or with the verification body's internal policies and procedures for providing offset verification services. The independent reviewer must concur with the verification findings before the Offset Verification Statement can be issued.~~

~~d. When the offset verification team completes its findings:~~

~~(i) The verification body must provide to the Offset Project Operator or Authorized Project designee a detailed verification report. The detailed verification report must at a minimum include the verification plan, the detailed comparison of the data checks conducted during offset verification services, the issues log identified in the course of 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(e)(2)(C)(xvii) and be made available to ARB or the Offset Project Registry within 10 days upon request.~~

~~(ii) 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 subarticle and the Compliance Offset Protocol.~~

~~(iii) In the case of a Qualified Positive Offset Verification Statement, the verification body will qualify the Offset Verification Statement to indicate any non-conformances~~

~~contained within the Offset Project Data Report and that these non-conformances do not result in an offset material misstatement.~~

~~(iv) 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 Developer or Authorized Project Designee of any unresolved issues noted in the issues log before the Offset Verification Statement is finalized.~~

~~(v) 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 subarticle, 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.~~

~~(vi) The lead verifier must attest in the offset verification statement, in writing, to ARB as follows:~~

~~"I certify under penalty of perjury under the laws of California the offset verification team has carried out all offset verification services as required by section 95977 and the findings are true, accurate, and complete and have been independently reviewed by an independent reviewer as required under sections 95977(e)(2)(C)(xviii)(a.) - 95977(e)(2)(C)(xviii)(c.)."~~

~~(xix) 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 ten 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 report and Offset Verification Statement must be submitted to ARB or the Offset Project Registry before the applicable verification deadline, unless the Offset Project Operator or Authorized Project Designee makes a request to ARB or an Offset Project Registry pursuant to section 95977(e)(2)(C)(xix)(a.)~~

~~a. 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 Verification 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 the Executive Officer or Offset Project Registry to make a decision as to the verifiability of the submitted Offset Project Data Report.~~

~~b. If the Executive Officer or Offset Project Registry determines that the Offset Project Data Report does not meet the standards and requirements specified in this article, the Offset Project Operator or Authorized Project Designee shall have the opportunity to submit within 30 calendar days of the date of this decision any Offset Project Data Report revisions that address the Executive Officer's or Offset Project Registry's determination, for re-verification of the Offset Project Data Report. 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(e)(2)(C)(xviii)(a.) through 95977(e)(2)(C)(xviii)(d.),~~

~~and must submit the revised Offset Verification Statement to ARB or the Offset Project Registry within 15 days.~~

~~c. If the Offset Project Operator or Authorized Project Designee disagrees with a determination made by an Offset Project Registry, they can re-initiate the dispute resolution process in section 95977(e)(2)(C)(xix)(a.) through the Executive Officer.~~

~~(i) The process must be reinitiated within 60 days of the applicable verification deadline.~~

~~(ii) The Executive Officer, verification body, Offset Project Operator or Authorized Project Designee shall be held to the requirements in section 95977(e)(2)(C)(xix)(b.).~~

~~(xx) 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. All verification requirements of this article shall be considered complete.~~

~~(xxi) 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, 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.~~

~~(xxii) Upon request by the Executive Officer 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.~~

~~(xxiii) Upon request by the Executive Officer 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 and any other supporting documentation. All documentation must be provided by the verification body to the Executive Officer or the Offset Project Registry within 10 working days of the request.~~

~~(xxiv) Upon written notification by ARB the verification body must make itself available for an offset verification services audit when providing Offset Verification Services for a project using a Compliance Offset Project protocol listed with ARB or an Offset Project Registry.~~

~~(f) Additional Project-Specific Requirements for Offset Verification Services. In addition to meeting the verification requirements in this section, GHG emission reductions or GHG removals resulting from an offset project must also 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.~~

## § 95977.1. Requirements for Offset Verification Services

(a) Rotation of Verification Bodies. An offset project shall not have more than six consecutive years of offset project data verified by the same verification body or verifier(s). An Offset Project Operator or Authorized Project Designee may contract with a previous verification body or verifier(s) only if at least three years of the offset project data have been verified by a different verification body or verifier(s) before the previous

verification body is selected again. The six year rotation requirement is applied between the Offset Project Operator or Authorized Project Designee on a offset project basis.

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

(1) Notice of Verification Services for Offset Projects. Before offset verification services may begin, the verification body must submit a Notice of Verification Services to ARB and an Offset Project Registry, if applicable. The verification body may begin offset verification services for the Offset Project Operator or Authorized Project Designee ~~ten~~ 10 working days after the Notice for Verification Services is received by ARB or the Offset Project Registry, or earlier if approved by ARB in writing. The Notice for Verification Services must include the following information:

(A) The name of the offset project type, including the length of the offset project crediting period, and title of the Compliance Offset Protocol used to implement the offset project;

(B) A list of staff who will be designated to provide offset verification services as part of an offset verification team, including the names 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 E-mail 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 expected completion date.

(2) If any information submitted pursuant to sections 95977.1(b)(1)(B) and 95977.1(b)(1)(D) changes after the Notice for Verification Services is submitted to ARB and the Offset Project Registry, if applicable, the verification body must notify ARB and the Offset Project Registry, if applicable, at least five days prior to the start of offset verification services. If any information submitted pursuant to sections 95977.1(b)(1)(B) and 95977.1(b)(1)(D) changes during offset verification services, the verification body must notify ARB and the Offset Project Registry, if applicable, before the Offset Verification Statement is provided to ARB or the Offset Project Registry.

(3) Offset verification services must include the following:

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

1. Information to allow the offset verification team to develop a general understanding of offset project boundaries, operations, project baseline emissions, and annual GHG reductions or 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) The offset verification team must develop an Offset Verification Plan that includes, at a minimum:

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 completing offset verification services.

(C) 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 initial 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.

(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 project specialist, must make at least one site visit every year to each offset project location for which an Offset Project Data Report is submitted. 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 every year 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 years. A site visit is also required after the first full calendar year of operations of an offset project. During the site visit, the offset verification team member(s) must conduct the following:

1. During the initial site visit the offset verification team members must:
   a. Assess offset project eligibility and additionality according to section 95973 and the applicable Compliance Offset Protocol;
   b. Review the information submitted for listing pursuant to section 95975;
   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, and monitor the offset project conforms to the requirements of the applicable Compliance Offset Protocol; and
2. During the initial and each subsequent site visit the offset verification team must:
   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;

f. Confirm the offset project conforms with all local, state, or federal environmental regulatory requirements pursuant to section 95973(b); 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 GHG reductions or GHG removal enhancements quantified and reported in the Offset Project Data Report.

(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 the GHG emissions inventory and 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 annual GHG emissions, GHG reductions, and GHG removal enhancements and other information required by the applicable Compliance Offset Protocol.

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

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 system, 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, or 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 annual GHG emissions, GHG reductions, and GHG removal enhancement calculations;

   e. Data reporting;

   f. Chain of custody requirements; and

   g. Management policies or practices in developing Offset Project Data Reports.

(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 sinks, and GHG reservoirs; and
3. A summary of the information analyzed in the data checks and document reviews conducted for each GHG emissions source, GHG sink, or 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.

(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 subarticle.

(K) The verification body must retain the sampling plan in paper, electronic, or other format for a period of not less than 10 years following the submission of each Offset Verification Statement. The sampling plan must be made available to ARB or the Offset Project Registry within 10 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 10 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 Offset Verification Statement.

(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, or 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 annual GHG emissions, project emissions, GHG reductions, or 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 annual reported GHG reductions or 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 subarticle. 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, and sampling procedures, if applicable;
    d. Recalculating GHG emissions, project emissions, GHG reductions, or GHG removal enhancements estimates to check original calculations;

e. Reviewing calculation methodologies used by the Offset Project Operator or Authorized Project Designee for conformance with the Compliance Offset Protocol and this subarticle;

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 with the reported offset project data in order to confirm the extent and impact of any omissions and errors. Any discrepancies must be investigated. The comparison of data checks must provide enough detail 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, 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 or corrections to the submitted Offset Project Data Report, and a revised Offset Project Data Report must be submitted to ARB or the Offset Project Registry. 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, 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 subarticle and the Compliance Offset Protocol the offset verification team must review the methods and factors used to develop the Offset Project Data ~~r~~Report for adherence to the requirements of this subarticle and the Compliance Offset Protocol.

(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 subarticle or Compliance Offset Protocol related to the nonconformance, if applicable, and indicate if the issues were corrected by the Offset Project Operator or Authorized Project Designee prior to completing the offset verification services. 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 annual net GHG reductions or GHG removal enhancements relative to the project baseline in metric tons of $CO_2e$.

(Q) The offset verification team must determine whether the GHG reductions or GHG removal enhancements quantified and reported in the Offset Project Data Report contain an offset material misstatement using the following equation:

$$Percent\ error = \sum \frac{[Discrepancies + Omissions + Misreporting]\ x\ 100\%}{Total\ reported\ emissions}$$

Where:

"Discrepancies" means any differences between the reported GHG emissions, project emissions, GHG reductions, or GHG removal enhancements and GHG emissions, project emissions, GHG reductions, or GHG removal enhancements for a data source subject to data checks in 95977.1(b)(3)(L) calculated by the offset verification team.

"Omissions" means any GHG emissions, GHG reductions, project emissions, or GHG removal enhancements 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.

"Misreporting" means duplicative, incomplete, or other GHG emissions, project emissions, GHG reductions, or GHG removal enhancements the offset verification team concludes should, or should not, be part of the Offset Project Data Report.

"Total reported emissions" means annual reported net GHG reductions or GHG removal enhancements relative to the project baseline in metric tons $CO_2e$.

(R) Completion of offset verification services must include:

1. Offset Verification Statement. Upon completion of the offset verification services pursuant to section 95977.1(b) the verification body must complete an Offset Verification

Statement, 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(d). 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 Operator or Authorized Project Designee during that year.

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 relevant to the offset verification services provided and identify any failure to comply with the requirements of this subarticle 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:
   a. The verification body must provide to the Offset Project Operator or Authorized Project Designee a detailed

verification report. 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, the issues log identified in the course of 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) and be made available to ARB within 10 days upon request. If the 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.

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 subarticle and the Compliance Offset Protocol.

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 non-conformances contained within the Offset Project Data Report and that these non-conformances 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.

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 subarticle, 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:
"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 and 95977.2 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 report and Offset Verification Statement must be submitted to ARB or the Offset Project Registry before 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.).

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 Verification or Qualified Positive Offset Verification Statement, due to a disagreement on the requirements of this subarticle or Compliance Offset Protocol, the Offset Project Operator or Authorized Project Designee may petition ARB to make a decision as to the verifiability of the submitted Offset Project Data Report.

7. If ARB determines that the Offset Project Data Report does not meet the standards and requirements specified in this subarticle, the Offset Project Operator or Authorized Project Designee must provide any additional information within 30 days of the ARB determination. ARB will review the new information and notify the Offset Project Operator or Authorized Project Designee and verification body of its final decision. 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 ARB or the Offset Project Registry within 15 days.

(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. All verification requirements of this article shall be considered complete.

(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)(3) and section 95979(b)(4), 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.

(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 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 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.

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 verification requirements in section 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

An offset verifier or verification body must meet the accreditation requirements in title 17, article 2, section 95132 to provide offset verification services to verify GHG emission reductions or GHG removal enhancements for offset projects listed pursuant to 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.

**§ 95979. Conflict of Interest Requirements for Verification Bodies 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.

(b) The potential for a conflict of interest shall be deemed to be high where:

(1) ~~t~~The verification body and Offset Project Operator or Authorized Project Designee share any senior management staff or board of directors membership, or any of the senior management staff of the Offset Project Operator or Authorized Project Designee have been employed by the verification body, or vice versa, within the previous three years; or

(2) ~~w~~Within the previous three years, any staff member of the verification body or any related entity has provided to the Offset Project Operator or Authorized Project Designee any of the following non-offset verification services:

(A) ~~d~~Designing, developing, implementing, reviewing, or maintaining an inventory or offset project information or data management system for air emissions, unless the review was part of providing GHG offset verification services;

(B) ~~d~~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) ~~d~~Designing energy efficiency, renewable power, or other projects which explicitly identify GHG reductions or GHG removal enhancements as a benefit;

(D) ~~d~~Designing, developing, implementing, internally auditing, consulting, or maintaining an offset project resulting in GHG emission reductions or GHG ~~enhanced~~ removal enhancements ~~offset project~~;

(E) ~~o~~Owning, buying, selling, trading, or retiring shares, stocks, or ~~GHG~~ ARB offset credits or registry offset credits from the offset project;

(F) ~~d~~Dealing in or being a promoter of ARB offset credits or registry offset credits on behalf of an Offset Project Operator or Authorized Project Designee;

(G) ~~p~~Preparing or producing GHG-related manuals, handbooks, or procedures specifically for the Offset Project Operator or Authorized Project Designee;

(H) ~~a~~Appraisal services of carbon or GHG liabilities or assets;

(I) ~~b~~Brokering in, advising on, or assisting in any way in carbon or GHG-related markets;

(J) ~~d~~Directly managing any health, environment or safety functions for the Offset Project Operator or Authorized Project Designee;

(K) ~~b~~Bookkeeping or other services related to the accounting records or financial statements;

(L) ~~a~~Any service related to information systems, including 14001 certification, unless those systems will not be reviewed as part of the offset verification process;

(M) ~~a~~Appraisal and valuation services, both tangible and intangible;

(N) ~~f~~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 ~~resulting services will not be part of the verification process~~;

(O) ~~a~~Any actuarially oriented advisory service involving the determination of amounts recorded in financial statements and related accounts;

(P) ~~a~~Any internal audit service that has been outsourced by the Offset Project Operator or Authorized Project Designee that

relates to the Offset Project Operator's or Authorized Project Designee'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) ~~a~~Acting as a broker-dealer (registered or unregistered), promoter, or underwriter on behalf of the Offset Project Operator or Authorized Project Designee;

(R) ~~a~~Any legal services; and

(S) ~~e~~Expert services to the Offset Project Operator or Authorized Project Designee or a legal representative for the purpose of advocating the Offset Project Operator's or Authorized Project Designee's interests in litigation or in a regulatory or administrative proceeding or investigation, unless providing factual testimony.~~; and~~

~~(T) any regulatory enforcement action, including citations and fines.~~

"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.

(3) 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 or Authorized Project Designee to secure an offset verification services contract.

(4) 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 or Authorized

Project Designee within the last three years, except within the time periods in which the Offset Project Operator or Authorized Project Designee is allowed to use the same verification body as specified in section~~s 95977(e)(1)~~ 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 or Authorized Project Designee within the last three 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 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 or familial relationships between the verification body and management or employees of the Offset Project Operator or Authorized Project Designee, and when a conflict of interest self-evaluation is submitted pursuant to section 95979(g). If a verification body identifies a medium potential for conflict of interest and wishes to provide offset verification services for 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~~A demonstration that any members with potential conflicts have been removed and insulated from the project;

(2) ~~a~~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) ~~a~~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 or Authorized Project Designee, and ARB or 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 or Authorized Project Designee for which it will perform offset verification services. The submittal must include the following:

(1) ~~i~~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);

(2) ~~i~~Identification of whether any member of the offset verification team has previously provided offset verification services for the Offset Project Operator or Authorized Project Designee, and, if so, the years in which such offset verification services were provided; and

(3) ~~i~~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 or Authorized Project Designee either within or outside California during the previous three years. If non-offset verification services have previously been provided, the following information must also be submitted:

(A) ~~i~~Identification of the nature and location of the work performed for the Offset Project Operator or Authorized Project Designee and whether the work is similar to the type of work to be performed during offset verification;

(B) ~~t~~The nature of past, present, or future relationships with the Offset Project Operator or Authorized Project Designee including:

~~(i)~~1. ~~i~~Instances when any member of the offset verification team has performed or intends to perform work for the Offset Project Operator or Authorized Project Designee;

~~(ii)~~2. ~~i~~Identification of whether work is currently being performed for the Offset Project Operator or Authorized Project Designee, and if so, the nature of the work;

~~(iii)~~3. ~~h~~How much work was performed for the Offset Project Operator or Authorized Project Designee in the last three years, in dollars;

~~(iv)~~4. ~~w~~Whether any member of the offset verification team has any contracts or other arrangements to perform work for the Offset Project Operator or Authorized Project Designee or a related entity; and

~~(v)~~5. ~~h~~How much work related to GHG reductions or GHG ~~enhanced~~ removal~~s~~ enhancements the offset verification team has performed for the Offset Project Operator or Authorized Project Designee or related entities in the last three years, in dollars;

(C) ~~e~~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~~A list of names of the staff that would perform offset verification services for the Offset Project Operator or Authorized Project Designee, and a description of any instances of personal or family relationships with management or employees of the Offset Project Operator or Authorized Project Designee that potentially represent a conflict of interest;

(E) ~~i~~Identification of any other circumstances known to the verification body, or Offset Project Operator or Authorized Project Designee that could result in a conflict of interest; and

(F) ~~a~~A ttest, in writing, to ARB as follows:

"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."

(f) 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 or 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 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 entering into any contract with the Offset Project Operator or Authorized Project Designee for which the verification body has provided offset verification services, the verification body must notify ARB or 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 or conflict using the criteria in sections 95979(a) through (d), if the Offset Project Operator or Authorized Project Designee must re-verify their Offset Project Data Report, and if accreditation revocation is warranted by ARB.

(3) The verification body must notify ARB or the Offset Project Registry within 30 days, of any emerging conflicts of interest during the time

offset verification services are being provided for a<u>n offset</u> 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 or Authorized Project Designee.

(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 or Authorized Project Designee, and may be subject to the suspension or revocation of accreditation by ARB under title 17, article 2, section 95132(d).

(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 invalidate a Positive <u>Offset or</u> ~~of~~ Qualified Positive Offset Verification Statement received in section 95981(d) 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 or Authorized Project designee 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 title 17, article 2, section 95132(d).

(g) 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 subarticle;

(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 Developer or Authorized Project Designee for which it intends to provide 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.

## § 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) ~~ARB or a~~An Offset Project Registry has listed the offset project pursuant to section 95975;

(2) ~~t~~The GHG emission reductions or GHG removal enhancements were issued a Positive Offset or Qualified Positive Offset Verification Statement pursuant to section 95977.1 and 95977.2; and

(3) ~~ARB or a~~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~~time period~~ for which registry offset credits would be issued.

(b) 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 or GHG removal enhancements occur, according to the first Positive Offset or Qualified Positive Offset Verification Statement that is received by ~~ARB or~~ an Offset Project Registry.

(c) 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 section 95980 to an Offset Project Operator, Authorized Project Designee, or any other third party authorized by the Offset Project Operator pursuant to section 95974(a)(1), no later than 30 calendar days after an Offset Project Registry determines the GHG emission reductions or GHG removal enhancements meet the requirements of section 95980(a) and the Positive Offset or Qualified Positive Offset Verification Statement meets the requirements of 95977, 95977.1, and 95977.2.

(b) Change of Listing Status at the Offset Project Registry. When an Offset Project Registry issues a registry offset credit for an offset project, the listing status for that offset project will be changed to either “Active Registry Project” or “Active Registry Renewal” at the Offset Project Registry and ARB.

(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 pursuant to section 95974(a)(1) of the issuance.

(d) After notifying the Offset Project Operator, Authorized Project Designee, or any other third party authorized by the Offset Project Operator pursuant to section 95974(a)(1) 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.

**~~§ 95981. Process for Issuance of Offset Credits~~**

~~(a) ARB or an Offset Project Registry will issue an offset credit that meets the requirements of section 95980 to an Offset Project Operator, Authorized Project Designee, or any other third party authorized by the Offset Project Operator pursuant to section 95974(a)(1), no later than 45 calendar days after a Positive Offset or Qualified Positive Offset Verification Statement is received by ARB or an Offset Project Registry.~~

~~(b) Change of Listing Status. When ARB or an Offset Project Registry issues an offset credit for an offset project, the listing status for that offset project will be changed to either "Active Project" or "Active Renewal."~~

~~(c) Notice of Determination of Issuance of Offset Credits. Not later than 15 calendar days after ARB or an Offset Project Registry issues an offset credit, ARB or an Offset Project Registry will notify the Offset Project Operator, Authorized Project Designee, or any other third party authorized by the Offset Project Operator pursuant to section 95974(a)(1) of the issuance.~~

~~(d) Requirements for Offset Projects Submitted Through an Offset Project Registry Seeking Issuance of ARB Offset Credits.~~

~~(1) If an Offset Project Operator or Authorized Project Designee provides information for listing pursuant to section 95975, monitors and reports pursuant to section 95976, and has their offset project verified pursuant to section 95977 through an Offset Project Registry, the Offset Project Operator or Authorized Project Designee must provide the following information to ARB for issuance of ARB offset credits:~~

~~(A) the attestations required in sections 95975(b)(1), 95975(b)(2), 95976(d)(5), 95977(e)(2)(C)(xviii)(d.)(ii), 95977(e)(2)(C)(xviii)(d.)(v), and 95977(e)(2)(C)(xviii)(d.)(vi);~~

~~(B) offset project listing information submitted to an Offset Project Registry pursuant to sections 95975(b) and (c);~~

~~(C) offset project data reports submitted to an Offset Project Registry pursuant to section 95976(d);~~

~~(D) verification statement submitted pursuant to section 95977(e)(2)(C)(xviii)(d.)(ii);~~

~~(E) the detailed verification report required in section 95977(e)(2)(C)(xviii)(d.)(i.)~~

~~(F) attest, in writing, to ARB as follows:~~

~~"I certify under penalty of perjury of the laws of California all information provided to ARB for issuance of offset credits is true, accurate, and complete."~~

~~(2) ARB will notify the Offset Project Operator, Authorized Project Designee, or other third party identified in section 95974(a)(1) within 30 calendar days if the information in section 95981(d)(1) is complete or request additional specific information.~~

~~(3) Within 30 calendar days of determining the information submitted in section 95981(d)(1) is complete, ARB will issue offset credits that meet the requirements of section 95980.~~

~~(4) ARB may request any additional information from the Offset Project Operator, Authorized Project Designee, Offset Project Registry, or verification body before issuing offset credits that meet the requirements of section 95980.~~

~~(5) If ARB determines the information submitted in sections 95981(d)(1) and (d)(4) does not meet the requirements for issuance of ARB offset credits, then the Offset Project Designee or Authorized Project Operator may petition the Executive Officer, within 10 days of denial, for a review of submitted information in section 95981(d)(1) and (d)(4) and respond to any issues that prevent the issuance of ARB offset credits.~~

~~(6) The Executive Office must make a final determination within 30 calendar days of receiving the request in section 95981(d)(5) 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) If the offset credits issued pursuant to section 95981(a) originated from an offset project submitted through an Offset Project Registry, the Offset Project Registry must retire the original offset credits issued by the Offset Project Registry in its system before ARB registers the offset credits pursuant to section 95982.~~

~~(f) Receipt of Offset Credits Issued by ARB. ARB will transfer the offset credits into the Holding Account of the Offset Project Operator, Authorized Project Designee, or any other third party authorized by the Offset Project Operator pursuant to section 95974(a)(1), within 15 working days of the notice of determination pursuant to sections 95981(c) and (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.~~

**§ 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 if:

(1) ARB or 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 section 95977.1 and 95977.2; and

(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 95981.1 or for which ARB offset credits would be issued pursuant to section 95981.1.

(b) Requirements for Offset Projects Submitted Through an Offset Project Registry Seeking Issuance of ARB Offset Credits. If an Offset Project Operator or Authorized Project Designee provides information for listing pursuant to section 95975, monitors and reports pursuant to section 95976, and has their offset project verified pursuant to sections 95977, 95977.1, and 95977.2 through an Offset Project Registry, the Offset Project Operator or Authorized Project Designee must provide the following information to ARB for issuance of ARB offset credits pursuant to section 95981.1:

(1) The attestations required in sections 95975(c)(1), 95975(c)(2), 95975(c)(3), 95976(d)(5), 95977.1(b)(3)(R)(4.)(b.), 95977.1(b)(3)(R)(4.)(e.), and 95977.1(b)(3)(R)(4.)(f.) or any in the applicable Compliance Offset Protocol;

(2) Offset project listing information submitted to an Offset Project Registry pursuant to sections 95975(c) and (e);

(3) Offset Project Data Reports submitted to an Offset Project Registry pursuant to section 95976(d); and

(4) Offset Verification Statements submitted pursuant to section 95977.1(b)(3)(R)(4.)(b.).

(c) Before ARB issues an ARB offset credit pursuant to section 95981.1 for GHG reductions or GHG removal enhancements achieved by an offset project in an Offset Verification Statement the Offset Project Operator or Authorized Project Designee must provide the following attestations, in writing, to ARB:

(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] 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) "I understand I am voluntarily participating in the California Greenhouse Gas Cap-and-Trade 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 I must fulfill all applicable local, regional, and national regulatory requirements 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 or 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 or 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."

(d) Determination for Timing and Duration of Initial Crediting Periods for Offset Projects Submitted Through ARB. The initial crediting period will begin with the date that the first verified GHG emission reductions or GHG removal enhancements occur, according to the first Positive Offset or Qualified Positive Offset Verification Statement that is received by ARB.

(e) 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 that meets the requirements of section 95981(a) to an Offset Project Operator, Authorized Project Designee, or any other third party authorized by the Offset Project Operator pursuant to section 95974(a)(1), no later than 30 calendar days after ARB determines the GHG emission reductions or GHG removal enhancements meet the requirements of section 95981(a), the information submitted in sections 95981(b) and (c) is complete, and the Positive Offset or Qualified Positive Offset Verification Statement meets the requirements of 95977, 95977.1, and 95977.2.

(b) Change of Listing Status at ARB. When ARB issues an ARB offset credit for an offset project, the listing status for that offset project will be changed from "Active Registry Project" to "Active ARB Project" or "Active Registry Renewal" to "Active ARB Renewal" at the Offset Project Registry and ARB.

(c) Notice of Determination of Issuance of ARB Offset Credits. Not later than 15 calendar days after ARB issues an ARB offset credit, ARB will notify the Offset Project Operator, Authorized Project Designee, or any other third party authorized by the Offset Project Operator pursuant to section 95974(a)(1) of the issuance.

(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 95974(a)(1) within 30 calendar days of its determination pursuant to section 95981.1(a) if the information in section 95981(b) and (c) 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 that meet the requirements of section 95981.

(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 Designee or Authorized Project Operator 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 retired by the Offset Project Registry within 10 days of ARB notification. Registry offset credits must be retired by the Offset Project Registry before ARB issues an ARB offset credit pursuant to this section.

(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 authorized by the Offset Project Operator pursuant to section 95974(a)(1), within 15 working days of the notice of determination pursuant to sections 95981.1(c) and (d)(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.

**§ 95982. Registration of ARB Offset Credits ~~Issued by ARB~~**

An ARB offset credit ~~issued by ARB~~ will be registered by:

(a) ~~c~~Creating a unique ARB serial number; and

(b) t~~T~~ransferring this serial number to the Holding Account of the listed Offset Project Operator, Authorized Project Designee, or another third party as provided in section 95974(a)(1) unless otherwise required by section 95983.

**§ 95983. Forestry Offset Reversals**

(a) For forest sequestration projects, a portion of ~~the~~ ARB offset credits issued to the offset project ~~by ARB must~~ will be placed by ARB into the Forest Buffer Account~~,~~. ~~or if the offset project is originally submitted through an Offset Project Registry the portion an of the offset credits issued by the Offset Project Registry must be transferred to ARB for placement in the Forest Buffer Account.~~

(1) The amount of ARB offset credits that must be placed in the Forest Buffer Account ~~upon credit issuance~~ shall be determined as set forth in

Compliance Offset Protocol ~~for Forest Projects~~ U.S. Forest Projects, ~~[DATE]~~.

(2) ARB ~~O~~offset credits will be transferred to the Forest Buffer Account by ARB at the time of ARB offset credit registration pursuant to section 95982.

(3) If a forest offset project is originally submitted through an Offset Project Registry~~, all offset credits that should be set aside into the Forest Buffer Account must be transferred to ARB by the Offset Project Registry. The Offset Project Registry must retire the original offset credits issued by the Offset Project Registry in its system.~~ an equal number of registry offset credits must be retired by the Offset Project Registry and issued by ARB for placement in the Forest Buffer Account.

(b) Unintentional Reversals. If there has been an unintentional reversal, the Offset Project Operator or Authorized Project Designee ~~determines there has been any unintentional reversal, it~~ must notify ARB and the Offset Project Registry, in writing, of the reversal and provide an explanation for the nature of the unintentional reversal within ~~six months~~ 30 calendar days of its discovery.

(1) In the case of an unintentional reversal the Offset Project Operator or Authorized Project Designee shall~~,~~ provide in writing~~:~~ to ARB and an Offset Project Registry, if applicable, a verified estimate of current carbon stocks within the offset project boundary within one year of the discovery of the unintentional reversal.

~~(A) an explanation of the nature of the unintentional reversal; and~~

~~(B) a verified estimate of current carbon stocks within the offset project boundary within one year of the discovery of the unintentional reversal.~~

(2) If ARB determines that there has been an unintentional reversal, and ARB offset credits have been issued to the offset project, ~~it~~ ARB will retire a quantity of ARB offset credits ~~pursuant to section 95985(e)~~ in

the amount of metric tons of $CO_2$e reversed from the Forest Buffer Account.

(c) Intentional Reversals. Requirements of the Offset Project Operator or Authorized Project Designee for intentional reversals are as follows:

(1) If an intentional reversal occurs, the Offset Project Operator or Authorized Project Designee shall, within 30 calendar days of the intentional reversal:

(A) ~~g~~Give notice, in writing, to ARB and the Offset Project Registry, if applicable, of the intentional reversal; and

(B) ~~p~~Provide a written description and explanation of the intentional reversal to ARB.

~~(2) After ARB receives written notice by the Offset Project Operator or Authorized Project Designee, ARB will determine if an intentional reversal has occurred, and notify, in writing, the Offset Project Operator or Authorized Project Designee of its determination.~~

~~(3)~~(2) Within ~~three months~~ one year of ~~receiving the notice for intentional reversal from ARB~~ the occurrence of an intentional reversal, the Offset Project Operator or Authorized Project Designee shall submit to ARB and the Offset Project Registry, if applicable, a verified estimate of current carbon stocks within the offset project boundary.

(3) If an intentional reversal occurs from a forest offset project, the forest owner must replace each metric ton of $CO_2$e with a valid ARB offset credit or another approved compliance instrument pursuant to subarticle 4, within 90 calendar days of notification by ARB. Notification by ARB will occur after the verified estimate of carbon stocks has been submitted to ARB, or after one year has elapsed since the occurrence of the reversal if the Offset Project Operator or Authorized Project Designee fails to submit the verified estimate of carbon stocks. If the forest owner does not replace each metric ton of $CO_2$e within 90 calendar days of notification by ARB, ARB will retire a quantity of ARB offset credits in the amount of metric tons of $CO_2$e

reversed from the Forest Buffer Account and 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) In the event of an early forest offset project termination ARB will retire from the Forest Buffer Account a quantity of ARB offset credits in the amount calculated pursuant to project termination provisions in Compliance Offset Protocol, U.S. Forest Projects [DATE]. ARB will notify the forest owner of retirement within 10 calendar days. The forest owner must submit a valid ARB offset credit or another approved compliance instrument pursuant to subarticle 4 for each ARB offset credit retired by ARB from the Forest Buffer Account within 90 calendar days of ARB's retirement. If the forest owner does not replace each ARB offset credit within 90 calendar days of ARB's retirement, 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) Disposition of Forest Sequestration Projects After a~~n Unintentional~~ 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 ~~automatically~~ be terminated by ARB or an Offset Project Registry.

(1) If the forest offset project is ~~automatically~~ 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.

(2) 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~~ 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).

(3) 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.

~~(e) Disposition of Forest Sequestration Projects After an Intentional Reversal.~~

~~(1) If ARB determines that an intentional reversal has occurred pursuant to section 95983(c), the forest offset project will automatically be terminated by ARB or an Offset Project Registry.~~

~~(2) New offset projects may not be initiated within the same offset project boundary if the forest offset project is terminated due to an intentional reversal.~~

~~(3) Offset credits issued to an offset project that suffers an intentional reversal may be determined to be invalid pursuant to section 95985.~~

**§ 95984. Ownership and Transferability of ARB Offset Credits ~~Issued by ARB~~**

~~Initial ownership of an offset credit will be with the registered Offset Project Operator, Authorized Project Designee, or another third party as provided in section 95974(a)(1) unless otherwise required by section 95983. An offset credit issued by ARB may be sold, traded, or transferred, unless:~~

~~(a) the offset credit has been retired or surrendered for compliance in any voluntary or regulatory program;~~

~~(b) it resides in the Forest Buffer Account pursuant to section 95983; or~~

~~(c) it has been invalidated pursuant to section 95985.~~

(a) Initial ownership of an ARB offset credit will be with the registered Offset Project Operator, Authorized Project Designee, or another third party as provided in section 95974(a)(1), 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 Voluntarily Associated Entity for purposes of voluntary retirement.

**§ 95985. Invalidation of ARB Offset Credits**

(a) An ARB offset credit issued ~~by ARB~~ under this Article will remain valid~~:~~ unless invalidated pursuant to sections 95985(b) and (c).

~~(1) Until the offset credit has been retired or surrendered for compliance in any voluntary or regulatory program; or~~

~~(2) Unless invalidated pursuant to section 95985(b).~~

(b) ~~An~~ ARB may determine within 8 years of issuance that an ARB offset credit ~~may be determined to be~~ is invalid for the following reasons:

~~(1) A finding pursuant to section 95983 that a reversal occurred in a forest sequestration project; or~~

~~(2)~~(1) ARB ~~has~~ determines~~d~~ that information provided to ARB ~~errors~~ by verifiers, verification bodies, Offset Project Operators, Authorized Project Designees, or Offset Project Registries, ~~or others involved in producing the documentation used to support the issuance of offset credits~~ related to an offset project was not true, accurate, or complete; or ~~are sufficient to warrant an invalidation reversal.~~

(2) The Offset Project Data Report contains errors that overstate the amount of GHG reductions or GHG removal enhancements by more than 5 percent; or

(3) The offset project did not meet all local, state, or national regulatory requirements during the time covered by an Offset Project Data Report; or

(4) ARB determines that offset credits have been issued in any other voluntary or mandatory program within the same offset project boundary or for the same GHG reductions or GHG removal enhancements.

~~(c) If ARB determines that an offset credit it issued is invalid pursuant to this section:~~

~~(1) the offset credit will be cancelled and removed from any Holding or Compliance account or the ARB Forest Buffer Account;~~

~~(2) the current holder, user, or retiree of the offset credit will be notified at the time of ARB's determination; and~~

~~(3) any approved program for linkage pursuant to subarticle 12 will be notified of the invalidation at the time of ARB's determination.~~

(c) If ARB determines that an ARB offset credit is invalid pursuant to section 95985(b) ARB will identify the current holder of the ARB offset credit, or the entity that submitted the ARB offset credit for compliance or retirement.

(d) ARB will notify the party identified in section 95985(c) of the invalidation and provide the party an opportunity to submit additional information to ARB prior to invalidation as follows:

(1) ARB will include the reason for invalidation of an ARB offset credit in its notification to the party identified in 95985(c).

(2) After notification the party identified in 95985(c) will have 25 calendar days to provide any additional information to ARB.

(3) ARB may request any additional information as needed in addition to the information provided under this section.

(4) The Executive Officer will have 30 days after all information is submitted under this section to make a final determination to invalidate an ARB offset credit.

(e) If the Executive Officer determines that an ARB offset credit is invalid pursuant to sections 95985(b) and (d):

(1) The ARB offset credit will be invalidated and removed from any Holding or Compliance Account;

(2) The party identified pursuant to section 95985(c) will be notified of ARB's determination of invalidation pursuant to section 95985(d)(4);

(3) The Offset Project Operator or Authorized Project Designee of the offset project for which the ARB offset credits were invalidated will be notified of ARB's determination of invalidation pursuant to section 95985(d); and

(4) Any approved program for linkage pursuant to subarticle 12 will be notified of the invalidation at the time of ARB's determination pursuant to section 95985(d)(4).

~~(d)~~(f) If an ARB offset credit is found to be invalid pursuant to ~~this~~ sections 95985(b) and (d)~~, except as provided in section 95985(e) and (f), has been retired or surrendered for compliance in any voluntary or regulatory program,~~ the ~~user or retiree of that offset credit~~ party identified in section 95985(c) must replace each metric ton of $CO_2e$ with a valid ARB offset credit or another approved compliance instrument pursuant to subarticle 4, within ~~30~~90calendar days ~~pursuant to this section~~ of notification by ARB pursuant to section 95985(e)(2). If the ~~user or retiree~~ party identified in section 95985(c) does not replace ~~the~~ each invalid ARB offset credit within ~~30~~90 calendar days of the notice of invalidation pursuant to section 95985(e)(2), each outstanding ARB offset credit will constitute a violation pursuant to section 96014. If the ~~user or retiree~~ party identified in section 95985(c) is no longer in business ARB will require the Offset Project Operator or Authorized Project Designee to replace ~~the~~ each invalidated ARB offset credit~~s~~ and will notify the Offset Project Operator or Authorized Project Designee that they must replace them. The Offset Project Operator or Authorized Project Designee must replace each metric ton of $CO_2e$ with a valid ARB offset credit or another approved compliance instrument pursuant to subarticle 4, within ~~30~~90 calendar days of ~~being~~ notification~~ed~~ by ARB pursuant to section 95985(e)(3). If the Offset

Project Operator or Authorized Project Designee does not replace ~~the~~ each invalid ARB offset credit within ~~30~~90 calendar days of ~~being~~ notification~~ed~~ by ARB pursuant to section 95985(e)(3), each outstanding ARB offset credit will constitute a violation pursuant to section 96014.

~~(e) If an intentional reversal occurs from a forest offset project, the Offset Project Operator or Authorized Project Designee must replace each metric ton of $CO_2$e with another approved compliance instrument pursuant to subarticle 4, within 30 calendar days of being notified by ARB. If the Offset Project Operator or Authorized Project Designee does not replace the invalid offset credit within 30 calendar days of being notified by ARB, each outstanding offset credit will constitute a violation.~~

~~(f) If an unintentional reversal occurs from a forest offset project, ARB will retire offset credits in the amount of tons reversed from the Forest Buffer Account. All other invalidated offset credits must be replaced pursuant to section 95985(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.

## § 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 the requirements specified in this section.

(c) The Offset Project Registry must be registered with ARB ~~and apply for a Holding Account~~ pursuant to section 95830.

(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) ~~n~~Name of applicant;

(B) ~~n~~Name of president or chief executive officer;

(C) ~~l~~List of all board members, if applicable;

(D) ~~a~~Addresses of offices located in the United States;

(E) ~~d~~Documentation that the applicant carries at least ~~fifty~~ five million U.S. dollars of professional liability insurance; and

(F) ~~l~~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.

(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:

~~(i)~~1. ~~i~~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

~~(ii)~~2. ~~i~~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 ~~all monetary or non-monetary gifts received~~ for the previous calendar year;

(B) ~~l~~List of all service types provided by the applicant,

(C) ~~t~~The industrial sectors the applicant serves,

(D) ~~l~~Locations where services are provided; and

(E) ~~a~~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 sections 95986(c)(2)(B)-(D) 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.

(3) The program has the following capabilities for registration and tracking of registry offset credits:

(A) ~~a~~A comprehensive registration requirement for all registry participants;

(B) ~~t~~Tracking ownership and transactions of all registry offset credits it issues at all times; and

(C) ~~p~~Possesses a permanent repository of ownership information on all transactions involving all registry offset credits it issues from the time they are issued to the time they are retired~~, including prices and counter-parties~~.

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

~~(4)~~(1) The applicant may not act as an Offset Project Operator ~~Developer~~, Authorized Project Designee, or offset project consultant for offset projects developed using a Compliance Offset Protocol once approved as an Offset Project Registry~~.~~;

~~(5)~~(2) The applicant may not act as a verification body ~~and~~ or provide offset verification services pursuant to sections 95977.1 and 95977.2 once approved as an Offset Project Registry~~.~~; and

(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.

(e) The Offset Project Registry must continue to maintain the professional liability insurance required in section 95986(c) while it provides registry services to Offset Project Operators or Authorized Project Designees who are implementing offset projects using Compliance Offset Protocols.

(f) If any information submitted pursuant to sections 95986(c) through (e) 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(c) through (e).

(g) 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-Trade 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~~n ARB~~ 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 to 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 and all information provided as part of this application is true, accurate, and complete."

(h) ~~The~~At least two of the management staff at the Offset Project Registry must take ARB provided training on ARB's compliance offset program.

(i) The Offset Project Registry must have staff members who have collectively completed ARB training in all Compliance Offset Protocols.

~~(i)~~(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(h), 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 sections 95986(c) and (d) 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(i)(1) and 95986(i)(3).

(5) The Executive Officer approval for an Offset Project Registry is valid for a period of ~~five~~ 10 years, whereupon the applicant may re-apply. At the time of re-application, the Offset Project Registry must meet all of the requirements in section 95986(c) and must not have been subject to ~~any~~ enforcement action under this article.

~~(j)~~(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 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.

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.

**§ 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 ~~potential~~ issuance of ~~ARB~~ registry offset credits. The Offset Project Registry may list projects under non-Compliance Offset Protocols, but must make it clear any GHG emission reductions or GHG removal enhancements achieved under those protocols are not eligible to be issued ARB offset credits.

(b) The Offset Project Registry must make the following information publicly available for each offset project:

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

(A) ~~o~~Offset project name;

(B) ~~o~~Offset project location;

(C) Offset Project Operator and, if applicable, the Authorized Project Designee;

(D) ~~t~~Type of offset project;

(E) ~~n~~Name and date of the Compliance Offset Protocol used by the offset project;

(F) ~~d~~Date of offset project listing submittal and Offset Project Commencement date; and

(G) i~~I~~dentification if the offset project is in an ~~I~~initial or renewed crediting period;

(2) ~~w~~Within 10 working days of the Offset Project Data Report being issued an Offset Verification Statement:

(A) ~~a~~Annual verified project baseline emissions;

(B) ~~a~~Annual verified GHG reductions or GHG removal enhancements achieved by the offset project;

(C) ~~t~~The unique serial numbers of registry offset credits issued ~~by the Offset Project Registry~~ to the offset project;

(D) ~~t~~Total~~, by calendar year, of~~ verified GHG reductions or GHG removal enhancements for the offset project by reporting period for when an Offset Project Data Report was submitted; ~~and~~

(E) Offset Verification Statement for each year the Offset Project Data Report was verified; and

(3) ~~c~~Clear identification of which offset projects are listed and submitting Offset Project Data Reports using Compliance Offset Protocols.

(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 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 submits its information pursuant to section 95981(d) 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 a~~n ARB~~ Compliance Offset Protocol, this article, or an ARB guidance document.

(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.

(e) The Offset Project Registry must audit at least 10~~20%~~ percent of the annual offset verifications ~~of its offset projects~~ developed for offset projects using a Compliance Offset ~~p~~Protocol.

(1) The audit must include the following checks:

(A) ~~a~~Attendance with the offset verification team on the offset project site visit;

(B) i~~I~~n-person or conference call attendance for the first offset verification team and Offset Project Operator or Authorized Project Designee meeting;

(C) i~~I~~n-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) ~~d~~Documentation of any findings during the audit that lead to the Offset Project Registry to provide guidance 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~~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) ~~a~~An investigative review of the conflict of interest assessment provided by the verification body, which includes the following:

~~(i)~~1. ~~d~~Discussions with both the lead verifier who submitted the conflict of interest assessment form and the Offset Project Registry or Authorized Project Designee to confirm the information on the conflict of interest assessment form is true, accurate, and complete;

~~(ii)~~2. ~~a~~An ~~I~~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

~~(iii)~~3. ~~a~~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.

(2) All information related to audits of offset projects developed using a Compliance Offset Protocol must be provided to ARB within 10 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~~A list of all offset projects audited;

(B) ~~l~~Locations of all offset projects audited;

(C) ~~v~~Verification bodies associated with each offset project and names of offset verification team members;

(D) ~~d~~Dates of site visits;

(E) Offset Project Registry staff that conducted the audit; and

(F) ~~a~~Audit findings as required in section 95987(e)(1)(D) through (E).

(f) The Offset Project Registry must review each detailed verification report provided in section 95977.1(b)(3)(R)(4.)(a.) for completeness and to ensure it meets the requirements of section 95977.1(b)(3)(R)(4.)(a.) before accepting the Offset Verification Statement for the Offset Project Data Report and issuing registry offset credits.

~~(f)~~(g) The Offset Project Registry must provide all information in its possession, custody, or control related to a listed offset project within 10 days of request by ARB.

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

~~(h)~~(i) The Offset Project Registry must retire any registry offset credits issued for an offset project using a Compliance Offset Protocol once notified by ARB that the offset project is eligible to be issued ARB ~~the~~ offset credits ~~are eligible to be issued by ARB~~.

~~(i)~~(j) The Offset Project Registry must provide an annual report by January 31 of the previous year's offset projects that are ~~at least~~ 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 for the offset project by the Offset Project Registry to date.

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

### §95988. Record Retention Requirements for Offset Project Registries

All information submitted and correspondence related to listed offset projects by the Offset Project Registry must be maintained by the Offset Project Registry for a minimum of 15 years ~~five years after the end of the crediting period for non-sequestration offset projects or, for sequestration offset projects the length of time that the offset project is issued registry offset credits by the Offset Project Registry plus 100 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.

## Subarticle 14: Recognition of Compliance Instruments from Other Programs

### § 95990. Recognition of Early Action Offset Credits ~~for Early Action~~

~~(a) ARB shall accept offset credits from offset projects registered with third-party offset programs approved pursuant to section 95990(c) if the offset credits meet the criteria set forth in this section.~~

~~(b) Criteria for Approval of Offset Credits Issued by Third Parties. An offset credit may be used to meet a compliance obligation under this article if the~~

~~offset credit results from a GHG reduction or GHG removal enhancement which:~~

~~(1) Occurred between January 1, 2005, and December 31, 2014;~~

~~(2) Is verified pursuant to section 95990(f);~~

~~(3) Results from an offset project with an offset project commencement date prior to January 1, 2012;~~

~~(4) Results from an offset project located in the United States; and~~

~~(5) Results from the use of one of the following offset quantification methodologies:~~

~~(A) Climate Action Reserve Livestock Protocol versions 1.0 through 3.0;~~

~~(B) Climate Action Reserve Urban Forest Protocol versions 1.0 through 1.1;~~

~~(C) Climate Action Reserve Ozone Depleting Substances Protocol version 1.0; and~~

~~(D) Climate Action Reserve Forest Protocol version 2.1; or~~

~~(E) Climate Action Reserve Forest Protocol versions 3.0 through 3.2, if the offset project meets the following requirements for ensuring permanence:~~

~~(i) Conservation easement; or~~

~~(ii) contribution of offset credits based on the reversal risk of the offset project to an insurance buffer account.~~

~~(c) Approval of Third-Party Offset Programs for Purposes of Accepting Offset Credits for Early Action. To qualify as a third-party offset program for purposes of accepting offset credits for early action, the program must be issued an Executive Order pursuant to section 95986(d); or meet the following requirements:~~

~~(1) The program must provide documentation that it carries at least two million U.S. dollars of liability insurance.~~

~~(2) The program has the following capabilities for registration and tracking of offset credits:~~

~~(A) A comprehensive registration requirement for all registry participants;~~

~~(B) Tracking ownership and transactions of all offset credits it issues at all times; and~~

~~(C) A permanent repository of ownership information on all transactions involving all offset credits it issues from the time they are issued to the time they are retired, including prices and counter-parties.~~

~~(3) The program's primary business is operating an offset project registry for voluntary or regulatory purposes.~~

~~(4) The program must agree to submit any available original documentation submitted by an Offset Project Operator or third-party verifier regarding the offset project, including registration documentation, sampling plans, and verification reports.~~

~~(5) The program must agree to retire and disqualify any offset credits it issues when retired or used in any voluntary or regulatory program, including when they are retired or approved for use in the California Cap-and-Trade Program.~~

~~(6) An authorized representative of the third-party offset program must attest in writing, to ARB, as follows:~~

~~"I certify under penalty and perjury of the laws of California the information provided in demonstrating this program meets the requirements in Section 95990(c) and is true, accurate, and complete."~~

~~"Upon acceptance of any offset credits for early action purposes, this program will meet the requirements in section 95990(c)(5)."~~

~~(d) Registration of Offset Credits Issued by Third Parties. Once an offset credit that is issued by an approved third-party offset program is determined by ARB to meet the criteria set forth in section 95990(b), ARB will assign an ARB serial number to the offset credit. Both the approved third-party offset program and ARB shall maintain the serial numbers of the offset credits it issues in perpetuity and track the transactions of offset~~

~~credits until ARB retires it, at which time ARB will notify the approved third-party offset program to simultaneously retire it.~~

~~(e) Ineligible Offset Credits Issued by Third Parties. This section does not apply to an offset credit issued by an approved third-party offset program that has been retired, canceled, or used to meet a voluntary commitment or a surrender obligation in any voluntary or regulatory system.~~

~~(f) Regulatory Verification of Offset Credits for Early Action. Any offset credits issued by an approved third-party offset program that meet the requirements in section 95990(b) must be verified under the following requirements to be used to meet a compliance obligation under this article:~~

~~(1) The project must be verified by an ARB-accredited verification body that meets the accreditation requirements in section 95978.~~

~~(2) The verification body is subject to the conflict of interest requirements in section 95979. The potential for conflict of interest must be assessed against the Offset Project Developer for the project and any individuals or companies that currently hold the serialized offset credits for the project that will be submitted to be issued an ARB serialized offset credit. The conflict of interest submittal in section 95979 must be submitted to ARB.~~

~~(3) The verification body must conduct all of the offset verification services in section 95977 for the offset project and serialized offset credits that will potentially be issued ARB offset credits, for each offset data report for each year of the offset credits issued by the approved third-party offset program.~~

~~(A) If the offset project is still in operation, the verification body must conduct a site visit as required in section 95977(e)(2)(C)(iv).~~

~~(B) If the offset project is no longer in operation, the verification body will conduct a desk review of any available original documentation to confirm any previous verification findings~~

~~related to the types of verification services required in section 95977(e)(2)(C)(iv).~~

~~(i) The Offset Project Operator or the approved third-party offset program must provide the verification report(s) for the offset project to the ARB verifier to assist in the verification and desk review.~~

~~(ii) The Offset Project Operator must provide any original documentation to assist the verification body in its desk review.~~

~~(C) The sampling plan in section 95977(e)(2)(C)(vii) must cover all serialized offset credits issued by the approved third-party offset program that may potentially be issued an ARB offset credit;~~

~~(D) The data checks in section 95977(e)(2)(C)(xii) must include checks across the sources identified in the sampling plan, covering all years of the serialized offset credits issued by the approved third-party offset program that may potentially be issued an ARB offset credit;~~

~~(E) The verification body must submit an offset verification statement to ARB covering the serialized offset credits issued by the approved third-party offset program for the offset project that may potentially be issued an ARB offset credit;~~

~~(F) Only serialized offset credits issued by an approved third-party offset program that are within the scope of the offset verification services for an offset project and have received a positive offset or qualified positive offset verification statement are eligible to be issued an ARB offset credit.~~

(a) Approval of Early Action Offset Programs. To qualify as an Early Action Offset Program, either the Executive Office shall issue an Executive Order pursuant to section 95986(j) or the program must demonstrate to ARB that it meets the following requirements:

(1) The program must provide documentation that it carries at least one million U.S. dollars of professional liability insurance.

(2) The program must have the following capabilities for registration and tracking of offset credits:

(A) A registration requirement for all registry participants;

(B) A system for tracking ownership and transactions of all offset credits it issues at all times; and

(C) A permanent repository of ownership information on all transactions involving all offset credits it issues from the time they are issued to the time they are retired.

(3) The program's primary business is operating a registry for issuing early action offset credits for voluntary or regulatory purposes and must meet the following business requirements:

(A) The Early Action Offset Program may not act as an Offset Project Operator, Authorized Project Designee, or offset project consultant for early action offset projects;

(B) The applicant may not act as a verification body and provide offset verification services pursuant to section 95990(f); and

(C) 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 program must agree to submit to ARB the original documentation submitted by an Offset Project Operator or Authorized Project Designee or third-party verifier regarding the early action offset project, including registration documentation, sampling plans, and Early Action Verification Reports.

(5) The program must agree to retire, and not allow for further use, any early action offset credits it issues when retired or used in any

voluntary or regulatory program, including when ARB requests retirement for ARB offset credit issuance pursuant to section 95990(i).

(6) An authorized representative of the Early Action Offset Program must attest in writing, to ARB, as follows:

"I certify under penalty and perjury of the laws of the State of California the information provided in demonstrating this program meets the requirements in Section 95990(a) and is true, accurate, and complete."

(b) ARB shall accept early action offset credits from early action offset projects registered with Early Action Offset Programs approved pursuant to section 95990(a), if the early action offset credits meet the criteria set forth in this section.

(c) Criteria for Approval of Early Action Offset Credits Issued by Early Action Offset Programs. An early action offset credit may be issued an ARB offset credit pursuant to section 95990(i) if the early action offset credit results from a GHG reduction or GHG removal enhancement which:

(1) Occurred between January 1, 2005, and December 31, 2014;

(2) Is verified pursuant to section 95990(f);

(3) Results from an early action offset project that is listed with an Early Action Offset Program prior to January 1, 2013;

(4) Results from an early action offset project located in the United States; and

(5) Results from the use of one of the following offset quantification methodologies:

(A) Climate Action Reserve U.S. Livestock Project Protocol versions 1.0 through 3.0;

(B) Climate Action Reserve Urban Forest Project Protocol versions 1.0 through 1.1;

(C) Climate Action Reserve U.S. Ozone Depleting Substances Project Protocol version 1.0; and

(D) 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 Compliance Offset Protocol U.S. Forest Projects, [DATE].

(d) An Offset Project Operator or Authorized Project Designee for an early action offset project must register with ARB pursuant to section 95830 before ARB offset credits may be issued pursuant to section 95990(i).

(e) Listing of Early Action Offset Projects. Before ARB can issue ARB offset credits pursuant to section 95990(i):

(1) The Offset Project Operator or Authorized Project Designee must submit the following information to ARB:

(A) Early action offset project name;

(B) Early action offset project location;

(C) Offset Project Operator, or if applicable, the Authorized Project Designee;

(D) Name and date of protocol used by the early action offset project, including, if applicable, a version number;

(E) Date of early action offset project listing or registration date and Offset Project Commencement Date; and

(F) The name of any verification bodies associated with the early action offset project.

(2) The Early Action Offset Program must make the following information available on a publicly available website:

(A) Early action offset project name;

(B) Early action offset project location;

(C) Offset Project Operator, or if applicable, the Authorized Project Designee;

(D) Name and date of protocol used by the early action offset project, including, if applicable, a version number;

(E) Date of early action offset project listing or registration date and Offset Project Commencement Date; and

(F) The name of any verification bodies associated with the early action offset project.

(f) Regulatory Verification of Early Action Offset Credits. Any early action offset credit issued by an Early Action Offset Program must be verified under the following requirements before being issued an ARB offset credit pursuant to section 95990(i):

(1) The project must be verified by an ARB-accredited verification body that meets the accreditation requirements in section 95978. The verification body performing regulatory verification pursuant to this section must be different than the verification body that conducted offset verification services for the early action offset project under the Early Action Offset Program.

(2) Conflict of interest must be assessed against parties identified pursuant to section 95990(g) and the conflict of interest assessment must meet the requirements of section 95979.

(3) A verification body must conduct a desk review for each Offset Project Data Report year eligible and applicable pursuant to section 95990(c)(1) for each early action offset project that generates early action offset credits under the quantification methodologies listed in section 95990(c)(5). The desk review of all Offset Project Data Report years eligible and applicable pursuant to section 95990(c)(1) for each early action offset project may be applied as one single desk review. The desk review must include the following:

(A) Review of the early action offset project original documentation, including the Early Action Verification Reports, to ensure that the previously provided offset verification services were sufficient to render a reasonable assurance to support the issuance of early action offset credits by the Early Action Offset Program;

(B) Review of the data checks to ensure they were calculated correctly;

(C) If the verification body concludes with reasonable assurance that they concur with the findings in the Early Action Verification Report, the verification body must submit an Offset Verification Statement to ARB pursuant to section 95977.1(R) to that effect. For non-forestry offset projects, the verification body may submit a Positive, Qualified Positive, or Adverse Offset Verification Statement. Forestry offset projects may only receive a Positive or Adverse Offset Verification Statement.

(D) The verification body must attest, in writing, to ARB that it has conducted the desk review in accordance with the requirements of this article and whether or not it concurs with the findings in the Early Action Verification Report that was submitted to the Early Action Offset Program.

(E) For each early action offset project the Offset Project Operator or Authorized Project Designee or the Early Action Offset Program must provide the Early Action Verification Report(s) for all years eligible and applicable pursuant to section 95990(c)(1) to the offset verification team to assist in offset verification services and desk review.

(4) If during the desk review the verification body concludes that the offset project documentation for an Offset Project Data Report year includes an offset material misstatement of three percent or more or the offset material misstatement equates to greater than 25,000 metric tons $CO_2e$, whichever is smaller, then the verification body must conduct all offset verification services in section 95977.1 and any additional verification requirements in the protocols identified in section 95990(c)(5) for an early action offset project of that type, for all years eligible and applicable pursuant to section 95990(c)(1). Offset verification services for each Offset Project Data Report year may be done by the same verification body that performed the desk review and

may be applied as one single offset verification service and meet the following requirements:

(A) If the early action offset project is still in operation, the verification body must conduct a site visit as required in section 95977.1(b)(3)(D).

(B) If the early action offset project is no longer in operation, the verification body must conduct a desk review of the original documentation to confirm any previous verification findings related to the types of offset verification services required in section 95977.1(b)(3)(D).

(C) The sampling plan in section 95977.1(b)(3)(G) must cover all serialized early action offset credits issued to the early action offset project for all years eligible and applicable pursuant to section 95990(c)(1);

(D) The data checks in section 95977.1(b)(3)(L) must include checks across the sources identified in the sampling plan, covering all serialized early action offset credits issued to the early action offset project for all years eligible and applicable pursuant to section 95990(c)(1); and

(E) The verification body must submit an Offset Verification Statement pursuant to section 95977.1(R) to ARB covering all serialized early action offset credits issued to the early action offset project for all years eligible and applicable pursuant to section 95990(c)(1). For non-forestry offset projects, the verification body may submit a Positive, Qualified Positive, or Adverse Offset Verification Statement. Forestry Offset projects may only receive a Positive or Adverse Offset Verification Statement.

(g) Conflict of Interest Requirements for Early Action. For each Early Action Verification Report that a verification body reviews pursuant to section 95990(f), the verification body must assess conflict of interest according to

the following requirements against each party identified in section 95990(g)(2). The conflict of interest assessment for each Early Action Verification Report must be submitted to ARB before ARB issues an ARB offset credit pursuant to section 95990(i).

(1) The verification body is subject to the conflict of interest requirements in section 95979.

(2) The conflict of interest requirements in section 95979 must be assessed against the following parties at the time that offset verification services are conducted pursuant to section 95990(f):

(A) The Offset Project Operator or Authorized Project Designee for the project; and

(B) Any party that holds greater than 30 percent of the early action offset credits issued to an early action offset project for each individual Early Action Verification Report reviewed as part of offset verification services conducted pursuant to section 95990(f).

(h) Issuance of ARB Offset Credits for Early Action. ARB will issue ARB offset credits pursuant to section 95990(i) for early action if the following requirements are met:

(1) The early action offset credits meet the requirements of section 95990(c);

(2) The GHG reduction or GHG removal enhancement occurred by December 31, 2014;

(3) The GHG reduction or GHG removal enhancement was issued a Positive or Qualified Positive Offset Verification Statement pursuant to section 95990(f);

(4) The early action offset project has been listed pursuant to section 95990(e); and

(5) The Offset Project Operator or Authorized Project Designee must:

(A) 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 GHG removal enhancements for [project] from [date] to [date] have been measured in accordance with the [appropriate Early Action Offset Program offset protocol] and all information required to be submitted to ARB is true, accurate, and complete;"

(B) Attest, in writing, to ARB as follows:
"I understand I am voluntarily participating in the California Greenhouse Gas Cap-and-Trade 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;" and

(C) Attest in writing to ARB as follows:
"I understand I must fulfill all applicable local, regional, and national regulatory requirements that apply based on the offset project location. I understand that offset projects are not eligible to receive ARB offset credits for GHG reductions or GHG removal enhancements that are not in compliance with the requirements of this Article."

(6) An ARB offset credit may not be issued for an early action offset credit that has been retired, canceled, used to meet a surrender obligation, used to meet a voluntary commitment, or used to meet any GHG mitigation requirements in any voluntary or regulatory system.

(i) Process for Issuance of ARB Offset Credits for Purposes of Early Action. ARB will issue an ARB offset credit that meets the requirements of section 95990(h) in the amount calculated pursuant to section 95990(i)(1) :

(1) ARB offset credits will be issued according to the following schedule:

(A) One ARB offset credit will be issued for one early action offset credit generated under Climate Action Reserve Urban Forest Project Protocol versions 1.0 through 1.1;

(B) One ARB offset credit will be issued for one early action offset credit generated under Climate Action Reserve U.S. Ozone Depleting Substances Project Protocol version 1.0;

(C) One ARB offset credit will be issued for one early action offset credit generated under Climate Action Reserve U.S. Livestock Project Protocol versions 1.0 through 3.0; and

(D) One ARB offset credit will be issued for one early action offset credit generated under Climate Action Reserve Forest Project Protocol version 2.1 and versions 3.0 through 3.2, under the following stipulations:

1. A percentage of the issued ARB offset credits must be placed in the Forest Buffer Account in the amount determined by the project-specific risk rating calculation in Compliance Offset Protocol U.S. Forest Projects, [DATE] for each early action offset project for each Offset Project Data Report year eligible and applicable pursuant to section 95990(c)(1) from which the early action offset credits are being issued submitted to ARB were generated.

2. ARB offset credits placed into the Forest Buffer Account may:

   a. Come from a buffer account held by the Early Action Offset Program, if they are determined to meet the criteria of section 95990(h); or

   b. Be subtracted in the amount determined in section 95990(i)(1)(D)(1.) from the total number of ARB offset credits issued pursuant to this section.

3. If there is an unintentional reversal for any early action offset project, even after it transitions to ARB's Compliance Offset Protocol U.S. Forest Projects, [DATE], the provisions in section 95983(b) and (d) apply.

4. If there is an intentional reversal for any early action offset project, even after it transitions to ARB's Compliance Offset Protocol U.S. Forest Projects, [DATE], the provisions in section 95983(c) and (d) apply.

(E) If an early action offset project transitions from Climate Action Reserve Forest Project Protocol version 2.1 to Compliance Offset Protocol U.S. Forest Projects, [DATE] pursuant to section 95990(k) the early action offset project must calculate its project baseline pursuant to section 95990(k)(1)(D).

1. Based on the project baseline calculated in section 95990(k)(1)(D), the early action offset project must calculate and sum the net GHG emission reductions and GHG removal enhancements it achieves following all the provisions of the Compliance Offset Protocol U.S. Forest Projects, [DATE] and the requirements in this article, from the date of offset project commencement under the Early Action Offset Program through the date the early action offset project applies for transition pursuant to section 95990(k).

2. The early action offset project must subtract the number of early action offset credits issued by the Early Action Offset Program for the period from the date of offset project commencement through the time the early action offset project applies for transition pursuant to section 95990(k) from the number of sum of net GHG emission reductions and GHG removal enhancements it achieves pursuant to section 95990(i)(F)(1.):

a. If the difference is positive, ARB will issue ARB offset credits equivalent to the difference at the time of offset project transition pursuant to section 95990(k), in addition to one ARB offset credit for each early action offset credit

issued by the Early Action Offset Program during this timeframe if not previously issued by ARB pursuant to section 95990(i)(E).

b. If the difference is negative, ARB will only issue ARB offset credits pursuant to section 95990(i)(E) during this timeframe.

(2) ARB will notify the Early Action Offset Program within 10 calendar days of ARB's determination of issuance of ARB offset credits pursuant to this section.

(3) Early action offset credits must be retired by the Early Action Offset Program within 10 calendar days of ARB notification.

(4) Not later than 15 calendar days after ARB issues an ARB offset credit for purposes of early action, ARB will notify the Offset Project Operator, Authorized Project Designee, and all holders of the original early action offset credits of the issuance.

(j) Registration and Transfer of ARB Offset Credits for Purposes of Early Action. An ARB offset credit issued pursuant to section 95990(i) will be registered by creating a unique ARB serial number. ARB will transfer the serial numbers into the Holding Account of the holders of the original early action offset credit within 15 working days of the notice of issuance pursuant to section 95990(i)(4), unless otherwise required in section 95990(i)(D), and as long as the holders meet the following requirements

(1) All holders of original early action offset credits must register with ARB pursuant to section 95830; and

(2) All holders of original early action offset credits must prove ownership of those offset credits, including original serial numbers issued by the Early Action Offset Program.

(k) Transition of Early Action Offset Projects to the Compliance Program.

(1) Early Action Offset Project Transition to ARB Compliance Offset Protocols. Early action offset projects must transition to ARB

Compliance Offset Protocols no sooner than January 1, 2013 and no later than December 14, 2014:

(A) Early action offset projects using Climate Action Reserve U.S. Livestock Project Protocol versions 1.0 through 3.0 must use and meet all the requirements in Compliance Offset Protocol Livestock Projects, [DATE];

(B) Early action offset projects using Climate Action Reserve Urban Forest Project Protocol versions 1.0 through 1.1 must use and meet all the requirements in Compliance Offset Protocol Urban Forest Projects, [DATE];

(C) Early action offset projects using Climate Action Reserve U.S. Ozone Depleting Substances Project Protocol version 1.0 must use and meet all the requirements in Compliance Offset Protocol Ozone Depleting Substances, [DATE];

(D) Early action offset projects using Climate Action Reserve Forest Project Protocol version 2.1 must use and meet all the requirements in Compliance Offset Protocol U.S. Forest Projects, [DATE]. At the time of transition the early action offset project must calculate its project based according to all the provisions in Compliance Offset Protocol U.S. Forest Projects, [DATE] and the requirements in this article from the date of offset project commencement under the Early Action Offset Program to the date the early action offset project applies for transition pursuant to section 95990(k). This project baseline will remain valid for the duration of the offset project life.

(E) Early action offset projects using Climate Action Reserve Forest Project Protocol versions 3.0 through 3.2 must use Compliance Offset Protocol U.S. Forest Projects, [DATE] and subtract from the project baseline any carbon stocks from any optional pools that are excluded in the Compliance Offset Protocol beginning

with the last reporting period under the Early Action Offset Program. Decreases will not constitute a reversal.

(2) Crediting Periods for Early Action Offset Projects. When an early action offset project transitions to a Compliance Offset Protocol pursuant to section 95990(k)(1), it will begin an initial crediting period. The initial crediting period will begin with the date that the first verified GHG emission reductions or GHG removal enhancements occur using a Compliance Offset Protocol approved pursuant to section 95971.

(3) Listing Requirements for Transition of Early Action Offset Projects. At the time an early action offset project transitions to a Compliance Offset Protocol pursuant to section 95990(k)(1), the Offset Project Operator or Authorized Project Designee must:

(A) Meet the requirements for offset projects pursuant to section 95973; and

(B) List the offset project pursuant to section 95975.

(4) After an early action offset project lists with ARB pursuant to section 95990(k)(3), it must meet the following requirements:

(A) Monitoring, reporting, and record retention requirements pursuant to section 95976;

(B) Be verified pursuant to sections 95977 through 95978;

(C) Be issued a registry offset credit pursuant to section 95980.1 or an ARB offset credit pursuant to section 95981.1.

(l) An ARB offset credit issued to a non-forestry offset project pursuant to section 95990(i) may be invalidated pursuant to section 95985.

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.

### § 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; and

(b) Reserved for other sources of sector-based credits.

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.

(b) Sector-Specific Requirements. Pursuant to section 95996, specific sectors may have specific requirements unique to that sector.

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.

### § 95996. Reserved for Sector-Specific Requirements

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.

### § 95997. Reserved for Approved Sector-Based Crediting Programs

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.

## 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) ~~r~~Registration with ARB pursuant to subarticle 5;

(b) ~~t~~The purchase or holding of a compliance instrument issued by ARB;

(c) ~~r~~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) ~~v~~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 or revoke the registration for an entity registered pursuant to 95814(b).

(d) 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.

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 obligation contained in this article that result in a violation of this article. All relevant circumstances shall be considered in determining whether to assess a penalty and any amount assessed, 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 ~~covered~~ entity fails to surrender a sufficient number of compliance instruments to meet its compliance obligation as specified in sections 95856 or 95857 there is a separate violation of this article for each required compliance instrument that has not been surrendered.

(b) ~~There is a separate violation for each day or portion thereof after the compliance date that each required compliance instrument has not been surrendered.~~There is an additional separate violation of this article for each compliance instrument that has not been surrendered for each 45 day period after the date determined pursuant to section 95857(b)(4).

~~(c) Each day or portion thereof in which any other violation of this Article occurs is a separate offense.~~

(c) 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.

(d) The violations stated in section 96014(c) are in addition to an entity's obligations 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.

## 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 is public information and shall not be designated as confidential.

(b) Any entity submitting information to the Executive Officer pursuant to this subarticle 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 Record 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. ~~Reserved Provisions~~Jurisdiction of California

Any party that pariticipates in the Cap-and-Trade Program is subject to the jurisdiction of the State of California.

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.

## § 96023~~2~~. Reserved Provisions

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.